$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

Closing Date: December 23, 2010

TRANSCRIPT OF PROCEEDINGS

Basic Documents

1. Copy of the General Resolution adopted by the University of West Virginia Board of Trustees on September 9, 1992, and the General Resolution adopted by the Board of Directors of the State College System on September 9, 1992, as amended by:

    a. Fifth Consolidated Supplemental Resolution, adopted by the West Virginia Higher Education Policy Commission (the "Commission) on December 3, 2010

    b. Secretary's Certificate

2. Tax Compliance Certificate

3. Receipt for Bonds

4. Specimen Bonds

5. IRS Form 8038-G for 2010 Series A Bonds

6. IRS Form 8038-B for 2010 Series B Bonds

7. Certificate of Determination

8. Order as to Authentication and Delivery of Bonds and Application of Bond Proceeds

9. Memorandum of Understanding with West Virginia State Treasurer

Authorizing Documents

10. Certified Copy by the West Virginia Secretary of State (the "Secretary of State") as to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended

11. Certified Copy by the Secretary of State as to Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended

12. Certified Copy by the Secretary of State as to Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended

13. Certificate of the Secretary of State as to Members of the Commission

Offering Documents

14. Bond Purchase Agreement

15. Preliminary Official Statement

16. Official Statement

17. Continuing Disclosure Agreement

18. Rating Letters:

    a. Moody's Investors Service, Inc.
    b. Standard & Poor's

Certificates

19. General Certificate of Commission

20. Certificate as to Signatures

21. Underwriters' Certificate

22. Certificate of Underwriters as to Issue Price for 2010 B Bonds

23. Certificate of Wells Fargo, as Construction Trustee, Registrar and Transfer Agent

24. Certificate of Municipal Bond Commission, as Paying Agent

25. Certificate of Delivery and Payment

26. Certificate Regarding Additional Bonds

27. Certificate of Paying Agent and Registrar as to Acknowledgement of Receipt of Bond Proceeds

28. Certificate of State Lottery Director

29. Direction of Governor Approving Issuance of Bonds.

Opinion Letters

30. (A) Opinion of Spilman Thomas & Battle, PLLC, Bond Counsel as to 2010 Series A Bonds
    (B) Reliance Opinion of Spilman Thomas & Battle, PLLC

31. (A) Opinion of Spilman Thomas & Battle, PLLC, Bond Counsel as to 2010 Series B Bonds
    (B) Reliance Opinion of Spilman Thomas & Battle, PLLC

32. (A) Opinion of Spilman Thomas & Battle, PLLC, Bond Counsel as to 2010 Series C Bonds
    (B) Reliance Opinion of Spilman Thomas & Battle, PLLC

33. Supplemental Opinion of Spilman Thomas & Battle, PLLC, Bond Counsel

34. Opinion of Bruce R. Walker, Esquire, Counsel to the Commission

35. Opinion of Goodwin & Goodwin, LLP, Counsel to Underwriters

36. Opinion of Spilman Thomas & Battle, PLLC, responsive to Section 2.03(b) of the General Resolution

37. Opinion of Spilman Thomas & Battle, PLLC, responsive to Section 10.06 of the General Resolution

38. Opinion of Spilman Thomas & Battle, PLLC, as to Original Issue Discount

Miscellaneous Documents

39. Construction Trustee, Registrar and Transfer Agent Agreement

40. DTC Blanket Letter of Representations

41. Office of Debt Management Filings:

    a. Report of Proposed Debt Issuance

    b. Report of Final Sale

42. Notice to Governor and Legislators Regarding Rating Agency Presentations

43. Preliminary Blue Sky Memorandum

44. Final Blue Sky Memorandum

45. Municipal Bond Commission New Issue Report

46. (A) Closing Memorandum
    (B) Final Pricing Numbers

47. Tax Report Agent Agreement

48. Rule 15c2-12 Certificate

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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.

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.

_____

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]

_____

Secretary, Board of Directors of the
State College System

FIFTH CONSOLIDATED
SUPPLEMENTAL RESOLUTION

OF THE

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

Authorizing

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
Revenue Bonds
(Higher Education Facilities)
2010 Series

Adopted: December 3, 2010

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
Revenue Bonds
(Higher Education Facilities)
2010 Series

RESOLUTION

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STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
Revenue Bonds
(Higher Education Facilities)
2010 Series

RESOLUTION OF THE
HIGHER EDUCATION POLICY COMMISSION

RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $90,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE COMMISSION'S REVENUE BONDS (HIGHER EDUCATION FACILITIES), 2010 SERIES; AND SUPPLEMENTING THE GENERAL RESOLUTION OF THE COMMISSION ADOPTED SEPTEMBER 9, 1992.

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

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

WHEREAS, the Higher Education Policy Commission (the "Commission"), an agency of the State of West Virginia (the "State"), is the successor to the Board of Trustees and the Board of Directors and is empowered and authorized to issue bonds pursuant to the Act and to fund the capital improvements at certain institutions of higher education;

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 "University First Supplemental Resolution") adopted by the Board of Trustees on September 9, 1992, the Board of Trustees issued its first Series of Bonds under the General Resolution, being its $101,505,000 aggregate principal amount State University System Revenue Refunding Bonds, Series 1992, dated November 1, 1992 (the "1992 Bonds");

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

WHEREAS, pursuant to the Third Supplemental Resolution (the "University Third Supplemental Resolution") adopted by the Board of Trustees on February 23, 1996, the Board of Trustees issued its Revenue Refunding Bonds, Series 1996 (Marshall University Library/Information Center) (the "1996 Bonds");

WHEREAS, pursuant to the Fourth Supplemental Resolution (the "University Fourth Supplemental Resolution") adopted by the Board of Trustees on October 31, 1997, the Board of Trustees issued its Revenue Refunding Bonds (University Improvement Projects) 1997 Series A (the "1997 Bonds");

WHEREAS, pursuant to the Fifth Supplemental Resolution (the "University Fifth Supplemental Resolution") adopted by the Board of Trustees on April 3, 1998, the Board of Trustees issued its University System Revenue Bonds (West Virginia University Projects), 1998 Series A, dated April 1, 1998 (the "1998 Bonds");

WHEREAS, pursuant to the Sixth Supplemental Resolution (the "University Sixth Supplemental Resolution") adopted by the Board of Trustees on May 22, 2000, the Board of Trustees issued its University System Revenue Bonds (West Virginia University Projects) 2000 Series A (the "2000 Series A Bonds");

WHEREAS, pursuant to the Seventh Supplemental Resolution (the "University Seventh Supplemental Resolution") adopted by the Board of Trustees on May 22, 2000, the Board of Trustees issued its University System Revenue Bonds (Marshall University Medical Center) 2000 Series B (the "2000 Series B Bonds");

WHEREAS, pursuant to the Eighth Supplemental Resolution (the "University Eighth Supplemental Resolution") adopted by the Commission on March 17, 2003, the Commission authorized the issuance of its Revenue Refunding Bonds (University Facilities) in an amount not to exceed $105,000,000 (the "2003 Bonds");

WHEREAS, pursuant to the Ninth Supplemental Resolution (the "University Ninth Supplemental Resolution") adopted by the Commission on April 24, 2003, the Commission made certain amendments to the General Resolution, and in Section 1.02 thereof prospective amendments which would go into effect only upon adoption of a resolution by the

Commission putting such amendments in effect (the "Prospective Amendment to the University General Resolution");

WHEREAS, pursuant to the Tenth Supplemental Resolution (the "University Tenth Supplemental Resolution") adopted by the Commission on June 5, 2003, the Commission made certain amendments to the General Resolution;

WHEREAS, pursuant to the Eleventh Supplemental Resolution (the "University Eleventh Supplemental Resolution") adopted by the Commission on April 2, 2004, the Commission authorized the issuance of its Revenue Refunding Bonds in an amount not to exceed $18,000,000 (the "2004 Proposed Bonds");

WHEREAS, pursuant to the Twelfth Supplemental Resolution (the "University Twelfth Supplemental Resolution") adopted by the Commission on June 4, 2004, the Commission authorized the issuance of its Revenue Bonds (University Facilities), 2004 Series A in an amount not to exceed $90,000,000 (the "2004 University Bonds");

WHEREAS, pursuant to the First Supplemental Resolution (the "College First Supplemental Resolution") adopted by the Board of Directors on September 9, 1992, the Board of Directors 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 "College Second Supplemental Resolution") adopted by the Board of Directors on January 15, 1993, the Board of Directors made a minor amendment to the College 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 "College Third Supplemental Resolution") adopted by the Board of Directors on October 21, 1997, the Board of Directors 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 "Then Outstanding Bonds");

WHEREAS, pursuant to the Fourth Supplemental Resolution (the "College 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 Then Outstanding Bonds;

WHEREAS, pursuant to the Fifth Supplemental Resolution (the "College Fifth Supplemental Resolution") adopted by the Commission on April 24, 2003, the Commission made certain amendments to the General Resolution and further adopted, in Section 1.02 thereof, prospective amendments to the General Resolution which would only go into effect upon

adoption by the Commission of a Supplemental Resolution putting such amendment into effect (the "Prospective Amendment to the College General Resolution", and, collectively with the Prospective Amendment to the University General Resolution, the "Prospective Amendment"). The terms of each Prospective Amendment are identical except for the respective reference to Universities and Colleges;

WHEREAS, pursuant to the Sixth Supplemental Resolution (the "College Sixth Supplemental Resolution") adopted by the Commission on June 5, 2003, the Board of Directors made certain amendments to the General Resolution;

WHEREAS, the College Fifth Supplemental Resolution and the University Ninth Supplemental Resolution provided that the Commission may consolidate the financings previously issued by the Commission with the financings issued by the Board of Trustees and the Board of Directors, and its successors under the terms of the General Resolution;

WHEREAS, the Prospective Amendments were put into effect upon the Commission's adoption of the First Consolidated Supplemental Resolution (the "First Consolidated Supplemental Resolution") adopted by the Commission on June 4, 2004;

WHEREAS, pursuant to the First Consolidated Supplemental Resolution, the Commission authorized the issuance of its Revenue Bonds (Higher Education Facilities), 2004 Series B in an amount not to exceed $160,000,000 (the "2004 B Bonds");

WHEREAS, pursuant to the Second Consolidated Supplemental Resolution (the "Second Consolidated Supplement Resolution") adopted by the Commission on July 29, 2004, the Commission further amended and supplemented the General Resolution;

WHEREAS, pursuant to the Third Consolidated Supplemental Resolution (the "Third Consolidated Supplemental Resolution") adopted by the Commission on August 20, 2004, the Commission increased the authorized maximum amount of 2004 B Bonds permitted to be issued to $180,000,000 and to include the 2004 Proposed Bonds as a part of the 2004 B Bonds;

WHEREAS, pursuant to the Fourth Consolidated Supplemental Resolution the Commission authorized the issuance of its Revenue Refunding Bonds (Higher Education Facilities), 2007 Series A in an amount not to exceed $30,000,000 (the "2007 A Bonds" and collectively with Bonds issued pursuant to the supplemental resolutions previously described in the foregoing recitals and currently outstanding as of the date of this resolution under both the University General Resolution and the College General Resolution, the "Prior Bonds"), to refund a portion of the 1997 Bonds issued by the Board of Trustees, a portion of the 1997 Bonds issued by the Board of Directors, and a portion of the 2000 Series B Bonds issued by the Board of Trustees;

WHEREAS, the Legislature, by the adoption of Senate Concurrent Resolution 41 ("Senate Concurrent Resolution 41") on March 13, 2010, authorized the payment of debt service

on revenue bonds for capital improvements for higher education facilities from the excess lottery revenues under West Virginia Code § 29-22-18a and § 29-22-18c, in an annual amount equal to Fifteen Million Dollars ($15,000,000);

WHEREAS, pursuant to the Act, the Commission is authorized to issue certain Additional Bonds to provide capital improvements at the higher education facilities identified on Exhibit A hereto (the "2010 Projects"), and pay the Costs of Issuance of such Additional Bonds and to otherwise 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 Bonds (Higher Education Facilities), 2010 Series (the "2010 Bonds"), in one or more series, each as a series of Additional Bonds for the purposes of funding the 2010 Projects and paying Costs of Issuance of the 2010 Bonds;

WHEREAS, pursuant to Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended, the 2010 Bonds (or a series of such bonds) may be issued by the Commission as federally taxable Build America Bonds (Direct Payment);

WHEREAS, in connection with the issuance by the Commission of any federally taxable Build America Bonds (Direct Payment), the Commission shall pledge the refundable interest credit under Section 54AA(g) of the Internal Revenue Code of 1986, as amended, as security for such bonds and, to the extent permissible by law, shall grant a lien on the refundable interest credit to the Trustee for the benefit of the holders of the 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 2010 Bonds;

WHEREAS, the Commission therefore wishes to take all necessary actions to issue the 2010 Bonds for the purposes set forth herein;

WHEREAS, there will be presented to one or more of the Authorized Officers designated in Section 1.03 hereof, the following documents (the "Bond Documents"), to be executed in connection with the issuance and sale of the 2010 Bonds;

(1) A Bond Purchase Agreement to be dated the date of acceptance thereof by an Authorized Officer of the Commission, by and between Citigroup Global Markets Inc., acting on behalf of itself, Raymond James & Associates, Inc. and Crews & Associates, Inc., as the original purchasers of the 2010 Bonds (collectively, the "Original Purchasers") and the Commission, pursuant to which the 2010 Bonds are proposed to be purchased; and

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

(3) A Preliminary Official Statement (the "Preliminary Official Statement"), relating to the 2010 Bonds (which when executed in final form as provided in Section 6.02 hereof, the "Official Statement"); and

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

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

(6) Agreements with any Service Provider (as hereinafter defined) (if any); and

(7) Any other documents deemed necessary or desirable to aid or effectuate the issuance and sale of the 2010 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 2010 Bonds at the earliest practicable date; and

WHEREAS, the Commission wishes to delegate to each Authorized Officer the authority to approve the final terms of the 2010 Bonds, including the exact principal amount, interest rates, redemption provisions, maturities, purchase price and other terms of the 2010 Bonds and the final terms and provisions of the Bond Documents and other agreements relating to the 2010 Bonds, without the requirement of further official action by the Commission.

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

"Act" means, for purposes of this Fifth Consolidated Supplemental Resolution, Chapter 18B, Article 10; Chapter 29, Article 22, Section 18a and Chapter 13, Article 4 of the Code of West Virginia, 1931, and as the same have been and may from time to time be amended, and the Senate Concurrent Resolution 41.

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

"Bond Documents" means the documents described in the recitals hereto.

"Bond Purchase Agreement" means the Bond Purchase Agreement between the Commission and the Original Purchasers pertaining to the sale of the 2010 Bonds.

"Bond Year" means, with respect to the 2010 Bonds, the period commencing July 1 in each year and ending on June 30 of each subsequent calendar year during the term of the 2010 Bonds, except that the first Bond Year shall commence on the Closing Date and end on June 30, 2011 (unless a different period is permitted or required by the Code).

"Bonds" means collectively, the 2010 Bonds, the Prior Bonds and any other Additional Bonds or Refunding Bonds hereafter issued pursuant to the General Resolution.

"Certificate of Determination" means the certificate executed by an Authorized Officer setting forth the final terms and provisions of the Bonds (including, but not limited to, the form of the 2010 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 2010 Bonds are delivered to the Original Purchaser upon payment of the purchase price set forth in the Bond Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Continuing Disclosure Agreement" means a Continuing Disclosure Agreement between the Commission and the Original Purchaser, 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.

"Fifth Consolidated Supplemental Resolution" means this Fifth Consolidated Supplemental Resolution as it may be amended or supplemented, and includes all exhibits and schedules thereto.

"Higher Education Improvement Fund" means the special revenue fund created and existing in the State Treasury pursuant to Section 18a of the Lottery Act.

"Interest Subsidy Reserve Requirement" means an amount equal to thirty-five percent (35%) of the maximum amount of interest which shall be payable during the current or any succeeding Bond Year on any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

"Lottery Act" means Chapter 29, Article 22 of the Code of West Virginia, 1931, as the same has been and may from time to time be amended

"Municipal Bond Commission" means the West Virginia Municipal Bond Commission, or its successor, to serve as fiscal agent for the 2010 Bonds.

"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 2010 Bonds and approved by the Commission.

"Paying Agent" means such banking institution with offices within or without West Virginia or its successors, designated as a paying agency or place of payment for the 2010 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 2010 Bonds.

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

"Recovery Act" means the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009).

"Registrar" means such banking institution with offices in West Virginia or its successors, designated as registrar for the 2010 Bonds in the Certificate of Determination.

"Representation Letter" means the DTC Blanket Letter of Representations previously delivered to DTC.

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

"Service Provider" means a party described in clause (xiii) of Section 2.03 hereof.

"Subsidy Receipt" means an amount equal to thirty-five percent (35%) of the amount of interest which shall be payable on any interest payment date on any series of bonds issued by the Commission as Build America Bonds (Direct Payment), as claimed by the Commission on a Form 8038-CP filed by the Commission with the Internal Revenue Service for any such interest payment date.

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

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

"Trustee" means such banking institution with offices within or without West Virginia or its successors, as may be designated as trustee for the 2010 Bonds in the Certificate of Determination.

"2010 Bond Fund (Higher Education Facilities)" means the fund by that name established pursuant to Section 3.01 hereof.

"2010 Bonds" means the Commission's Revenue Bonds (Higher Education Facilities), 2010 Series, in such aggregate principal amount not to exceed $90,000,000 as shall be set forth in the Certificate of Determination.

"2010 Bonds (Higher Education Facilities) Proceeds Fund" means the fund by that name established pursuant to Section 3.01 hereof.

"2010 Bonds (Higher Education Facilities) Costs of Issuance Fund" means the fund by that name established pursuant to Section 3.01 hereof.

"2010 Bonds (Higher Education Facilities) Interest Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 hereof.

"2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund" means the fund by that name established pursuant to Section 3.01 hereof.

"2010 Bonds (Higher Education Facilities) Principal Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 hereof.

"2010 Bonds (Higher Education Facilities) Redemption Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 hereof.

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 2010 Bond or the calling of a 2010 Bond for redemption do not mean or include the payment of a 2010 Bond at its stated maturity or the purchase of a 2010 Bond.

F. This Fifth Consolidated 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. Designation of Authorized Officers. The Commission hereby designates the Chairman and Vice Chairman, the Chancellor, the Vice Chancellor of Administration, and the Chief Financial Officer of the Commission, whether acting jointly or severally, as Authorized Officers of the Commission with respect to the 2010 Bonds. Each of such Authorized Officers shall file a specimen of his signature with the Trustee (if any), Registrar and Paying Agent.

ARTICLE II

AUTHORIZATION AND TERMS OF 2010 BONDS

Section 2.01. Authorization of 2010 Bonds. In order to (i) finance the 2010 Projects, (ii) fund, if necessary, an interest subsidy reserve fund, and (iii) pay Costs of Issuance thereof, the Commission hereby authorizes the issuance of one or more series of the 2010 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. 2010 Projects. The Commission hereby approves the 2010 Projects identified on Exhibit A hereto and does hereby authorize and approve the Chancellor to make the final determination as to which of the 2010 Projects will be funded by the proceeds of the 2010 Bonds.

Section 2.03. Terms. The 2010 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 $90,000,000. The 2010 Bonds of each series shall be numbered from R-1 upward. Interest accruing on the 2010 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.

Section 2.04. Certificate of Determination. Each Authorized Officer 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 2010 Bonds to be issued, not to exceed $90,000,000, (ii) fixing the maturity schedule for the 2010 Bonds, including the amounts of serial bonds and term bonds, such maturities to be not longer than thirty (30) years from the date of issuance of the 2010 Bonds, (iii) prescribing the interest rates or yields for such 2010 Bonds, such rates or yields not to exceed six percent (6%) per annum on any 2010 Bonds issued as tax-exempt bonds and eight and one-half percent (8.5%) per annum on any 2010 Bonds issued as taxable bonds (including, but not limited to Build America Bonds (Direct Payment)), (iv) fixing the amounts and times of mandatory redemption for the 2010 Bonds, (v) fixing optional redemption provisions for the 2010 Bonds, including times and redemption prices (not to exceed 102% of the principal amount), and extraordinary optional redemption provisions relating to any series of bonds issued by the Commission as Build America Bonds (Direct Payment), which may include a make whole call provision of the equivalent of treasury rates and no less than 20 basis points or a par call, (vi) fixing the purchase price for the 2010 Bonds, which may include an underwriting and an original issue discount or premium, (vii) determining whether the 2010 Bonds shall be issued in one or more series and assigning a designation to each such series, (viii) determining whether the 2010 Bonds shall be issued as conventional tax-exempt bonds, conventional taxable bonds, federally taxable Build America Bonds (Direct Payment), or any combination thereof, with each different mode to be issued as a separate series of bonds, (ix) designating any series of federally taxable Build America Bonds (Direct Payment) as "Build America Bonds" within the meaning of the Recovery Act and Section 54AA of the Code, (x) pledging any refundable interest credit under Section 54AA(g) of the Code, and setting forth the manner in which such interest credit shall be transferred to the Paying Agent, (xi) determining the amount to be deposited into the Interest Subsidy Reserve Fund, (xii) dating such 2010 Bonds, (xiii) designating a remarketing agent, a tender agent, an auction agent, a liquidity provider, a credit provider and the provider of other services, if any, which may be deemed by such officer as necessary or desirable to support the 2010 Bonds (each a "Service Provider"), (xiv) determining the necessity of having a Trustee for the 2010 Bonds, and (xv) designating the Trustee (if deemed necessary), Registrar and Paying Agent for the 2010 Bonds.

Section 2.05. Book Entry System for 2010 Bonds.

(a) Notwithstanding the foregoing provisions of this Article II, the 2010 Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the 2010 Bonds of each maturity, which 2010 Bonds shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). Except as provided in paragraph (g) below, all of the 2010 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 2010 Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the 2010 Bonds for an equal aggregate principal amount of 2010 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 Commission or the Registrar either a 2010 Bond or any other evidence of ownership of the 2010 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 2010 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 2010 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 2010 Bonds shall be made to DTC or its nominee in Federal funds on the dates provided for such payments under this Fifth Consolidated Supplemental Resolution or as set forth in the 2010 Bonds. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Commission or the Registrar with respect to the Principal or Redemption Price of or interest on the 2010 Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the 2010 Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC or its nominee of the 2010 Bonds so redeemed, but DTC (or its nominee) may retain such 2010 Bonds and make an appropriate notation on the 2010 Bond 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 2010 Bonds of such maturity which have been redeemed.

(c) The Commission and the Registrar may treat DTC (or its nominee) as the sole and exclusive Owner of the 2010 Bonds registered in its name for the purposes of payment of the Principal or Redemption Price of or interest on the 2010 Bonds, selecting the 2010 Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Fifth Consolidated Supplemental Resolution, registering the transfer of 2010 Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Commission nor the Registrar shall be affected by any notice to the contrary. Neither the Commission nor the Registrar shall have any responsibility or obligation to any participant in DTC, any person claiming a beneficial ownership interest in the 2010 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 2010 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 2010 Bonds; or (4) any notice which is permitted or required to be given to Bondholders under this Fifth Consolidated Supplemental 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 2010 Bonds; or (6) any consent given or other action taken by DTC as Bondholder.

(d) So long as the 2010 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 Fifth Consolidated Supplemental 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 Fifth Consolidated Supplemental Resolution by the Commission 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 Commission or the Registrar may establish a special record date for such consent or other action. The Commission 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) The Registrar and any successors or assigns thereof shall, in its written acceptance of its duties under this Fifth Consolidated Supplemental 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 2010 Bonds may be discontinued at any time if either: (1) DTC determines to resign as securities depository for the 2010 Bonds; or (2) the Commission 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 Commission. In either of such events (unless in the case described in clause (2) above, the Commission appoints a successor securities depository) the 2010 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 Commission or the Registrar for the accuracy of such designation. Whenever DTC requests the Commission and the Registrar to do so, the Commission 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 2010 Bonds.

Section 2.06. Form of 2010 Bonds. The definitive 2010 Bonds shall be in substantially the form approved in the Certificate of Determination, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such 2010 Bonds on behalf of the Commission. Execution thereof by such officers shall constitute conclusive evidence of such approval.

Section 2.07. 2010 Bonds on Parity with Prior Bonds. The 2010 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 2.08. Conditions Precedent to Delivery of 2010 Bonds. The 2010 Bonds shall be delivered upon receipt by the Registrar of the following:

A. A copy of the General Resolution and this Fifth Consolidated 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 Fifth Consolidated 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), and/or any refundable interest credit under Section 54AA(g) of the Code which may be received by the Commission in connection with the issuance by the Commission of any federally taxable Build America Bonds (Direct Payment), 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 2010 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 2010 Bonds and the application of the proceeds thereof, signed by an Authorized Officer;

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 2010 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 the 2010 Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on the 2010 Bonds and the Prior 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 2010 Bonds, plus Projected Revenues (as defined below) have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on the 2010 Bonds and the Prior 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 the 2010 Bonds and the Prior 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 the 2010 Bonds; and

F. An executed copy of the Trust Indenture, or if no Trustee has been appointed, a copy of the Agreement between the Commission and the Registrar and Paying Agent.

Section 2.09. Pledge of Excess Lottery Proceeds. Pursuant to the authorization contained in Senate Bill 612, the Commission hereby confirms the pledge of the funds deposited in the Higher Education Improvement Fund created under Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, to the payment of the 2010 Bonds and the Prior Bonds.

Section 2.10. Pledge of Refundable Interest Credit. In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission hereby pledges, to the extent permissible by law, for the benefit of the respective holders from time to time of any such federally taxable Build America Bonds (Direct Payment), all right, title and interest of the Commission in and to any refundable interest credit.

ARTICLE III

FUNDS AND ACCOUNTS; APPLICATION OF 2010 BOND PROCEEDS

Section 3.01. Funds and Accounts. (A) There are hereby created by the Commission and ordered established with the Trustee (if any), Registrar and Paying Agent the following funds and accounts in connection with the 2010 Bonds;

(i) 2010 Bond Fund (Higher Education Facilities), and therein:

(a) 2010 Bonds (Higher Education Facilities) Interest Account; and

(b) 2010 Bonds (Higher Education Facilities) Principal Account; and

(c) 2010 Bonds (Higher Education Facilities) Redemption Account.

(B) There are hereby created by the Commission and ordered established with the Trustee (if any), Registrar and Paying Agent the following funds in connection with the 2010 Bonds:

(i) 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund; and

(ii) 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; and

(iii) 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund.

Section 3.02. Application of 2010 Bond Proceeds. The net proceeds of the sale of the 2010 Bonds shall initially be deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund to be held by the Trustee (if any), and if none by the Municipal Bond Commission. Thereafter, such proceeds or portions thereof shall be applied by the Trustee (if any), and if none by the Municipal Bond Commission, as follows:

(i) All amounts, if any, paid as accrued interest on the 2010 Bonds from their date to the date of delivery of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest Account;

(ii) A sum equal to the Interest Subsidy Reserve Requirement shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund;

(iii) A sum equal to the Costs of Issuance of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; and

(iii) The balance of the proceeds of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund (which Fund shall contain separate subaccounts for each series of bonds in the event that there are multiple series of 2010 Bonds).

Section 3.03. Flow of Funds. So long as any 2010 Bonds are Outstanding, amounts deposited and to be deposited in the funds and accounts established by Section 3.01 hereof shall be applied by the Trustee (if any), and if none by the Municipal Bond Commission in the manner and order of priority as set forth herein and in Article VII of the General Resolution

Section 3.04. Disbursements. The proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund (or the separate subaccounts) shall be disbursed by the Trustee, if any, or if none by the Treasurer upon proper requisition by an Authorized Officer for payment of costs of the 2010 Projects. The proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund shall be disbursed by the Trustee, if any, or if none by the Treasurer upon requisition by an Authorized Officer. Any funds remaining in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund 180 days after the initial issuance of the 2010 Bonds shall be transferred to the 2010 Bonds (Higher Education Facilities) Interest Account.

Section 3.05. Interest Subsidy Reserve Fund.

(A) So long as any series of Build America Bonds (Direct Payment) are outstanding, the Commission shall maintain with the Trustee (if any), Registrar and Paying Agent the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund established by Section 3.01 hereof. On the date of issuance of any series of Build America Bonds (Direct Payment), there shall be deposited to the credit of the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not received by the Commission in connection with any series of Build America Bonds (Direct Payment) on or before any interest payment date of April 1 or October 1 of each year, the Trustee (if any), Registrar and Paying Agent shall transfer to the Commission an amount on deposit in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date as claimed by the Commission on its Form 8038-CP. The amounts paid to the Commission pursuant to the terms of this Section 3.05 shall be restored to the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Account by the Commission immediately upon receipt of any Subsidy Receipt. If, at any time, the balance in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund is greater than the Interest Subsidy Reserve Requirement, the Trustee (if any), Registrar and Paying Agent shall transfer the excess to the 2010 Bond Fund (Higher Education Facilities) for payment of Debt Service on any series of Build America Bonds (Direct Payment). Any balance on hand on the last interest payment date on the Build America Bonds (Direct Payment) shall be transferred to the Commission and applied to the payment of Debt Service on such date.

(B) All monies on deposit in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund shall be invested solely in any of the following:

(i) cash (insured at all times by the Federal Deposit Insurance Corporation); or

(ii) interest bearing accounts, demand deposits, including interest bearing money market accounts, time deposits, trust deposits, overnight bank deposits or certificates of deposit which are fully secured by obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, whether such obligations are backed by the full faith and credit of the U.S., or which are issued by banks or trust companies organized under the laws of the United States of America or any state thereof, which have combined capital and surplus of at least $25,000,000.

Section 3.06. Arbitrage Covenant. Neither the Trustee (if any), and if none, the Municipal Bond Commission, 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 2010 Bonds issued as tax-exempt bonds to be an "arbitrage bond" within the meaning of such term in Sections 103 and 148 of the Code.

Section 3.07. 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 IV

GENERAL COVENANTS OF THE COMMISSION

Section 4.01. General. Except to the extent amended or modified by Article IV hereof, the covenants contained in Article VI of the General Resolution are hereby continued, approved, ratified and confirmed, shall apply fully to the 2010 Bonds, and are incorporated herein by reference as a part hereof.

Section 4.02. Build America Bond Covenants.

(A) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission hereby covenants to do and perform all acts and things permitted by law and necessary or desirable in order to assure that any series of Build America Bonds (Direct Payment) issued by the Commission shall qualify for designation as "Build America Bonds" under the Recovery Act.

(B) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission hereby covenants to comply with all conditions set forth in the Recovery Act necessary to maintain its right to receive and retain Subsidy Receipts with respect to any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

(C) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), each Authorized Officer is hereby authorized to sign and file or cause to be filed with the Internal Revenue Service a "Return for Credit Payments to Issuers of Qualified Bonds," Form 8038-CP at least forty-five (45) days but not more than ninety (90) days prior to each April 1 and October 1, with respect to any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

Section 4.03. 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, 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 2010 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 2010 Bonds shall be liable personally on the 2010 Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

ARTICLE V

APPROVAL OF DOCUMENTS AND APPOINTMENT OF FIDUCIARIES

Section 5.01. Approval of Bond Documents. Each Authorized Officer is authorized, for and on behalf of Commission, to approve the final terms of the 2010 Bonds within the financing parameters established by Section 2.03 of this Fifth Consolidated Supplemental Resolution, and to negotiate, execute and deliver all documentation related to the issuance of the 2010 Bonds, including without limitation the Bond Documents, any agreement with any Service Provider (if any), 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 5.02. Approval of Distribution of Preliminary Official Statement and Official Statement. The distribution of the Preliminary Official Statement is hereby approved. Each Authorized Officer 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 such Authorized Officer may approve. The execution of the Official Statement by any Authorized Officer 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 5.03. Appointment of Fiduciaries. The Certificate of Determination shall appoint and designate the Trustee (if any), Registrar and Paying Agent for the 2010 Bonds.

Section 5.04. Continuing Disclosure Agreement. So long as any of the 2010 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 Commission authorizes and directs the Chief Financial Officer to take all actions with respect to this undertaking as prescribed by the Continuing Disclosure Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.01. General Resolution. This Fifth Consolidated 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 2010 Bonds, this Fifth Consolidated Supplemental Resolution and matters relating thereto as if set forth verbatim herein. In the event of any conflict between the General Resolution and this Fifth Consolidated Supplemental Resolution, this Fifth Consolidated Supplemental Resolution shall control. This Fifth Consolidated 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 6.02. Incidental Action. The execution and delivery of the 2010 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 2010 Bonds, and it is hereby ordered that each Authorized Officer of the Commission may 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 Fifth Consolidated Supplemental Resolution, the 2010 Bonds and the aforesaid instruments.

Section 6.03. 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 2010 Bonds issued pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

Section 6.04. Governing Law. This Fifth Consolidated Supplemental Resolution and the 2010 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 6.05. 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
Suite 700
Charleston, West Virginia 25301
Attention: Chief Financial Officer

(ii) IF TO THE TRUSTEE (if any), REGISTRAR OR PAYING AGENT ADDRESSED TO: As it may appear in the Certificate of Determination

(iii) IF TO THE OWNER OF A 2010 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:

Citigroup Global Markets Inc.
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attn: Public Finance Group

Crews & Associates, Inc.
2001 Union National Plaza
124 West Capitol
Little Rock, Arkansas 72201

Raymond James & Associates, Inc.
500 Lee Street
Suite 530
Charleston, West Virginia 25301

(B) The Commission, the Trustee (if any), the Registrar, the Paying Agent, the Original Purchasers or the Municipal Bond Commission 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 2010 Bonds, the Commission shall establish a record date to determine the ownership of any 2010 Bonds for purposes of obtaining such consent, and shall give DTC at least 15 calendar days advance notice of the record date so established.

Section 6.06. Binding Effect. This Fifth Consolidated 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 6.07. Effective Date. This Fifth Consolidated Supplemental Resolution shall take effect immediately upon adoption.

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Adopted this 3rd day of December, 2010.

Chairman

Secretary

HEPC - Fifth Consolidated Supplemental Resolution
10791.7 - 2371482

EXHIBIT A

LIST OF 2010 PROJECTS

Exhibit A

Higher Education Policy Commission Bond Projects
December 3, 2010

		Funding Source		
Institution	**Project**	**Institution, Federal, and/or Private Funding**	**HEPC Bond Funding**	**Running Total Bond Proceeds**
New Buildings & Facilities				
New Buildings & Facilities funded by HEPC Bonds				
WLU	Science Center	2,250,000	12,750,000	12,750,000
SU	Visual Arts Project	2,085,000	11,815,000	24,565,000
MU	Biotechnology Development Center & Applied Engineering	25,000,000	25,000,000	49,565,000
GSC	Multi-Function Health and Wellness Education Center (State funding to be applied to academic facilities only)	15,000,000	11,000,000	60,565,000
HEPC	Dow Research Park - Building Renovation	10,500,000	10,000,000	70,565,000
Subtotal New E&G Buildings & Facilities		**$54,835,000**	**$70,565,000**	
Building and Campus Renewal (Renovation)				
Additional Projects Subject to Available Funding from HEPC Bonds				
WVU-Tech	Old Main Renovations	0	3,000,000	73,565,000
WVSU	Wallace Hall Renovation	0	1,800,000	75,365,000
WVSU	Davis Fine Arts Renovation	0	2,000,000	77,365,000
WVU	Research Laboratories (HSC)	0	3,200,000	80,565,000
WVU	Renovation of Health Sciences North (HSC)	0	15,000,000	95,565,000
BSC	Campus Infrastructure Improvements	0	6,000,000	101,565,000
MU	Forensic Science Center Annex/Renovation	0	1,000,000	102,565,000
WVU	Chemistry Research Annex Renovation	0	1,500,000	104,065,000
WVU	Hodges Renovation	0	25,000,000	129,065,000
Subtotal E&G Bldg. & Campus Renewal		**$0**	**$58,500,000**	
Total All Bond Projects		**$54,835,000**	**$129,065,000**	

$76,720,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

SECRETARY'S CERTIFICATE

I, Kathy G. Eddy, Secretary of the Higher Education Policy Commission (the "Commission") hereby certify that the copy of the General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time, and the Fifth Consolidated Supplemental Resolution of the Commission adopted on December 3, 2010, all included in the transcript of documents for the above captioned Bonds are true, correct, complete and identical to the originals thereof.

HIGHER EDUCATION POLICY COMMISSION

By: Kathy G. Eddy
Kathy G. Eddy, Secretary

2511186 (10791.7)

TAX COMPLIANCE CERTIFICATE

of

HIGHER EDUCATION POLICY COMMISSION

Dated as of December 23, 2010

$66,785,000
State of West Virginia
Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**

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: (i) $16,520,000 Revenue Bonds (Higher Education Facilities) Bonds (Tax-Exempt) (the "**2010 Series A Bonds**") and (ii) $50,265,000 Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds) (the **"2010 Series B Bonds,"** and sometimes hereinafter referred to collectively as the "**Bonds**" or the **"Issue"**) and in furtherance of the covenants of the Commission contained in the General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992 (collectively, the "General Resolution"), both of which remain in effect as amended, consolidated and supplemented from time to time, and the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General Resolution, collectively, the "**Resolution**"), and the Certificate of Determination of the Commission dated December 17, 2010, and pursuant to Treasury Regulations Section 1.148-2(b)(2), the Commission makes and enters into the following Tax Compliance Certificate (the **"Tax Certificate"**).

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

SECTION 2. GOOD FAITH, INCORPORATION AND RELIANCE.

(a) Good Faith Certification. I, the undersigned officer of the Commission charged, with others, by the governing body of the Commission, with the responsibility for issuing the Commission's Bonds hereby certify, in good faith, that I am authorized to certify for the Commission in connection with the issuance by the Commission of its Bonds, and that this certificate sets forth the facts and reasonable expectations of the Commission with respect to the issuance of the Bonds, the use and investment of the proceeds of the Bonds and related matters.

I further certify that I am knowledgeable with respect to the facts, representations and covenants set forth in this certificate, that the facts and representations set forth in this certificate are true and correct in all material respects, and that the Commission is authorized to enter into the covenants, and to make the representations, set forth in this certificate.

(b) Reliance Upon and Incorporation of Certificate. Significant portions of and representations made in this Tax Certificate are made wholly or partially based upon reliance on information provided by the representatives of the Underwriters in its Certificate attached hereto and incorporated herein as Exhibit A.

(c) Reliance by Bond Counsel. I understand and agree that the facts, representations and covenants in this certificate will be relied upon by Spilman Thomas & Battle, PLLC, bond counsel, in expressing their opinion that the interest on the Bonds is not included in gross income for Federal income tax purposes.

SECTION 3. REPRESENTATIONS.

(a) Purpose. The Bonds are being issued on the Date of Issue to provide moneys which will be used for the purposes of (i) paying a portion of the costs of acquiring, constructing, equipping and improving the Projects (the "**Projects**"), (ii) funding an Interest Subsidy Reserve Fund and (iii) paying the costs associated with the issuance of the Bonds.

(b) 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 authorized officer of the Commission and the expectations are reasonable.

(c) 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.

(d) Single Issue. Other than the $10,080,000 State of West Virginia Higher Education Policy Commission Hospital Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "Taxable Bonds"), which Taxable Bonds are not part of the same Issue as the Bonds pursuant to Treasury Regulations Section 1.150-1(c)(2), no other obligations will be sold at substantially the same time as the Bonds. The Bonds are being issued on the Date of Issue.

SECTION 4. REASONABLE EXPECTATIONS OF THE COMMISSION AS TO USE OF BOND PROCEEDS. The Commissions make the following representations and statements of fact relative to the use of proceeds of the Bonds:

(a) Application of Sale Proceeds:

(A) 2010 Series A Bonds:

(1) Sale Proceeds; No Overissuance. The Sale Proceeds of the 2010 A Bonds is $16,319,886.05, which amount consists of the aggregate principal amount of the Bonds of $16,520,000, less original issue discount of $200,113.95. The Sale Proceeds of the 2010 A Bonds and the aggregate investment earnings thereon do not exceed the amount necessary for the purpose set forth in Section 3(a) hereof by more than $50,000.

(2) Costs of Issuance. An amount of the Sale Proceeds of the 2010 A Bonds equal to $45,965.26,which amount consists of the cost of issuance amount

of $48,357.50 less $2,392.24 rounding, will be deposited in the Costs of Issuance Fund and will be expended within six months after the Date of Issue to provide for the Costs of Issuance incurred in connection with the issuance of the 2010 A Bonds, including, but not limited to Bond Counsel fees, financial advisor fees, rating agency fees, paying agent fees and printing costs. Any unspent amounts remaining in the Costs of Issuance Fund after the expiration of six months from the Closing Date will thereupon be transferred into the Project Fund.

(3) Underwriters' Discount. An amount of the Sale Proceeds of the 2010 A Bonds equal to $84,968.28 will be used on the date hereof for the payment of the underwriters' discount with respect to the 2010 B Bonds.

(4) Project Fund. An amount of the Sale Proceeds of the 2010 A Bonds equal to $16,188,952.51 will be used for the acquisition, construction, expansion, improvement and equipping of the Projects and said amount shall be deposited into the five separate subaccounts as follows:

(i) The sum of $6,184,023.36 shall be deposited into the Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the Additional Project Subaccount.

All moneys on deposit in the Project Fund shall be disbursed to pay the costs of acquisition, construction, expansion, improvement and equipping of the Projects prior to the disbursement by the Commission of any other moneys or funds of the Commission, such as an Equity Contribution, to be used to finance a portion of the costs of the Projects.

The "Project List" underlying these accounts is set out in Exhibit B attached hereto and incorporated herein and the Sale Proceeds shall be allocated to the projects as set forth therein.

(B) 2010 Series B Bonds:

(1) Sale Proceeds; No Overissuance. The Sale Proceeds of the 2010 B Bonds is $50,265,000, which amount consists of the aggregate principal amount of the 2010 B Bonds. The Sale Proceeds of the 2010 B Bonds and the aggregate

investment earnings thereon do not exceed the amount necessary for the purpose set forth in Section 3(a) hereof by more than $50,000.

(2) Costs of Issuance. An amount of the Sale Proceeds of the 2010 B Bonds equal to $147,136.21 will be deposited in the Costs of Issuance Fund and will be expended within six months after the Date of Issue to provide for the Costs of Issuance incurred in connection with the issuance of the 2010 B Bonds, including, but not limited to Bond Counsel fees, financial advisor fees, rating agency fees, paying agent fees and printing costs. Any unspent amounts remaining in the Costs of Issuance Fund after the expiration of six months from the Closing Date will thereupon be transferred into the Project Fund.

(3) Underwriters' Discount. An amount of the Sale Proceeds of the 2010 B Bonds equal to $258,530.92 will be used on the date hereof for the payment of the underwriters' discount with respect to the 2010 B Bonds.

(4) Project Fund. An amount of the Sale Proceeds of the 2010 B Bonds equal to $48,521,047.49 will be used for the acquisition, construction, expansion, improvement and equipping of the Projects and said amount shall be deposited into the five separate subaccounts as follows:

(i) The sum of $18,815,976.64 shall be deposited into the Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the Additional Project Subaccount.

All moneys on deposit in the Project Fund shall be disbursed to pay the costs of acquisition, construction, expansion, improvement and equipping of the Projects prior to the disbursement by the Commission of any other moneys or funds of the Commission, such as an Equity Contribution, to be used to finance a portion of the costs of the Projects.

The "Project List" underlying these accounts is set out in Exhibit B attached hereto and incorporated herein and the Sale Proceeds shall be allocated to the projects as set forth therein.

(5) Interest Subsidy Reserve Fund. An amount of the Sale Proceeds of the 2010 B Bonds equal to $1,338,285.38 shall be deposited into the Interest Subsidy Reserve Fund, which is intended to quality as a reasonably required reserve or replacement fund under section 148(d) of the Code.

(C) Other Bond Provisions:

(1) Expenditure Test. The Sale Proceeds deposited into the Project Fund will be allocated to capital expenditures for the Projects within two months of the Date of Issue. It is anticipated that as of the close of the 3-year period beginning on the Issuance Date, at least 85% of the Net Sale Proceeds will have been used to acquire, construct, expand, improve and equip the Projects.

(2) Time Test. Within six months of the Date of Issue, binding obligations will be entered into with third parties obligating the Commission to expend at least five percent (5%) of the Sale Proceeds deposited into the Project Fund for the Projects.

(3) Due Diligence Test. The Commission will proceed with due diligence to the completion of the Projects and the allocation of the Net Sale Proceeds of the Bonds to expenditures.

(4) No Other Funds. Other than the Bond Fund, the Costs of Issuance Fund, the Project Fund, the Interest Subsidy Reserve Fund and the Redemption 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.

(5) Equity Contribution. The Commission does not currently expect that it will make any Equity Contribution in order to complete the Projects. Where an Equity Contribution is required for the completion of any of the Projects, in that instance, the applicable institution of higher education is required to provide for such Equity Contribution. No Equity Contribution will be added to the Project Fund.

(b) Other Representations.

(1) Qualified Governmental Unit. All property financed with proceeds of the Bonds will be held by the Commission or by or on behalf of a qualified Governmental Unit, and the Projects financed with the proceeds thereof will be operated solely for public purposes as a governmental activity.

(2) No prohibited Use of Proceeds. No portion of the Projects will consist of any airplane, skybox or other luxury box, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(3) No Private Payments. No portion of the payments of principal of or interest on the Bonds will be made, financed or secured, directly or indirectly, by payments or property used in any trade or business of any person other than the Commission or any qualified Governmental Unit. The Commission will not permit any portion of the payment of the principal or interest on the Bonds to be secured, directly or indirectly, by (i) interests in property or (ii) payments in respect of such property, which property is used or to be used in any trade or business of any person other than the Commission or on behalf of a qualified Governmental Unit. The Commission will not permit any portion of the payment of the principal or interest on the Bonds to be derived, directly or indirectly by payments (whether or not to the Commission) in respect of property or borrowed money, used or to be used in any trade or business of any persons other than the Commission or on behalf of a qualified Governmental Unit.

(4) Build America Bonds. The 2010 B Bonds are Build America Bonds (Direct Payment). The Commission has elected on its books and records to designate the 2010 B Bonds as "Build America Bonds" as defined in Section 54AA of the Code and to directly receive payments from the United States Treasury in connection herewith ("Direct Pay BABs").

The Commission intends to timely file or cause to be filed Form 8038-CP (or such other form as may be designated by the United States Treasury) with the IRS to receive the direct payments from the United States Treasury.

The Commission further intends to comply with the Code and rules and regulation of the IRS that pertain to Direct Pay BABs to ensure the 2010 B Bonds are and continue to qualify as Direct Pay BABs under the Code. The Commission will control and monitor the expenditures of bond proceeds in the 2010 B Bonds Project Funds for full compliance with applicable provisions of the Code relative to Direct Pay BABs and qualification therefore. The Commission further intends to monitor compliance with all rules and regulations governing Direct Pay BABs of the IRS post-closing to ensure continued characterization of the 2010 B Bonds as Direct Pay BABs.

(5) Activities within Projects. The Projects financed with proceeds of the Bonds will be used only in activities directly related to the Commission or the Governmental Units' exempt governmental purpose. Except for "de minimus" amounts (defined as less than 1% of a Project), no other private person or entity will own or use the Projects either directly or indirectly, including use through a management agreement, and neither the Commission nor any other state or local government unit having an ownership interest in the Projects to any private person or entity will transfer ownership of the Projects while the Bonds are outstanding.

(6) Consultation with Bond Counsel. The Commission or qualified Governmental Unit covenants that it will not enter into any management contracts, agreements or lease any space within any bond-financed facility without first consulting with Bond Counsel.

SECTION 5. ARBITRAGE REPRESENTATIONS. The Commission makes the following representations and statements of facts and expectations on the basis of which it is expected that the proceeds of the Bonds will not be used in a manner that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code:

(a) Representations of the Issue Price of the Bonds and the Yield on the Bonds are based on the certificates executed by the Underwriters of even date herewith (Exhibit A) for the 2010 A Bonds and the 2010 B Bonds. The Commission is not aware of any facts or circumstances that would cause them to question the accuracy of the representations made by the Underwriters.

(b) No portion of the proceeds of the Bonds will be used directly or indirectly to replace funds of the Commission used directly or indirectly to acquire securities or obligations which may reasonably be expected, on the date hereof, to produce a yield materially higher than the Yield of the Bonds.

(c) Other than as described in this Tax Certificate, the Bonds are not and will not be part of a transaction or series of transactions that (i) attempt to circumvent the provisions of Section 148 of the Code, or any successor thereto, and the regulations promulgated thereunder which enable the Commission to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage or (ii) increase the burden on the market for tax-exempt obligations in any manner, including, without limitation, by selling obligations that would not otherwise be sold or selling a larger amount of obligations, or issuing them sooner, or allowing them to remain outstanding longer, than would otherwise be necessary.

(d) Other than the Taxable Bonds, no other obligations are being issued by the Commission or any related entity at substantially the same time and sold pursuant to a common plan of funding and which will be paid out of substantially the same source of funds (or which will have substantially the same claim to be paid out of substantially the same source of funds) as the Bonds or which will be paid directly or indirectly from proceeds of the sale of the Bonds.

(e) The Commission has not been notified of the listing or proposed listing of the Commission by the Internal Revenue Service as an Commission that may not certify its bonds.

(f) The issuance of the Bonds will not involve the use of a "device" or an "abusive transaction" within the meaning of Section 149(d)(4) of the Code.

(g) In connection with the Bonds, there has not been created or established, and the Commission does not expect that there will be created or established, any sinking fund, pledged fund or similar fund (other than the Interest Subsidy Reserve Fund as specifically identified and described in this Tax Certificate), including without limitation any arrangement under which money, securities or obligations are pledged directly or indirectly to secure the Bonds or any contract securing the Bonds or any arrangement providing for compensating or minimum balances to be maintained by the Commission with any registered owner of the Bonds.

(h) (1) On each Valuation Date, the Commission shall value the Nonpurpose Investments allocable to the Bonds thereunder. Nonpurpose Investments cease to be allocated to the Bonds to the extent such Nonpurpose Investments have been expended for the governmental purpose of the issue, or to the extent the value thereof exceeds the value permitted to be allocated to the Bonds under the Universal Cap. To the extent Nonpurpose Investments cease to be allocated to an issue and the value of the Universal Cap exceeds the value of the remaining

Nonpurpose Investments allocated to such issue, other Nonpurpose Investments may become allocated to the issue, provided that such Nonpurpose Investments are not already properly allocated to another issue and provided that such allocation does not cause the value of the Nonpurpose Investments allocated to the Bonds to exceed the Universal Cap.

(2) Notwithstanding anything herein to the contrary, the failure to perform the determination of Nonpurpose Investments allocable to the Bonds as of a Valuation Date shall not be considered a violation of this provision if the value of Nonpurpose Investments allocated to the Bonds did not exceed the value of the Bonds outstanding on such date.

(i) The Commission covenants that it will make no investment or other use of the proceeds of the Bonds that would cause the Bonds to be "arbitrage bonds," as that term is defined in Section 148 of the Code and any rulings and regulations which have been promulgated under the predecessor provisions of the Code or which may be promulgated under the Code.

(j) The Commission covenants that it will not enter into any contracts or agreements with the United States or any agency or instrumentality thereof that would cause the representations set forth in the preceding paragraph to be false.

(k) The Commission will take all further actions necessary to comply with the Code and Regulations.

(l) The Commission covenants not to enter into any Prohibited Payment Transaction. Prior to directing that any of the Gross Proceeds of the Bonds be invested in certificates of deposit or pursuant to an investment contract, the Commission will obtain certifications as necessary to provide evidence of compliance with this provision.

(1) The investment of Bond proceeds in a certificate of deposit issued by a commercial bank will not be a Prohibited Payment Transaction if the price at which it is purchased or sold is the bona fide bid price quoted by a dealer who maintains an active secondary market in such certificates of deposit. If there is no active secondary market in such certificates of deposit, the purchase or sale of a certificate of deposit will not result in a Prohibited Payment Transaction if the certificate of deposit has a Yield (1) as high or higher than the Yield on comparable obligations traded on an active secondary market, as certified by a dealer who maintains such a market, and (2) as high or higher than the Yield available on comparable obligations offered by the United States Treasury. The certification described in the preceding sentence must be executed by a dealer who maintains an active secondary market in comparable certificates of deposit and must be based on actual trades adjusted to reflect the size and term of that certificate of deposit and the stability and reputation of the person issuing the certificate of deposit.

(2) The purchase or sale of Nonpurpose Investments pursuant to an investment contract (e.g., an agreement to deposit gross proceeds with a particular bank, with the deposits to bear interest at an agreed rate) will not be a Prohibited Payment Transaction if (1) at least three bids on the investment contract from persons other than those with an interest in the issue (e.g., underwriters) are received, (2) a certification is provided by the person whose bid is

accepted stating that, based on that person's reasonable expectations on the date that the contract is entered into, Nonpurpose Investments will not be purchased pursuant to the investment contract at a price in excess of their Fair Market Value or sold pursuant to the investment contract at a price less than their Fair Market Value, (3) the Yield on the investment contract is at least equal to the Yield offered under the highest bid received from a noninterested party, and (4) the Yield on the investment contract is at least equal to the Yield offered on similar obligations under similar investment contracts (e.g., the Yield on investment contracts entered into by Commission of qualified mortgage bonds).

(m) Arbitrage Compliance. The Commission acknowledges that the continued exclusion of interest on the 2010 A Bonds from gross income of the recipients thereof for purposes of federal income taxation depends, among other things, upon compliance with the arbitrage limitations imposed by Section 148 of the Code, including the rebate requirement described in Section 5. The Commission covenants that it shall not permit at any time or times any of the proceeds of the Bonds to be "arbitrage bonds" for purposes of Section 148 of the Code. The Commission further agrees and covenants that it shall do and perform all acts and things necessary to ensure that the requirements of Section 148 of the Code are met. At the written direction of the Commission, the Paying Agent shall make the required transfers and dispositions described in Section 5 hereof.

The Commission acknowledges that the continued qualification of the 2010 B Bonds as Direct Pay BABs depends, in part, upon compliance with the arbitrage limitations imposed by Section 148 of the Code, including the rebate requirement described in Section 5. The Commission further agrees and covenants that it shall do and perform all acts and things necessary to ensure that the requirements of Section 148 of the Code are met. At the written direction of the Commission, the Paying Agent shall make the required transfers and dispositions described in Section 5 hereof.

SECTION 6. ADDITIONAL ARBITRAGE MATTERS.

(a) Issuance Costs and Underwriters' Discount. Sale Proceeds in the amount of $343,499.20 will be withheld by the Underwriters from the Issue Price otherwise paid to the Commission to purchase the Issue as compensation for their services in connection with the sale of the Issue to the public. Sale Proceeds in the amount of $193,101.47 deposited in the Costs of Issuance Fund will be used to pay other Issuance Costs (i.e., other than the Underwriters' discount). Any Investment Proceeds thereon will be deposited in the Project Fund and used to pay costs of the Project. All Sale Proceeds used to pay Issuance Costs will be so used within six (6) months from the Issuance Date, such period being the Temporary Period for such Sale Proceeds.

(b) Payment of Project Costs.

(1) Sale Proceeds of the Bonds in the amount of $64,710,000 deposited in the Project Fund and will be used to pay the costs of the acquisition, construction, expansion, improvement and equipping of the Projects. The Sales Proceeds of the Bonds shall be used to pay the costs of the acquisition, construction, expansion, improvement and equipping of the Projects before any moneys or funds of the Commission or on behalf of a qualified

Governmental Unit, such as an Equity Contribution, shall be used to pay Project Costs. The Commission expects that such Sale Proceeds may be used to acquire or hold Higher Yielding Investments with respect to the Issue for a period ending on the third anniversary of the Issuance Date (such period being the Temporary Period for such amount), since the following three tests are reasonably expected to be satisfied:

(i) At least 85% of the Sale Proceeds of the Project Fund will be allocated to expenditures as to the Projects by the end of the Temporary Period for such Sale Proceeds;

(ii) Within six (6) months of the Issuance Date, the Commission, or the applicable qualified "Governmental Unit," will incur a substantial binding obligation to a third party to expend at least 5% of the Sale Proceeds of the Project Fund on the Project; and

(iii) Completion of the Projects and the allocation of the Sale Proceeds of the Project Fund to expenditures with respect to the Projects will proceed with due diligence.

Any Sale Proceeds that remain unspent at the end of the Temporary Period will not be invested thereafter in Higher Yielding Investments with respect to the Issue except as part of the Minor Portion. In complying with the foregoing sentence, the Commission may take into account "yield reduction payments" (within the meaning of Regulations § 1.148-5(c)) timely paid to the United States.

(2) The Proceeds deposited in the Project Fund will be invested beginning on December 23, 2010, pending their use to pay costs of the Project, in a manner that will satisfy the safe harbor requirements of Reg. § 1.148-5(d)(6)(iii).

(c) Investment Proceeds. Any Investment Proceeds will be used to pay costs of the Projects or Costs of Issuance, subject to the limitation in Section 6(b) hereof. Such Investment Proceeds may be invested in Higher Yielding Investments during the Temporary Period or, if longer, one year from the date of receipt, such period being the Temporary Period for such Proceeds.

(d) No Other Replacement Fund or Assured Available Funds. Other than the Interest Subsidy Reserve Fund, the Commission has not established and does not expect to establish or use any sinking fund, debt service fund, redemption fund, reserve or replacement fund, or similar fund, or any other fund to pay Debt Service. Except for Proceeds of a Refunding Issue, if any, no other money or Investment Property is or will be pledged as collateral or used for the payment of Debt Service (or for the reimbursement of any party who may provide money to pay that Debt Service), or is or will be restricted, dedicated, encumbered, or set aside in any way as to afford the holders of the Issue reasonable assurance of the availability of such money or Investment Property to pay Debt Service.

(e) No Overissuance. The Proceeds are not reasonably expected to exceed the amount needed for the governmental purpose of the Issue as set forth in Section 3(a) hereof.

(f) Other Uses of Proceeds Negated. Except as stated otherwise in this Certificate, none of the Proceeds will be used:

(1) to pay principal of or interest on, refund, renew, roll over, retire, or replace any other obligations issued by or on behalf of the Commission or any other Governmental Unit,

(2) to replace any Proceeds of another issue that were not expended on the Projects for which such other issue was issued,

(3) to replace any money that was or will be used directly or indirectly to acquire Higher Yielding Investments,

(4) to make a loan to any person or other Governmental Unit,

(5) to pay any Working Capital Expenditures other than expenditures identified in Regulations §1.148-6(d)(3)(ii)(A) and (B) (i.e., Issuance Costs, Qualified Administrative Costs, reasonable charges for a Qualified Guarantee or for a Qualified Hedge, interest on the New Money Portion of the Issue for a period commencing on the Issuance Date and ending on the date that is the later of three years from such Issuance Date or one year after the date on which the Projects were or will be placed in service, payments of the Rebate Amount, and costs, other than those already described, that do not exceed 5% of the Sale Proceeds and that are directly related to Capital Expenditures financed or deemed financed by the Issue, principal or interest on an issue paid from unexpected excess Sale Proceeds or Investment Proceeds, and 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 Fund), or

(6) to reimburse any expenditures made prior to the Issuance Date except those that qualify as a Reimbursement of Prior Capital Expenditures.

No portion of the Issue is being issued solely for the purpose of investing Proceeds in Higher Yielding Investments.

(g) Disposition of Financed or Refinanced Property. The Commission, on behalf of the qualified Governmental Units, states that it does not intend to sell or otherwise dispose of the Projects or any portion thereof during the term of the Issue except for dispositions of property in the normal course at the end of such property's useful life.

(h) Minor Portion. The Minor Portion with respect to the Issue is up to $100,000.00. Such Minor Portion, if any, may be invested in Higher Yielding Investments with respect to the Issue.

SECTION 7. REBATE REQUIREMENT, CALCULATIONS AND PAYMENT. Section 148(f) of the Code requires the payment to the United States of the excess of the amount earned on the investment of Gross Proceeds in Nonpurpose Investments over the amount that would have been earned on such investments had the amount so invested been invested at a rate equal to the Bond Yield, together with any income attributable to such excess.

Except as provided below, the Costs of Issuance Fund and the Project Fund and all other funds or accounts treated as containing Gross Proceeds of the Bonds are subject to this requirement.

(a) Rebate Fund. In accordance with the requirements set out in the Code and pursuant to Section 7.09 of the Resolution relating to the Bonds, the Commission is authorized to establish a Rebate Fund to be held by the Paying Agent, in its capacity as Paying Agent under the Resolution and used as provided herein. On or before 30 days following each Computation Date, upon the Commission's written direction, an amount shall be deposited to the Rebate Fund by the Paying Agent from the investment earnings on the Bond Fund or from any other source or sources stated in such direction so that the balance held in the Rebate Fund shall equal the aggregate Rebate Amount due with respect to the Bonds as of the Rebate Payment Date following such Computation Date.

(b) Investments. To meet the rebate requirement of Section 148(f) of the Code, the Commission (or the Rebate Analyst), agrees and covenants to take the following actions:

(1) For each investment of amounts held with respect to the Bonds in the (A) Project Fund and (B) Rebate Fund, if later established, the Register/Construction Trustee or Paying Agent, as applicable, in accordance with the Resolution shall record the purchase date of such investment, its purchase price, accrued interest due on its purchase date, its face amount, its coupon rate, the frequency of its interest payment, its disposition price, accrued interest due on its disposition date and its disposition date.

(2) The Bond Yield for the Bonds shall be computed as of each Computation Date.

(3) The Rebate Amount for the Bonds shall be calculated as of each Computation Date.

(4) If the Rebate Amount exceeds the amount on deposit in the Rebate Fund, the Commission shall and (i) direct that amounts be transferred from any surplus available in any other Fund or (ii) immediately pay such amount to the Paying Agent for deposit into the Rebate Fund.

(5) All calculations of Yield, Future Value, Rebate Amount and present value shall be made through the use of the conventions described in Section 1.148-6 of the Regulations.

(c) Payment to United States of America. The Commission agrees that if an exception to rebate is not available, it will engage a Rebate Analyst in order to compute such rebate amount and to pay any rebate amounts to the United States of America and to provide such information to the Commission as may be required for the Commission to file such forms as required by Code Section 148(f) with the United States Treasury, and to mail the rebate to the United States any arbitrage profits on investment of such receipts of the sale of the Bonds pursuant to Code Section 148(f). Within 60 days after each Computation Date, the Commission shall request the Paying Agent to pay from the Rebate Fund to the United States 90% of the Rebate Amount and not later than 60 days after the Final Computation Date, 100% of the Rebate

Amount. Each payment to the United States pursuant to this Section 7(c) shall be rounded down to the nearest multiple of $100.00. Any amount that is less than $100.00 shall be rounded to zero.

(1) Each payment of an installment shall be mailed to the Internal Revenue Service Center, Ogden, Utah 84201. Each payment shall be accompanied by (i) a copy of IRS Form 8038-T, (ii) the CUSIP number for the bond with the latest maturity and (iii) a statement summarizing the determination of the Rebate Amount.

(2) If on the Rebate Payment Date the balance on deposit in the Rebate Fund for the Bonds is in excess of the Rebate Amount attributable to the Bonds, such excess may be transferred pursuant to the provisions of the Resolution. The Commission may direct that any overpayment of rebate may be recovered from any rebate payment previously made to the United States under any procedure that may, after the date of this Tax Certificate, be permitted by the Code or the Regulations.

(d) Recordkeeping. In connection with the rebate requirement, the Commission shall maintain the following records:

(1) Record all amounts paid to the United States pursuant to Section 7 hereof and shall furnish to the Commission and the Paying Agent copies of any materials filed with the IRS pertaining thereto. The Commission shall provide the Rebate Analyst with any information he may request relating to the calculation of any Rebate Amount.

(2) The Commission shall retain records of the rebate calculations until six years after the Final Computation Date.

(3) The Commission shall keep and record the data described in Section 7(b) hereof pertaining to the investment of the proceeds of the Bonds.

(e) Rebate Analyst. A Rebate Analyst may be appointed to perform the rebate calculations, as required herein. The Rebate Analyst and each successor Rebate Analyst shall signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Commission under which such Rebate Analyst will agree to discharge its duties pursuant to this Tax Certificate in a manner consistent with prudent industry practice.

(1) The Paying Agent and the Commission may rely conclusively upon and shall be full protected from all liability in relying upon the opinions, calculations, determinations, directions and advice of the Rebate Analyst. The charges and fees for such Rebate Analyst shall be paid by the Commission upon presentation of an invoice for services rendered in connection therewith.

(f) Rebate Exceptions. Attached and labeled as **Appendix II** are exceptions to the rebate requirements under the Code and Regulations.

SECTION 8. NO PRIVATE ACTIVITY BONDS. The Commission covenants not to permit at any time or times any of the proceeds of the Bonds or any other funds of the Commission to be used directly or indirectly in a manner which would result in the exclusion of the 2010 A Bonds from treatment afforded by Section 103(a) of the Code or failure to continue the qualification of the 2010 B Bonds as Direct Pay BABs by reason of classification of any series of the Bonds as "private activity bonds" within the meaning of the Code. The Commission will take all actions necessary to comply with the Code and the Treasury Regulations promulgated or to be promulgated thereunder.

SECTION 9. OTHER PROVISIONS.

(a) No Federal Guaranty. The Bonds are not, and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

(b) IRS Form 8038-G for 2010 Series A Bonds. The Commission will file or cause to be filed with the Internal Revenue Service, Ogden, Utah, the information report with respect to the 2010 A Bonds, in the form attached hereto as Exhibit C, required by Section 149(e) of the Code and the regulations thereunder by February 15, 2011. The information contained in the Form 8038-G will be true, correct and complete, to the best of the knowledge of the undersigned.

(c) IRS Form 8038-B for 2010 Series B Bonds (BAB-Direct Pay). The Commission will file or cause to be filed with the Internal Revenue Service, Ogden, Utah, the information report with respect to the 2010 B Bonds, in the form attached hereto as Exhibit D required by Section 149(e) of the Code and the regulations thereunder by February 15, 2011. The information contained in the Form 8038-B will be true, correct and complete, to the best of the knowledge of the undersigned.

(d) Rebate. The Commission will rebate to the United States the amount, if any, required by the Code and take all steps necessary to make such rebates. The Commission shall pay any and all interest, penalties and other amounts from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take all other actions required of it in order to maintain the exclusion of interest on the 2010 A Bonds from gross income for federal income tax purposes, and to continue the qualification of the 2010 B Bonds as Direct Pay BABs.

(e) No Artifice or Device. The Commission has not entered or will not enter into any transaction to reduce the Yield on an investment of the Gross Proceeds of the Bonds so as to cause the amount to be rebated to the United States Treasury to be less than it would have been had the transaction been at arm's length and the Yield on the Bonds not been relevant to either party to the transaction, and that all investments of Gross Proceeds will be made on an arm's length, Fair Market Value basis.

(f) Replacement Proceeds. No portion of the proceeds of the Bonds will be used directly or indirectly to replace funds of the Commission or other related governmental agency that have been used directly or indirectly to acquire securities or obligations which may

reasonably be expected, on the date hereof, to produce a yield materially higher than the Yield on the Bonds.

(g) No Prohibited Pledged Funds. In connection with this Bonds, there has not been created or established, and the Commission does not expect that there will be created or established, any sinking fund, pledged fund or similar fund (other than as specifically identified in this Tax Certificate), including without limitation any arrangement under which money, securities, or obligations are pledged directly or indirectly to secure the Bonds or any contract securing the Bonds or any arrangement providing for compensating or minimum balances to be maintained by the Commission or related governmental agencies with any registered owner of the Bonds.

(h) No Prohibited Transaction. The Bonds are not and will not be part of a transaction or series of transactions that (i) attempt to circumvent the provisions of Section 148 of the Code, or any successor thereto, and the Regulations promulgated thereunder which enable the Commission to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage or (ii) increase the burden on the market for tax-exempt obligations in any manner, including, without limitation, by selling obligations that would not otherwise be sold or selling a larger amount of obligations, or issuing them sooner, or allowing them to remain outstanding longer, than would otherwise be necessary.

(i) No Combined Issue. No other obligations are being issued by the Commission or any related entity at substantially the same time and sold pursuant to a common plan of financing and which will be paid out of substantially the same source of funds (or which will have substantially the same claim to be paid out of substantially the same source of funds) as the Bonds or which will be paid directly or indirectly from proceeds of the sale of the Bonds. The Taxable Bonds, while sold at the same time and part of the same source of funds as the Bonds, are not part of the same Issue as the Bonds pursuant to Treasury Regulations Section 1.150-1(c)(2).

(j) No Abusive Transaction. The issuance of the Bonds will not involve the use of a "device" or an "abusive transaction" within the meaning of Section 149(d)(4) of the Code and the Regulations thereunder.

(k) No Hedge Bonds. Not more than 50% of the proceeds of the Bonds shall be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or longer.

(l) Fixed Yield. The Bonds are a fixed yield issue. No interest or other amount payable on any of the Bonds (other than in the event of an unanticipated contingency) is determined by reference to (or by reference to an index that reflects) market interest rates or stock or commodity prices after the date of issue.

(m) Continued Compliance. The Commission covenants to comply with all requirements of the Code that must be satisfied subsequent to the issuance of the 2010 A Bonds in order that the interest thereon be and continue to be excludable from gross income for

federal income tax purposes and to continue the qualification of the 2010 B Bonds as Direct Pay BABs.

(n) Reliance. Under section 1.148-2(b) of the Regulations, an officer of the Commission must certify its respective expectations as of the Issue Date. In accordance therewith, the undersigned Authorized Officer of the Commission hereby in good faith certify that the representations and covenants set forth in this Tax Certificate constitute the reasonable expectations of the Commission, as of the Issue Date. Accordingly, the representations and covenants set forth herein are intended and may be relied upon as the certification described in section 1.148-2(b) of the Regulations and are being delivered as part of the record of proceedings in connection with the issuance of the Bonds.

The certifications and representations made in this Certificate and the Exhibits and Attachments are intended to be relied upon as certifications described in §1.148-2(b) of the Regulations.

(o) Compliance with Code. The Commission covenants and agrees that it shall at all times do and perform all acts and things necessary and within its reasonable control in order to assure that interest paid on the Bonds shall, for purposes of Federal income taxation, not be included in gross income.

The Commission acknowledges that the covenants and conditions set forth in this Tax Certificate are based upon the Code as it exists on the date hereof and that the Code may be subsequently interpreted or modified by the Federal government in a manner which is inconsistent with the covenants set forth herein. The Commission agrees that any such subsequent modification or interpretation of the Code will be deemed a requirement that must be met pursuant to the general tax covenant set forth above.

The Commission shall not be required to comply with any specific requirement of this Tax Certificate to the extent that, in the opinion of Bond Counsel furnished to the Commission, compliance with such requirement is not necessary to maintain the tax-exempt status of the 2010 A Bonds or continue the qualification of the 2010 B Bonds as Direct Pay BABs.

SECTION 10. AMENDMENTS. This Tax Certificate has been executed pursuant to Section 3.07 of 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 2010 A Bonds from gross income for purposes of Federal income taxation and continue the qualification of the 2010 B Bonds as Direct Pay BABs. This Tax Certificate sets forth the information, representations, and procedures necessary in order for Bond Counsel to render its opinions regarding the exclusion of interest on the 2010 A Bonds from gross income for purposes of Federal income taxation and the qualification of the 2010 B Bonds as Direct Pay BABs 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 2010 A Bonds from gross income for purposes of Federal income taxation or to continue the qualification of the 2010 B Bonds as Direct Pay BABs.

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 2010 A Bonds and the continued qualification of the 2010 B Bonds as Direct Pay BABs, and will, periodically, seek the advice of its Bond Counsel to the propriety of seeking the review of and supplements to this Tax Certificate from Bond Counsel.

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HIGHER EDUCATION POLICY COMMISSION

Dated: December 23, 2010

By: _____
Title: Brian Noland, Chancellor

2536943 (10791.7)
HEPC Tax Compliance Certificate

Exhibit A

Underwriters' Certificate

$16,520,000
State of West Virginia
Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax Exempt)

UNDERWRITERS' CERTIFICATE

This Certificate is furnished by Citigroup Global Markets Inc., acting on its behalf and on behalf of Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters") in connection with the sale and issuance by the Higher Education Policy Commission (the "Issuer") of its $16,520,000 aggregate principal amount of Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "Bonds") issued December 23, 2010, and hereby certifies and represents the following, based upon information available to us:

1. As of December 17, 2010, the date on which the bond purchase agreement for the Bonds was executed (the "Sale Date"), the Underwriters reasonably expected to offer all of the Bonds to the general public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) (the "Public") in a bona fide public offering, and the Underwriters reasonably expected that the first prices at which at least 10% of each maturity would be sold by the Underwriters to the Public were the prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, those listed for each maturity on Schedule A hereto (the "Initial Offering Prices").

2. The Underwriters were unable to sell ten percent (10%) or more of the Series of the Bonds scheduled to mature on April 1, 2018 at prices not greater than the prices, or yields not less than the yields, shown on the cover of the Official Statement during the underwriting period. The unsold portion of the Bonds was allotted to the Underwriters for their own accounts after the expiration of the underwriting period. A portion of these allotted Bonds has been sold to the public at various prices or yields and the unsold portion remains in the accounts of the Underwriters as of the delivery date of the Bonds.

3. As of the date of this certificate, all of the Bonds have actually been offered to the Public in a bona fide public offering at prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, the Initial Offering Prices.

4. Except as set forth in paragraph 2 above, the first ten percent (10%) of each maturity of the Bonds has been sold to the Public at prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, the Initial Public Offering Prices.

5. The Underwriter had no reason to believe that any of the Initial Public Offering Prices of the Bonds exceeded the expected fair market value of the Bonds as of the Sale Date.

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

- The Issue Price of the 2010 A Bonds is $16,319,886.05.

- The weighted average maturity of the 2010 A Bonds is 11.9540 years.

- The Yield on the 2010 A Bonds, calculated as described in the next sentence, is at least 4.9328%. That is the Yield that, when used in computing the present worth of all payments of principal and interest 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 initial offering price of the 2010 A Bonds as stated above.

- The CUSIP Number assigned to the final maturity of the Bonds is 95639RDU0.

7. Underwriters' Compensation. The Underwriters' discount for the Bonds is $84,968.28, which will be withheld by the Underwriters from the purchase price otherwise paid to the Issuer as compensation for their services in selling the Issue to the public.

8. Original Issue Discount Bonds. Some of the Bonds have an Initial Offering Price that is less than its stated redemption price at maturity ("Original Issue Discount Bonds"). The Bonds have an Original Issue Discount of $200,113.95.

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

We understand that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and by Spilman Thomas & Battle, PLLC, in connection with rendering its opinion to the Issuer that the interest on the Bonds is not includable in gross income of the owners thereof for federal income tax purposes. The undersigned is certifying only as to facts in existence on the date hereof. Nothing herein represents the undersigned's interpretation of any laws; in particular the regulations under the Internal Revenue Code of 1986, or the application of any laws to these facts. The certifications contained herein are not necessarily based on personal knowledge, but may instead be based on either inquiry deemed adequate by the undersigned or institutional knowledge (or both) regarding the matters set forth herein. Although certain information furnished in this Certificate has been derived from other purchasers, bond houses and brokers and cannot be independently verified by us, we have no reason to believe it to be untrue in any material respect.

Dated: December 23, 2010

CITIGROUP GLOBAL MARKETS INC. ,on behalf of itself and CREWS & ASSOCIATES, INC. AND RAYMONG JAMES & ASSOCIATES, INC.

By: CITIGROUP GLOBAL MARKETS, INC.

By: _____
Paul T. Creedon
Its: Managing Director

UNDERWRITERS'

and

ISSUE PRICE CERTIFICATE

for

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
$50,265,000 Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable—Issuer Subsidy—Build America Bonds)

December 23, 2010

On the date hereof, the undersigned and other underwriters (collectively, the "Underwriters") are purchasing $50,265,000 aggregate principal amount of State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable—Issuer Subsidy—Build America Bonds) (the "2010 Series B Bonds" or "Issue") being issued by the State of West Virginia Higher Education Policy Commission (the "Commission" or the "Issuer"). The 2010 Series B Bonds are being purchased by the Underwriters pursuant to a Bond Purchase Agreement, dated December 17, 2010 (the "Bond Purchase Agreement"), between the Commission and the undersigned, as Manager, acting on behalf of itself and the other Underwriters.

The undersigned represents and certifies as follows:

1. Each maturity of the 2010 Series B Bonds has been the subject of a bona fide initial offering to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at prices no higher than, or yields no lower than, the initial public offering prices or yields (the "Initial Public Offering Prices") set forth on the inside front cover of the Official Statement, dated December 17, 2010, relating to the 2010 Series B Bonds.

2. With respect to the maturities of the 2010 Series B Bonds that have been sold, at least ten percent (10%) or more of the 2010 Series B Bonds of each such maturity was first sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) (the "Public") at the Initial Public Offering Price for such maturity.

3. On December 17, 2010 (the "Sale Date"), all of the 2010 Series B Bonds have been the subject of a bona fide offering to the Public pursuant to the Bond Purchase Agreement, and on the Sale Date we reasonably expected that the first price at which at least 10% of the principal amount of each such maturity would be initially sold to the Public would be the respective price for that maturity shown on the attached schedule, and the first price at which at least 10% of the principal amount of each maturity initially sold to the Public was the respective

price for that maturity shown on the attached schedule. For purposes of this Issue Price Certificate, we have assumed that the phrase "bond houses, brokers or similar persons or organization acting in the capacity of underwriters or wholesalers" refers only to persons who, to our actual knowledge, are acting in such capacity.

4. At the time the undersigned entered into the Bond Purchase Agreement, based upon the then prevailing market conditions, the undersigned had no reason to believe that any maturity of the Series 2010 B Bonds would be initially sold to the public (excluding such bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at a price greater than, or a yield lower than, the Initial Public Offering Price for such maturity or that the fair market value of any maturity of the 2010 Series B Bonds would be in excess of the Initial Public Offering Price for such maturity.

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

- The Issue Price of the 2010 B Bonds is $50,265,000;
- The weighted average maturity of the 2010 B Bonds is 23.7033 years;
- The Yield on the 2010 B Bonds is 4.9492%, calculated as the Yield that, when used in computing the present worth of all payments of principal and interest 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 initial offering price of the 2010 B Bonds (less the interest subsidy available to the 2010 B Bonds because of its designation as a Build America direct pay Bond under Section 54AA of the Code).
- The CUSIP Number assigned to the final maturity of the 2010 B Bonds is 95639RDX4.

6. Underwriters' Compensation. The Underwriters' discount for the 2010 B Bonds is $258,530.92, which will be withheld by the Underwriters from the purchase price otherwise paid to the Issuer as compensation for their services in selling the Issue to the public.

7. Original Issue Discount Bonds. None of the 2010 B Bonds have an Initial Offering Price that is less than its stated redemption price at maturity ("Original Issue Discount Bonds").

8. No Stepped Coupon Bonds. No 2010 B Bond bears interest at an increasing interest rate.

The Issuer may rely on the foregoing representations in making its certification as to issue price of the 2010 Series B Bonds under the Internal Revenue Code of 1986, as amended from time to time (the "Code"), and with respect to certain of the representations set forth in the Tax Certificate, and bond counsel may rely on the foregoing representations in rendering their

opinion that the Bonds qualify for the credit allowed under Section 6431 of the Code. Nothing herein represents our interpretation of any laws or regulations under the Internal Revenue Code of 1986, as amended. Although certain information furnished in this Certificate has been derived from other purchasers, bond houses and brokers and cannot be independently verified by us, we have no reason to believe it to be untrue in any material respect.

Dated: December 23, 2010

CITIGROUP GLOBAL MARKETS INC.

By: _____
Paul T. Creedon, Managing Director

Exhibit B

Project List

Exhibit A

Higher Education Policy Commission Bond Projects
December 3, 2010

Institution	Project	Funding Source: Institution, Federal, and/or Private Funding	Funding Source: HEPC Bond Funding	Running Total Bond Proceeds
New Buildings & Facilities				
	New Buildings & Facilities funded by HEPC Bonds			
WLU	Science Center	2,250,000	12,750,000	12,750,000
SU	Visual Arts Project	2,085,000	11,815,000	24,565,000
MU	Biotechnology Development Center & Applied Engineering	25,000,000	25,000,000	49,565,000
GSC	Multi-Function Health and Wellness Education Center (State funding to be applied to academic facilities only)	15,000,000	11,000,000	60,565,000
HEPC	Dow Research Park - Building Renovation	10,500,000	10,000,000	70,565,000
Subtotal New E&G Buildings & Facilities		**$54,835,000**	**$70,565,000**	
Building and Campus Renewal (Renovation)				
	Additional Projects Subject to Available Funding from HEPC Bonds			
WVU-Tech	Old Main Renovations	0	3,000,000	73,565,000
WVSU	Wallace Hall Renovation	0	1,800,000	75,365,000
WVSU	Davis Fine Arts Renovation	0	2,000,000	77,365,000
WVU	Research Laboratories (HSC)	0	3,200,000	80,565,000
WVU	Renovation of Health Sciences North (HSC)	0	15,000,000	95,565,000
BSC	Campus Infrastructure Improvements	0	6,000,000	101,565,000
MU	Forensic Science Center Annex/Renovation	0	1,000,000	102,565,000
WVU	Chemistry Research Annex Renovation	0	1,500,000	104,065,000
WVU	Hodges Renovation	0	25,000,000	129,065,000
Subtotal E&G Bldg. & Campus Renewal		**$0**	**$58,500,000**	
Total All Bond Projects		**$54,835,000**	**$129,065,000**	

Exhibit C

Form 8038-G for 2010 A Bonds

Form **8038-G** (Rev. May 2010) Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate instructions.

Caution: *If the issue price is under $100,000, use Form 8038-GC.*

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name: Higher Education Policy Commission

2 Issuer's employer identification number (EIN): 55 0517092

3 Number and street (or P.O. box if mail is not delivered to street address): 1018 Kanawha Boulevard, East — Room/suite

4 Report number (*For IRS Use Only*): 3

5 City, town, or post office, state, and ZIP code: Charleston, WV 25301

6 Date of issue: December 23, 2010

7 Name of issue: Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt)

8 CUSIP number: 95639RDU0

9 Name and title of officer of the issuer or other person whom the IRS may call for more information: John F. Allevato, Esquire

10 Telephone number of officer or other person: (304) 340-3885

Part II Type of Issue (enter the issue price) See instructions and attach schedule

11	Education	11	16,319,886 05
12	Health and hospital	12	
13	Transportation	13	
14	Public safety	14	
15	Environment (including sewage bonds)	15	
16	Housing	16	
17	Utilities	17	
18	Other. Describe	18	
19	If obligations are TANs or RANs, check only box 19a ☐		
	If obligations are BANs, check only box 19b ☐		
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.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	April 1, 2026	$ 16,319,886.05	$ 16,520,000	11.9540 years	4.9328 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest			22	
23	Issue price of entire issue (enter amount from line 21, column (b))			23	16,319,886 05
24	Proceeds used for bond issuance costs (including underwriters' discount)	24	130,933 54		
25	Proceeds used for credit enhancement	25	0		
26	Proceeds allocated to reasonably required reserve or replacement fund	26	0		
27	Proceeds used to currently refund prior issues	27	0		
28	Proceeds used to advance refund prior issues	28	0		
29	Total (add lines 24 through 28)			29	130,933 54
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			30	16,188,952 51

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	N/A years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded	N/A years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	N/A
34	Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	N/A

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63773S Form **8038-G** (Rev. 5-2010)

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	0
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a	0
b	Enter the final maturity date of the GIC ▸		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	0

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 ▸ ☐

Signature and Consent

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. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▸ Signature of issuer's authorized representative Date ▸ **Dr. Brian Noland, Chancellor**
Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▸	Date 2/14/11	Check if self-employed ☐	Preparer's SSN or PTIN P01083380
Firm's name (or yours if self-employed), address, and ZIP code ▸	Spilman Thomas & Battle, PLLC (JFA) 300 Kanawha Blvd, E., Charleston, WV 25301	EIN 55 : 0282458 Phone no. (304) 340-3885	

Exhibit D

Form 8038-B for 2010 B Bonds

Form **8038-B**
(January 2010)
Department of the Treasury
Internal Revenue Service

Information Return for Build America Bonds and Recovery Zone Economic Development Bonds

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.

OMB No. 1545-2161

Part I **Reporting Authority** — Check if **Amended Return** ▶ ☐

1 Issuer's name: **Higher Education Policy Commission**
2 Issuer's employer identification number (EIN): **55-0517092**
3 Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions): **John F. Allevato, Esquire**
4 Report number (*For IRS Use Only*): 1
5 Number and street (or P.O. Box if mail is not delivered to street address): **300 Kanawha Boulevard, East**
6 City, town, or post office, state, and ZIP code: **Charleston, WV 25301**
7 Date of issue (MM/DD/YYYY): 12/23/2010
8 Name of issue: **Revenue Bonds (Higher Ed Facilities) 2010 Series B (Federally Taxable-Issuer Subsidy-BABs)**
9 CUSIP number: **95639RDX4**
10 Name and title of officer of issuer whom the IRS may call for more information (see instructions)
11 Telephone number of officer or other person (see instructions): **304.340.3885**

Part II **Type of Bonds** (see instructions, if the box on line 1b or 1c is checked, complete lines 2 and 3)

1a Build America bonds (Tax Credit) (section 54AA(a)) ☐
b Build America bonds (Direct Payment) (sections 54AA(g) and 6431) ☒
c Recovery zone economic development bonds (Direct Payment) (sections 1400U-2 and 6431) ☐
2 Enter the first interest payment date (MM/DD/YYYY) ▶ 04/01/2011
3 Interest payment date frequency: (Check box) (see instructions and attach debt service schedule)
a ☐ annual,
b ☒ semi-annual,
c ☐ quarterly,
d ☐ monthly, or
e ☐ other
f If line 3e above is checked, please describe the payment frequency:

Part III **Purpose of Issue**

			Amount (*Whole Dollars*)
1	For a build America bond, identify the purpose of issue and enter the issue price. (see instructions and attach schedule)		
a	Education	1a	50,265,000
b	Health and hospital	1b	
c	Transportation	1c	
d	Public safety	1d	
e	Environment (including sewage bonds)	1e	
f	Housing	1f	
g	Utilities	1g	
h	Other description ▶	1h	
2	For a recovery zone economic development bond, identify the purpose of issue and enter the issue price. (see instructions and attach schedule)		
a	Capital expenditures relating to property located in the zone	2a	
b	Public infrastructure and construction of public facilities	2b	
c	Job training and educational programs	2c	
d	Other description	2d	
3	Total issue price (Part III, lines 1a through 1h or lines 2a through 2d)	3	50,265,000

4 If obligations are TANs or RANs, check only box **4a** ▶ ☐ If obligations are BANs, check only box **4b** ▶ ☐
5 If obligations are in the form of a lease or installment sale, check box ▶ ☐

Part IV **Description of Obligations** (Complete for the entire issue for which this form is being filed.)

1	Stated redemption price at maturity	1	50,265,000
2	Final maturity date (MM/DD/YYYY)	04/01/2040	
3	Weighted average maturity	23.70 years	
4	Yield	4.9492 %	

5 If the issue is a variable rate issue, check box **5a** ▶ ☐ Please indicate the frequency rates are reset **5b** ▶

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 53393K Form **8038-B** (1-2010)

Part V Use of Proceeds of Issue

			Amount (Whole Dollars)
1	Sales proceeds	1	50,265,000
2	Expected investment proceeds	2	
3	Proceeds used for accrued interest	3	
4	Proceeds used for bond issuance cost (including underwriter's discount)	4	405,667.00
5	Proceeds used for credit enhancement	5	
6	Proceeds allocated to a reasonably required reserve fund	6	1,338,285.00
7	Proceeds used for capital expenditures	7	48,521,047.00
8	Proceeds used for working capital expenditures	8	
9	Proceeds used to currently refund prior issues	9	
10	Proceeds used to advance refund prior issues	10	

Part VI Description of Refunded Bonds (complete this part only for refunding bonds)

1 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . N/A years

2 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . N/A years

3 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) / /

4 Enter the date the refunded bonds were issued (if more than one date of issue, attach a schedule) (MM/DD/YYYY) (see instructions) / /

Part VII Miscellaneous

1 Enter the amount of the volume cap allocated to the issue (see instructions) (attach volume cap certification) 1

2a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) 2a

b Enter the final maturity date of the GIC (MM/DD/YYYY) ▶ / /

c Enter the name of the GIC provider ▶

3 Proceeds of this issue that are to be used to make loans to other governmental units 3

4a If this issue is a loan made from the proceeds of another issue, check box ▶ ☐ and enter the following information:

b Enter the issue date of the master pool obligation (MM/DD/YYYY) ▶ / /

c Enter the EIN of the issuer of the master pool obligation ▶

d Enter the name of the issuer of the master pool obligation ▶

5a If the issuer entered into a hedge, check box ▶ ☐ and enter the following information:

b Name of hedge provider ▶

c Type of hedge ▶

d Term of hedge ▶

6 If the issuer has superintegrated the hedge, check box ▶ ☐

7 If the issuer elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

8 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated in accordance with the requirements under Regulations section 1.141-12, check box ▶ ☒

9 If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ ☒

Signature and Consent

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. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process the return, to the person(s) that I have authorized above.

▶ Signature of issuer's authorized representative — Date 12/23/2010 ▶ Dr. Brian Noland, Chancellor — Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶	Date 9/19/11	Check if self-employed ☐	Preparer's SSN or PTIN P01083380
Firm's name (or yours if self-employed), address, and ZIP code ▶	Spilman Thomas & Battle, PLLC 300 Kanawha Blvd, E., Charleston, WV 25301	EIN 55-0282458 Phone no. 340-3885	

Part VIII Consent to Disclosure of Certain Information from this Return

1 For build America bonds that provide a tax credit to bondholders, does the issuer give the IRS consent to publish, through a website or in a publication, its name and address, employer identification number, name and description of bond issue, date of issuance, CUSIP number, issue price, final maturity date, and stated redemption price at maturity, to assist in the proper reporting of interest, tax credits, or other benefits under section 6049 and Regulations thereunder? ▶ ☐ Yes ☐ No

Under penalties of perjury, I declare that I am an officer of the above named issuer and that I am authorized to give consent on behalf of the above named issuer for the IRS to publish the items of information described in line 1 of Part VIII of this form to assist in the reporting obligations under section 6049.

Sign Here ▶ Signature — Date ▶ Type or print name and title

Attachment to Form 8038-B
For
State of West Virginia
Higher Education Policy Commission
(Higher Education Facilities) 2010 Series B
(Federally Taxable – Issuer Subsidy – Build America Bonds)
TIN 55-0517092

Date of Issue: December 23, 2010

PART I – REPORTING AUTHORITY

9. Cusip Number:

$10,800,000 7.450% 2010 Series B Term Bond due April 1, 2030 at a yield of 100%
(CUSIP: 95639RDW6)

$39,465,000 7.650% 2010 Series B Term Bond due April 1, 2040 at a yield of 100%
(CUSIP: 95639RDX4)

PART II – TYPE OF BONDS

FIXED RATE BOND-DEBT SERVICE SCHEDULE

See Bond Debt Service Schedule attached hereto. The Bonds are callable at any time prior to maturity.

PART III – PURPOSE OF ISSUE

1. Purpose of Issue:

To provide capital improvements at the higher education facilities listed below:

Marshall University (governmental entity)	EIN: 556-000-789
Glenville State College (governmental entity)	EIN: 556-000-779
Shepherd University (governmental entity)	EIN: 556-000-799
West Liberty University (governmental entity)	EIN: 556-000-822
West Virginia University Institute of Technology (governmental entity)	EIN: 556-000-842
West Virginia State University (governmental entity)	EIN: 556-000-839

All project expenditures, costs of issuance and reasonably required reserve funds are for education purposes and the amounts as set out in Part V.

West Virginia Higher Education Policy Commission
2010 Series B (Federally Taxable - Build America Bonds)
Net Debt Service

FIXED RATE BOND - DEBT SERVICE SCHEDULE

Maturity	Principal	Interest	Total Debt Service	35% Direct Subsidy	BABs Subsidy Reserve	Net Debt Service	Annual Net D/S	Outstanding Principal
4/1/2011		1,040,888.63	1,040,888.63	(364,311.02)		676,577.61	676,577.61	50,265,000.00
10/1/2011		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2012		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2012		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2013		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2013		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2014		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2014		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2015		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2015		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2016		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2016		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2017		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2017		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2018		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2018		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2019		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2019		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2020		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2020		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2021		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2021		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2022		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2022		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2023		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2023		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2024		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2024		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2025		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2025		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2026		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2026		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2027	2,510,000.00	1,911,836.25	4,421,836.25	(669,142.69)		3,752,693.56	4,995,387.12	47,755,000.00
10/1/2027		1,818,338.75	1,818,338.75	(636,418.56)		1,181,920.19		
4/1/2028	2,635,000.00	1,818,338.75	4,453,338.75	(636,418.56)		3,816,920.19	4,998,840.38	45,120,000.00
10/1/2028		1,720,185.00	1,720,185.00	(602,064.75)		1,118,120.25		
4/1/2029	2,760,000.00	1,720,185.00	4,480,185.00	(602,064.75)		3,878,120.25	4,996,240.50	42,360,000.00
10/1/2029		1,617,375.00	1,617,375.00	(566,081.25)		1,051,293.75		
4/1/2030	2,895,000.00	1,617,375.00	4,512,375.00	(566,081.25)		3,946,293.75	4,997,587.50	39,465,000.00
10/1/2030		1,509,536.25	1,509,536.25	(528,337.69)		981,198.56		
4/1/2031	3,035,000.00	1,509,536.25	4,544,536.25	(528,337.69)		4,016,198.56	4,997,397.12	36,430,000.00
10/1/2031		1,393,447.50	1,393,447.50	(487,706.63)		905,740.87		
4/1/2032	3,185,000.00	1,393,447.50	4,578,447.50	(487,706.63)		4,090,740.87	4,996,481.74	33,245,000.00
10/1/2032		1,271,621.25	1,271,621.25	(445,067.44)		826,553.81		
4/1/2033	3,345,000.00	1,271,621.25	4,616,621.25	(445,067.44)		4,171,553.81	4,998,107.62	29,900,000.00
10/1/2033		1,143,675.00	1,143,675.00	(400,286.25)		743,388.75		
4/1/2034	3,510,000.00	1,143,675.00	4,653,675.00	(400,286.25)		4,253,388.75	4,996,777.50	26,390,000.00
10/1/2034		1,009,417.50	1,009,417.50	(353,296.13)		656,121.37		
4/1/2035	3,685,000.00	1,009,417.50	4,694,417.50	(353,296.13)		4,341,121.37	4,997,242.74	22,705,000.00
10/1/2035		868,466.25	868,466.25	(303,963.19)		564,503.06		
4/1/2036	3,870,000.00	868,466.25	4,738,466.25	(303,963.19)		4,434,503.06	4,999,006.12	18,835,000.00
10/1/2036		720,438.75	720,438.75	(252,153.56)		468,285.19		
4/1/2037	4,060,000.00	720,438.75	4,780,438.75	(252,153.56)		4,528,285.19	4,996,570.38	14,775,000.00
10/1/2037		565,143.75	565,143.75	(197,800.31)		367,343.44		
4/1/2038	4,265,000.00	565,143.75	4,830,143.75	(197,800.31)		4,632,343.44	4,999,686.88	10,510,000.00
10/1/2038		402,007.50	402,007.50	(140,702.63)		261,304.87		
4/1/2039	4,475,000.00	402,007.50	4,877,007.50	(140,702.63)		4,736,304.87	4,997,609.74	6,035,000.00
10/1/2039		230,838.75	230,838.75	(80,793.56)		150,045.19		
4/1/2040	6,035,000.00	230,838.75	6,265,838.75	(80,793.56)	1,338,285.38	4,846,759.81	4,996,805.00	-
	50,265,000.00	90,760,631.13	141,025,631.13	(31,766,221.00)	1,338,285.38	107,921,124.75	107,921,124.75	

APPENDIX I
Definitions

"Bona Fide Debt Service Reserve Fund" shall mean a fund which may include proceeds of an issue, that:

(a) Is used primarily to achieve a proper matching of revenues with principal and interest payments within each Bond Year; and

(b) Is depleted at least once each Bond Year, except for reasonable carryover amount not to exceed the greater of:

(i) the earnings on the fund for the immediately preceding Bond Year; or

(ii) one-twelfth (1/12th) of the principal and interest payments on the issue for the immediately preceding Bond Year.

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

"Bond Year" shall mean each one year period that ends on the day selected by the Commission. If no day is selected by the Commission 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.

"Bond Yield" shall mean 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 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 Bond Yield of the: (i) 2010 A Bonds is 4.9328% and (ii) 2010 B Bonds (net) is 4.9492%, all as calculated in accordance with the provisions of Section 148-4 of the Regulations.

"Bonds" or **"Bonds"** shall mean the Commission's $16,520,000 Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) and $50,265,000 Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds).

"Closing Date" or **"Date of Issue"** or **"Issuance Date"** shall mean December 23, 2010, the date of this Tax Compliance Certificate, which is the date of initial delivery of the Bonds and receipt of payment therefor.

"Code" shall mean the Internal Revenue Code of 1986, and the Regulations promulgated thereto, as amended from time to time.

"Computation Date" shall mean each date on which the Rebate Amount for the Bonds is required to be computed under Section 1.148-3(e) of the Regulations.

"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.

"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.

"Costs of Issuance" or **"Issuance Costs"** 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, within the meaning of section 147(g) of the Code and Regulations §1.150-1(b).

"De Minimis Amount" means the same as in Regulation §1.148-1(b), which is:

(1) In reference to original issue discount (as defined in Code §1273(a)(1))or premium on an obligation;

(i) An amount that does not exceed 2 percent multiplied by the stated redemption price at maturity; plus

(ii) Any premium that is attributable exclusively to reasonable underwriter's compensation; and

(2) In reference to market discount (as defined in Code §1278(a)(2)(A) or premium on an obligation, an amount that does not exceed 2 percent multiplied by the stated redemption price at maturity.

"Discharged" shall mean with respect to any Bond, the date on which all amounts due with respect to such Bond are actually and unconditionally due if cash is available at the place of payment and no interest accrues with respect to the Bond after such date.

"Fair Market Value" means

(a) In general. 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). Except as otherwise provided in this paragraph, an investment that is not of a type traded on an established securities market, within the meaning of section 1273, 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) Safe harbor for establishing fair market value for certificates of deposit. This paragraph (b) applies to a certificate of deposit that has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal. The purchase price of such a certificate of deposit is treated as its fair market value on the purchase date if the yield on the certificate of deposit is not less than -

(A) The yield on reasonably comparable direct obligations of the United States; and

(B) 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) Safe harbor for establishing fair market value for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow. The purchase price of a guaranteed investment contract and the purchase price of an investment purchased for a yield restricted defeasance escrow will be treated as the fair market value of the investment on the purchase date if all of the following requirements are satisfied:

(A) The Commission makes a bona fide solicitation for the purchase of the investment. A bona fide solicitation is a solicitation that satisfies all of the following requirements:

(1) The bid specifications are in writing and are timely forwarded to potential providers.

(2) The bid specifications include all material terms of the bid. A term is material if it may directly or indirectly affect the yield or the cost of the investment.

(3) The bid specifications include 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 any other formal or informal agreement that the potential provider has with the Commission or any other person (whether or not in connection with the bond issue), and that the bid is not being submitted solely as a courtesy to the Commission or any other person for purposes of satisfying the requirements of paragraph (c)(B)(1) or (2) of this section.

(4) The terms of the bid specifications are commercially reasonable. A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the yield of the investment. For example, for solicitations of investments for a yield restricted defeasance escrow, the hold firm period must be no longer than the Commission reasonably requires.

(5) For purchases of guaranteed investment contracts only, the terms of the solicitation take into account the Commission's reasonably expected deposit and draw-down schedule for the amounts to be invested.

(6) All potential providers have an equal opportunity to bid. For example, no potential provider is given the opportunity to review other bids (i.e., a last look) before providing a bid.

(7) At least three reasonably competitive providers are solicited for bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of investments being purchased.

(B) The bids received by the Commission meet all of the following requirements:

(1) The Commission receives at least three bids from providers that the Commission solicited under a bona fide solicitation meeting the requirements of paragraph (c)(A) of this section and that do not have a material financial interest in the issue. A lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the issue date of the issue. In addition, any entity acting as a financial advisor with respect to the purchase of the investment at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue. A provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.

(2) At least one of the three bids described in paragraph (c)(B)(1) of this section is from a reasonably competitive provider, within the meaning of paragraph (c)(A)(7) of this section.

(3) If the Commission uses an agent to conduct the bidding process, the agent did not provide the investment.

(C) The winning bid meets the following requirements:

(1) Guaranteed investment contracts. If the investment is a guaranteed investment contract, the winning bid is the highest yielding bona fide bid (determined net of any broker's fees).

(2) Other investments. If the investment is not a guaranteed investment contract, the following requirements are met:

(i) The winning bid is the lowest cost bona fide bid (including any broker's fees). The lowest cost bid is either the lowest cost bid for the portfolio or, if the Commission compares the bids on an investment-by-investment basis, the aggregate cost of a portfolio comprised of the lowest cost bid for each investment. Any payment received by the Commission from a provider at the time a guaranteed investment contract is purchased (e.g., an escrow float contract) for a yield restricted defeasance escrow under a bidding

procedure meeting the requirements of this paragraph (c) is taken into account in determining the lowest cost bid.

(ii) The lowest cost bona fide bid (including any broker's fees) is not greater than the cost of the most efficient portfolio comprised exclusively of State and Local Government Series Securities from the United States Department of the Treasury, Bureau of Public Debt. The cost of the most efficient portfolio of State and Local Government Series Securities is to be determined at the time that bids are required to be submitted pursuant to the terms of the bid specifications.

(iii) If State and Local Government Series Securities from the United States Department of the Treasury, Bureau of Public Debt are not available for purchase on the day that bids are required to be submitted pursuant to terms of the bid specifications because sales of those securities have been suspended, the cost comparison of paragraph (c)(C)(2)(ii) of this section is not required.

(D) The provider of the investments or the obligor on the guaranteed investment contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the investment.

(E) The Commission retains the following records with the bond documents until three years after the last outstanding bond is redeemed:

(1) For purchases of guaranteed investment contracts, a copy of the contract, and for purchases of investments other than guaranteed investment contracts, the purchase agreement or confirmation.

(2) The receipt or other record of the amount actually paid by the Commission for the investments, including a record of any administrative costs paid by the Commission, and the certification under paragraph (c)(D) of this section.

(3) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results.

(4) The bid solicitation form and, if the terms of the purchase agreement or the guaranteed investment contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation. For example, if the Commission purchases a portfolio of investments for a yield restricted defeasance escrow and, in order to satisfy the yield restriction requirements of section 148, an investment in the winning bid is replaced with an investment with a lower yield, the Commission must retain a record of the substitution and how the price of the substitute investment was determined. If the Commission replaces an investment in the winning bid portfolio with another investment, the purchase price of the new investment is not covered by the safe harbor unless the investment is bid under a bidding procedure meeting the requirements of this paragraph (c).

(5) For purchases of investments other than guaranteed investment contracts, the cost of the most efficient portfolio of State and Local Government Series Securities, determined at the time that the bids were required to be submitted pursuant to the terms of the bid specifications.

"Final Computation Date" shall mean the date on which the last Bond is Discharged.

"Fiscal Year" shall mean the fiscal year of the State, which commences on July 1 of each year and ends on June 30 of the subsequent year.

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

"Future Value" shall mean the future value of a payment or receipt at the end of any period, 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 Bonds, using the same compounding interval and financial conventions used to compute that Yield as provided under Section 1.148-3(c) of the Regulations.

"Governmental Unit" shall mean a state, a political subdivision or instrumentality of the foregoing within the meaning of Section 141(b)(6) of the Code.

"Gross Proceeds" shall mean Proceeds and Replacement Proceeds of the Bonds within the meaning of the Regulations.

"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.

"Resolution" shall mean the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time, and the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010, pursuant to which the Bonds were issued.

"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.

"Installment Computation Date" shall mean the last day of the first Bond Year and each succeeding Bond Year, until and excluding the Final Computation Date.

"Investment" shall mean any security, obligation, annuity contract, or investment type property as defined in section 148(b) of the Code.

"Investment Proceeds" shall mean any amounts actually or constructively received from investing Proceeds of an issue of bonds.

"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 Commission, any "specified private activity bond" within the meaning of Section 57(a)(5)(C), and any other Investment-Type Property.

"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 Commission 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 Commission but who are not beneficiaries of tax-exempt financing.

"IRS" shall mean the Internal Revenue Service.

"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 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 or discount), 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 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 Commission by the first purchaser(s) (other than bond houses, brokers or other intermediaries).

"Minor Portion" shall mean an amount not exceeding $100,000.

"Net Sale Proceeds" shall mean Sale Proceeds less the amount of those proceeds invested in a reasonably required reserve or replacement fund under section 148(d) of the Code and as part of a minor portion under section 148(e) of the Code.

"Nonpurpose Investment" shall mean any Investment that is not acquired to carry out the governmental purpose of an issue.

"Payment" shall mean a payment as defined in section 1.148-3(d) of the Regulations for purposes of computing the rebate amount, and a payment as defined in section 1.148-5(b) of the Regulations for purposes of computing the yield on an investment.

"Pre-Issuance Accrued Interest" means interest on an obligation that accrued for a period not greater than one year before the Date of Issue and that will be paid within one year after such Date of Issue.

"Present Value" shall mean the amount determined by using the following formula:

$$PV = \frac{FV}{(I+i)n}$$

where i equals the discount rate divided by the number of compounding intervals in a year and n equals the sum of (i) the number of whole compounding intervals for the period ending on the date as of which the Future Value is determined and (ii) a fraction the numerator of which is the length of any short compounding interval during such period and the denominator of which is the length of a whole compounding interval.

"Present Value of an Investment" shall mean the value of an investment computed under the economic accrual method; using the same compounding interval and financial conventions used to compute the yield on the Bonds. On any valuation date, the Present Value of an Investment is equal to the Present Value of all unconditionally payable receipts to be received from the payments to be paid for the investment after that date, using the Yield on the Investment as the discount rate.

"Private Person" shall mean any person or entity other than a Governmental Unit or a Qualifying Section 501(c)(3) Organization.

"Proceeds" shall mean Sale Proceeds, Investment Proceeds, and Transferred Proceeds of an issue of bonds. Proceeds do not include amounts that are actually or constructively received with respect to an investment that is acquired for the governmental purpose of an issue that are properly allocable to the immaterially higher yield under section 1.148-2(d) of the Regulations or section 143(g) of the Code or to qualified administrative cost recoverable under section 1.148-5(e).

"Prohibited Payment Transaction" shall mean either (i) any transaction to reduce the yield on the investment of Gross Proceeds of the Bonds in such a manner that the amount to be rebated to the federal government pursuant to Section 4 hereof is less than it would have been had the transaction been at arm's length and had the yield on the issue not been relevant to either party or (ii) any transaction described in the Regulations as giving rise to imputed receipts as defined in the Regulations.

"Purchaser" or **"Original Purchasers"** shall mean Citigroup Global Markets, Inc., acting on its behalf and on behalf of the other underwriters, being Crews & Associates, Inc. and Raymond James & Associates, Inc., as the original purchasers of the Bonds from the Commission.

"Purpose Investment" shall mean any investment that is acquired with the Gross Proceeds of an issue of obligations to carry out the governmental purpose for which such issue was issued.

"Qualified Guarantee" shall mean a qualified guarantee as defined in Section 1.148-4(f) of the Regulations.

"Qualified Guarantee Payment" shall mean a payment made to secure a Qualified Guarantee. For this purpose:

(a) Reasonable Payment. A payment is a Qualified Guarantee Payment only if it does not exceed a reasonable charge for the transfer of credit risk, the determination of which shall be made by taking into account payments charged by guarantors in comparable transactions, including transactions in which the guarantor has no involvement other than as a guarantor. Notwithstanding the preceding sentence, this requirement will not be considered met unless the Present Value of the payments made to secure a Qualified Guarantee for the Bonds (using the Yield on the Bonds to be secured (with regard to payments for the guarantee) as the discount rate) is less than the Present Value of the interest to be saved (using the same discount rate) as a result of the guarantee.

(b) Disallowance Due to Non-Guarantee Element. No payment shall be considered a Qualified Guarantee Payment if any portion thereof is made in respect to a cost, risk or other element that is not customarily borne by guarantors of debt, the interest on which is exempt from federal income taxation, or if the guarantor to which such a payment is made provides non-guarantee services, the fees for which are not separately stated and separately paid.

(c) Allocation of Payments. In the calculation of Yield, Qualified Guarantee Payments shall be taken into account on the basis of level payments which are allocated to the Bonds to which each level payment properly relates.

(i) Level Payments. A Qualified Guarantee Payment is a level payment if: the payment is one of a series of payments with respect to the Bonds; each payment in the series is the same percentage of the sum of the outstanding principal amount of the Bonds and not more than one year's accrued interest (determined as of the date on which the payment is calculated); each payment of the series is due no earlier than one year before and no later than

one year after the date on which the payment is calculated; the series of payments are due at periodic intervals (properly adjusted to take into account any short interval); and at least one payment in the series is due in each Bond Year for which the guarantee of the Bonds is in effect. Solely for purposes of the preceding sentence, the first Bond Year shall be treated as beginning on the first day that a guarantee is in effect; the last Bond Year shall be treated as ending on the last day on which the guarantee is in effect (without regard to any retirement of the Bonds before their final maturity date); and any Bond Year that is less than twelve (12) full months shall be treated as a short Bond Year.

(ii) Non-Level Payments. Qualified Guarantee Payments which are not level shall be allocated to the Bonds in a manner that reflects the proportionate credit risk for which the guarantor is compensated. The proportionate credit risk for identical Bonds, including Bonds subject to mandatory early redemption, is the same. The proportionate credit risk with respect to Bonds that are not identical shall be determined by reference to the proportionate interest reduction resulting from the guarantee (determined on a Present Value basis and with adjustments, as necessary, to take into account any level payments). In the case of Bonds that are not readily remarketable without a guarantee and for which the proportionate interest reduction cannot reasonably be estimated, the proportionate credit risk shall be determined by use of a reasonable method that properly reflects such risk.

"Rebate Amount" shall mean 100% of the amount owed to the United States under Section 148(f)(2) of the Code, as further described in Section 1.148-3 of the Regulations.

"Rebate Analyst" shall mean the firm of certified public accountants, or other specialist in the calculation of arbitrage rebate chosen as specified herein to determine the Rebate Amount, if any.

"Rebate Payment Date" shall mean the date following a Computation Date on which the Rebate Amount is mailed or otherwise filed with the IRS. The Rebate Payment Date cannot be a date which is more than 60 days after a Computation Date.

"Rebate Requirement" shall have the meaning ascribed thereto in Section 5 of the Tax Certificate.

"Rebate Yield" shall mean the yield on the Bonds for purposes of determining the Rebate Amount, computed as described in Section 4 hereof.

"Receipt" shall mean a receipt as defined in section 1.148-3(d) of the Regulations for purposes of computing the Rebate Amount, and a receipt as defined in section 1.148-5(b) for purposes of computing Yield on an Investment.

"Regulation" or "Regulations" shall mean the temporary, proposed or final Income Tax Regulations promulgated by the Department of the Treasury that are applicable to the Bonds.

"Related Person" shall mean any person related to any beneficiary of the Bonds within the meaning of Section 144(a)(3) of the Code.

"Replacement Proceeds" shall mean amounts that are treated as replacement proceeds of an issue of bonds under section 1.148-1(c) of the Regulations. Generally, amounts are Replacement Proceeds of an issue if the amounts have a sufficiently direct nexus to the governmental purpose of the 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. Replacement Proceeds include, but are not limited to, sinking funds or pledged funds to the extent that those funds are held by or derived from a substantial beneficiary of the issue (which, for this purpose includes the Commission and any related party to the Commission).

"Sale Proceeds" shall mean amounts actually or constructively received from the sale of an issue of bonds (including amounts used to pay underwriter's discount and compensation and accrued interest other than Pre-Issuance Accrued Interest).

"State" shall mean the State of West Virginia.

"Substantial User" shall mean any person who shall be a substantial user of a facility, as defined in Regulation § 1.103-11(b).

"Tax-Exempt Bond" shall mean any tax-exempt bond within the meaning of section 103 of the Code and section 1.150-1 of the Regulations that is not investment property within the meaning of section 148(b)(3) of the Code.

"Tax Certificate" or **"Tax Compliance Certificate"** shall mean this Tax Compliance Certificate of the Commission as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof.

"Test-Period Beneficiary" shall mean any person which is the owner or a Principal User of the Facilities at any time during the 3-year period that begins on the later of (i) the date the Facilities are placed in service, or (ii) the Date of Issue.

"Treasury" shall mean the United States Department of Treasury.

"Universal Cap" shall mean the maximum value of Nonpurpose Investments which may be allocated to the Bonds under section 1.148-6 of the Regulations and is determined by reference to the Value of all outstanding Bonds of the Issue. For purposes of this determination Nonpurpose Investments include cash, Tax-Exempt Bonds (i.e., any tax-exempt bond that is not investment property under section 148(b)(3) of the Code), qualified mortgage loans, and qualified student loans.

"Valuation Date" shall mean the date on which the value of the Universal Cap and the Nonpurpose Investments allocable to the Bonds thereunder must be determined under section 1.148-6 of the Regulations. In general, beginning with the first Bond Year beginning after second year anniversary of the Issue Date, the first day of each Bond Year constitutes a Valuation Date. In addition, the Regulations provide with respect to a refunded issue each date on which proceeds of the refunded issue would become transferred proceeds of the refunding

issue, e.g., each date on which principal of the refunded issue is paid with proceeds of the refunding bonds, constitutes a Valuation Date.

"Value of a Bond" shall mean the value of a bond determined under section 1.148-4(e) of the Regulations. Under those Regulations, value generally means:

(a) In the case of a plain par bond (within the meaning of section 1.148-1(b) of the Regulations), its outstanding stated principal amount, plus accrued unpaid interest or in the case of a plain par bond actually redeemed, or that is treated as redeemed, its stated redemption price on the redemption date plus accrued unpaid interest; and

(b) In the case of a bond other than a plain par bond, the value on a date of such a bond is generally its Present Value on that date, using the yield on the issue of which the bonds are a part as the discount factor. In determining the Present Value of a variable rate bond, the initial interest rate on the bond established by the index or other rate setting mechanism is used to determine the interest payments on that bond.

"Value of an Investment" shall mean the value of an investment determined under section 1.148-5(d) of the Regulations. Under those Regulations, value as of any date generally means, for any fixed rate investment (within the meaning of section 1.148-1(b) of the Regulations) or Yield Restricted Investment, Present Value on that date, and for any plain par investment (within the meaning of section 1.148-1(b) of the Regulations), the outstanding stated principal amount, plus accrued unpaid interest, as of that date.

"Yield" shall mean the yield computed under section 1.148-4 of the Regulations for the Bonds, and the yield computed under Section 1.148-5 of the Regulations for an Investment.

"Yield Restricted Investments" shall mean any Investments which either (1) bear a yield that is no greater than the Bond Yield, or (2) are investments in one or more Tax-Exempt Bonds.

APPENDIX II

Exceptions to Rebate

SECTION 1. SPENDING EXCEPTIONS.

The rebate requirements with respect to the Bonds are deemed to have been satisfied if any one of three spending exceptions (the 6-Month, the 18-Month, or the 2-Year Spending Exception, collectively, the "Spending Exceptions") is satisfied. The Spending Exceptions are each independent exceptions. The Bonds need not meet the requirements of any other exception in order to use any one of the three exceptions. For example, a Construction Issue may qualify for the 6-Month Spending Exception or the 18-Month Spending Exception even though the Commission makes one or more elections under the 2-Year Exception with respect to the Bonds.

Each of the Spending Exceptions requires that expenditures of Gross Proceeds be for the governmental purposes of the Bonds. These purposes include payment of interest (but not principal) on the Bonds.

SECTION 2. 6-MONTH SPENDING EXCEPTION.

The Bonds will be treated as satisfying the rebate requirements if all of the Gross Proceeds of the Bonds are allocated to expenditures for the governmental purposes of the Bonds within the 6-month period beginning on the Issuance Date and the Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or a Bona Fide Debt Service Reserve Fund if and to the extent that such Fund is subject to rebate (see footnote 3) is timely paid to the United States. If none of the Bonds is a Private Activity Bond (other than a Qualified 501(c)(3) Bond) or a tax or revenue anticipation bond, the 6-month period is extended for an additional 6 months if the unexpended Gross Proceeds of the Bonds at the end of the 6-month period do not exceed the lesser of 5% of the Proceeds of the Bonds or $100,000.

For purposes of the 6-Month Spending Exception, Gross Proceeds required to be spent within 6 months do not include amounts in a reasonably required reserve or replacement fund for the Bonds or in a Bona Fide Debt Service Reserve Fund for the Bonds.

SECTION 3. 18-MONTH SPENDING EXCEPTION.

The Bonds are treated as satisfying the rebate requirement if the conditions set forth in (A), (B) and (C) are satisfied.

(A) All of the Gross Proceeds of the Bonds (excluding amounts in a reasonably required reserve or replacement fund for the Bonds or in a Bona Fide Debt Service

Reserve Fund for the Bonds) are allocated to expenditures for the governmental purposes of the Bonds in accordance with the following schedule, measured from the Issuance Date:

(1) at least 15% within 6 months;

(2) at least 60% within 12 months; and

(3) 100% within 18 months, subject to the Reasonable Retainage exception described below.

(B) The Rebate Amount, if any, with respect to earnings on amounts deposited in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Reserve Fund for the Bonds, to the extent such Fund is subject to rebate, is timely paid to the United States. And,

(C) The Gross Proceeds of the Bonds qualify for the initial 3-year Temporary Period.

If the only unspent Gross Proceeds at the end of the 18th month are Reasonable Retainage, the requirement that 100% of the Gross Proceeds be spent by the end of the 18th month is treated as met if the Reasonable Retainage, and all earnings thereon, are spent for the governmental purposes of the Bonds within 30 months of the Issuance Date.

For the purposes of determining whether the spend-down requirements have been met as of the end of each of the first two spending periods, the amount of Investment Proceeds that the Commission reasonably expects as of the Issuance Date to earn on the Sale Proceeds and Investment Proceeds of the Bonds during the 18-month period are included in Gross Proceeds of the Bonds. The final spend-down requirement includes actual Investment Proceeds for the entire 18 months.

The 18-Month Spending Exception does not apply to the Bonds (or the New Money Portion, as applicable) if any portion of the Bonds (or New Money Portion) is treated as meeting the rebate requirement under the 2-Year Spending Exception discussed below. This rule prohibits use of the 18-Month Spending Exception for the Nonconstruction Portion of a Bifurcated Issue. The only Spending Exception available for the Nonconstruction Portion of a Bifurcated Issue is the 6-Month Spending Exception.

SECTION 4. <u>2-YEAR SPENDING EXCEPTION FOR CERTAIN CONSTRUCTION ISSUES</u>.

(A) <u>In general</u>. A Construction Issue bond which is a Private Activity Bond (other than a Qualified 501(c)(3) Bond or a Bond that finances property to be owned by a Governmental Unit or a 501(c)(3) Organization) is treated as satisfying the rebate requirement if the Available Construction Proceeds of the Issue are allocated to expenditures for the governmental purposes of the Bonds in accordance with the following schedule, measured from the Issuance Date:

(1) at least 10% within 6 months;

(2) at least 45% within 1 year;

(3) at least 75% within 18 months; and

(4) 100% within 2 years, subject to the Reasonable Retainage exception described below.

Amounts in a Bona Fide Debt Service Reserve Fund or a reasonably required reserve or replacement fund for the Bonds are not treated as Gross Proceeds for purposes of the expenditure requirements. However, unless the Commission has elected otherwise in the Tax Compliance Certificate, earnings on amounts in a reasonably required reserve or replacement fund for the Bonds are treated as Available Construction Funds during the 2-year period and therefore must be allocated to expenditures for the governmental purposes of the Bonds.

If the Commission elected in the Tax Compliance Certificate to exclude from Available Construction Proceeds the Investment Proceeds or earnings on a reasonably required reserve or replacement fund for the Bonds during the 2-year spend-down period, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings from the Issuance Date must be timely paid to the United States. If the election is not made, the Rebate Amount, if any, with respect to such Investment Proceeds or earnings after the earlier of the date construction is substantially completed or 2 years after the Issuance Date must be timely paid to the United States. The Rebate Amount, if any, with respect to earnings on amounts in a Bona Fide Debt Service Reserve Fund must be timely paid to the extent such Fund is subject to the rebate requirements (see footnote 3).

The Bonds do not fail to satisfy the spending requirement for the fourth spend-down period (i.e., 100% within 2 years of the Issuance Date) if the only unspent Available Construction Proceeds are amounts for Reasonable Retainage if such amounts (together with all earnings on such amounts) are allocated to expenditures within 3 years of the Issuance Date.

For purposes of determining whether the spend-down requirements have been met as of the end of each of the first 3 spend-down periods, Available Construction Proceeds include the amount of Investment Proceeds or earnings that the Commission reasonably expected as of the Issuance Date to earn during the 2-year period. For purposes of satisfying the final spend-down

requirement, Available Construction Proceeds include actual Investment Proceeds or earnings from the Issuance Date through the end of the 2-year period.

Available Construction Proceeds do not include Gross Proceeds used to pay Issuance Costs financed by the Bonds, but do include earnings on such Proceeds. Thus, an expenditure of Gross Proceeds to pay Issuance Costs does not count toward meeting the spend-down requirements, but expenditures of earnings on such Gross Proceeds to pay Issuance Costs do count.

(B) 1½% penalty in lieu of rebate for Construction Issues. If the Commission elected in the Tax Compliance Certificate for a Construction Issue, or for the Construction Portion of a Bifurcated Issue, to pay a 1½% penalty in lieu of the Rebate Amount on Available Construction Proceeds in the event that the Construction Issue fails to satisfy any of the spend-down requirements, the 1½% penalty is calculated separately for each spend-down period, including each semi-annual period after the end of the fourth spend-down period until all Available Construction Proceeds have been spent. The penalty is equal to 0.015 times the underexpended Proceeds as of the end of the applicable spend-down period. The fact that no arbitrage is in fact earning during such spend-down period is not relevant. The Rebate Amount with respect to Gross Proceeds other than Available Construction Proceeds (e.g., amounts in a reasonably required reserve or replacement fund or in a Bona Fide Debt Service Reserve Fund, to the extent subject to rebate (see footnote 3)) must be timely paid.

SECTION 5. SPECIAL DEFINITIONS.

"Available Construction Proceeds" means an amount equal to (a) the sum of (i) the Issue Price of the issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocated to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocated to the Underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonable required reserve or replacement fund allocated to the issue. Available Construction Proceeds do not include Investment Proceeds or earnings on a reasonably required reserve or replacement fund allocated to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the Projects financed by the issue is substantially completed.

"Bifurcated Issue" means a New Money Issue or the New Money Portion of a Multipurpose Issue that the Commission, pursuant to Section 148(f)(4)(C)(v) and Regulations § 1.148-7(j), has elected in its Tax Compliance Certificate to bifurcate into a Construction Portion and a Nonconstruction Portion.

"Bona Fide Debt Service Reserve Fund" means a fund, including a portion of or an account in that fund (or in the case of a fund established for two or more bond or note issues, the portion of that fund properly allocable to an issue) or a combination of such funds, accounts or portions that is used primarily to achieve a proper matching of revenues with Debt Service on an issue within each Bond Year and that is depleted at least once each year except for a reasonable

carryover amount not to exceed the greater of the earnings thereon for the immediately preceding Bond Year or one-twelfth of the annual Debt Service on the issue for the immediately preceding Bond Year.

"Construction Issue" means an issue at least 75 percent of the Available Construction Proceeds of which are to be used for Construction Expenditures with respect to property which is or is to be owned by a Governmental Unit or a 501(c)(3) Organization. If an election has been made in the Commission's Tax Compliance Certificate to bifurcate an issue or the New Money Portion, the Construction Portion (i.e., that portion of the issue or the New Money Portion which satisfies the 75 percent test stated in the preceding sentence and which finances 100% of the Construction Expenditures) is treated as the Construction Issue and the balance of the issue or the New Money Portion is treated as the Nonconstruction Portion.

"Investment Property" means investment property within the meaning of Sections 148(b)(2) and 148(b)(3), including any security (within the meaning of Section 165(g)(2)(A) or (B)), any obligation, any annuity contract and any other investment-type property (including certain residential rental property for family units as described in Section 148(b)(2)(E) in the case of any bond other than a Private Activity Bond). Investment Property includes a Tax-Exempt Obligation that is a "specified private activity bond" as defined in Section 57(a)(5)(C) but does not include other Tax-Exempt Obligations.

"Reasonable Retainage" means an amount, not to exceed 5% of the Net Sale Proceeds of the Issue, that is retained for reasonable business purposes relating to the property financed with Proceeds of the Issue. For example, 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 Commission reasonably determines that a dispute exists regarding completion or payment.

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

RECEIPT FOR BONDS

On the date hereof, the undersigned, a duly authorized officer of Citigroup Global Markets, Inc., on behalf of itself, Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Original Purchasers") acknowledges receipt from Wells Fargo Bank, N.A., as Registrar (the "Registrar") on behalf of the Higher Education Policy Commission (the "Commission") of $76,865,000 of the Commission's State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A Tax-Exempt Bonds (the "2010 A Bonds"), 2010 Series B Federally Taxable – Issuer Subsidy – Build America Bonds (the "2010 B Bonds") and 2010 Series C Taxable Bonds (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds").

The 2010 Bonds are issued by the Commission pursuant to the General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees, predecessor to the Commission, and the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, each as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted on December 3, 2010. The 2010 Bonds are dated as of December 23, 2010, bear interest from said date payable semiannually on April 1 and October 1 of each year until maturity or prior redemption, commencing April 1, 2011; are in the form of one bond for each stated maturity; and, with respect to the 2010 A Bonds, are numbered from AR-1 consecutively upward in order of authentication, with respect to the 2010 B Bonds, are numbered from BR-1 consecutively upward in order of authentication, and with respect to the 2010 C Bonds, are numbered from CR-1 consecutively upward in order of authentication; and are all registered in the name of Citigroup Global Markets Inc.

Dated this 23rd day of December, 2010.

CITIGROUP GLOBAL MARKETS INC., on behalf of itself, CREWS & ASSOCIATES, INC. and RAYMOND JAMES & ASSOCIATES, INC.

By: _____
Paul T. Creedon
Its: Managing Director

2512816 (10791.7)

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

No. AR-1 $235,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.500%	April 1, 2018	December 23, 2010	95639RDV8

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: TWO HUNDRED THIRTY FIVE THOUSAND DOLLARS ($235,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $16,520,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 A Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 A Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are subject to optional redemption prior to their stated maturity dates as set forth in the Resolution.

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.

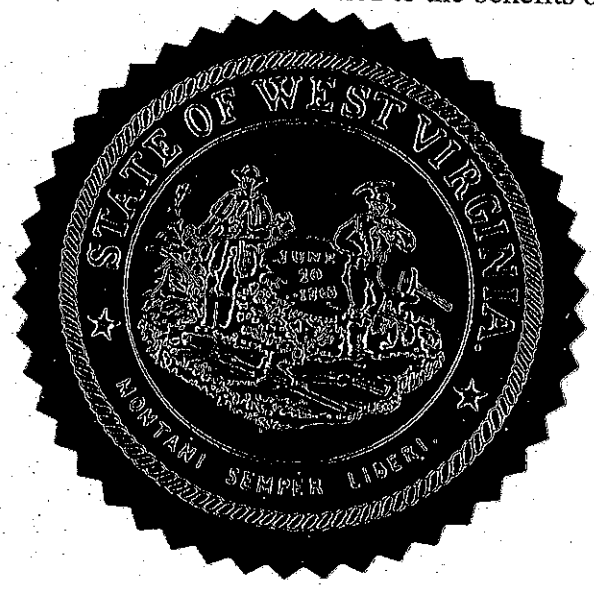
This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company shall 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.

[SIGNATURE PAGE FOLLOWS]

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 Trust Company, 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.



[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Earl Ray Tomblin
Governor of the State of West Virginia

By: _____
Dr. Brian Noland
Chancellor

Attest:

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series A 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

No. AR-2 $1,735,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.750%	April 1, 2019	December 23, 2010	95639RDS5

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION SEVEN HUNDRED THIRTY FIVE THOUSAND DOLLARS ($1,735,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $16,520,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 A Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 A Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are subject to optional redemption prior to their stated maturity dates as set forth in the Resolution.

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.

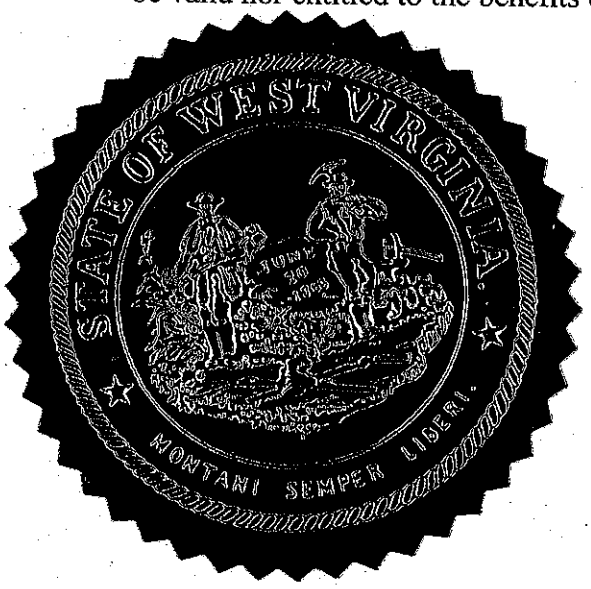
This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company shall 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.

[SIGNATURE PAGE FOLLOWS]

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 Trust Company, 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.



[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: Specimen
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series A 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: _____
Specimen
Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

No. AR-3 $1,800,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.000%	April 1, 2020	December 23, 2010	95639RDT3

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS ($1,800,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $16,520,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 A Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 A Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are subject to optional redemption prior to their stated maturity dates as set forth in the Resolution.

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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[SIGNATURE PAGE FOLLOWS]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series A 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

No. AR-4 $12,750,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
5.000%	April 1, 2026	December 23, 2010	95639RDU0

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: TWELVE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($12,750,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $16,520,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 A Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 A Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are subject to optional redemption prior to their stated maturity dates as set forth in the Resolution.

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.

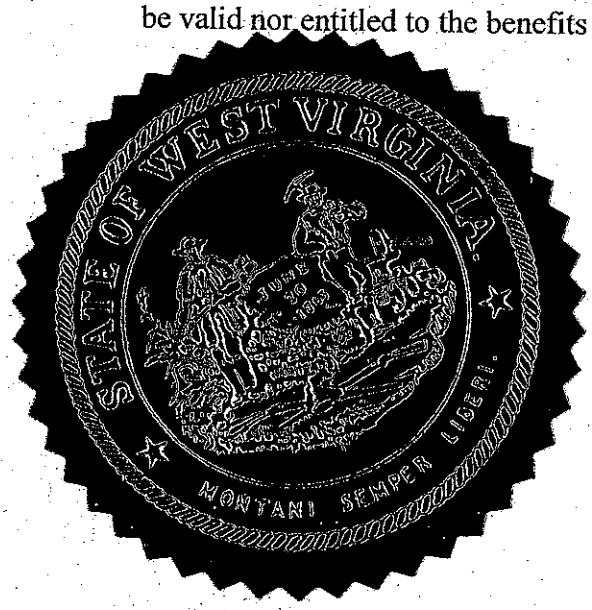
This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company shall 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.

[SIGNATURE PAGE FOLLOWS]

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 Trust Company, 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.



[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series A 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE –
ISSUER SUBSIDY – BUILD AMERICA BONDS)

No. BR-1 $10,800,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
7.450%	April 1, 2030	December 23, 2010	95639RDW6

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: TEN MILLION EIGHT HUNDRED THOUSAND DOLLARS ($10,800,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 B Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 B Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are subject to optional make-whole redemption and extraordinary optional redemption prior to their stated maturity dates as set forth in the Resolution.

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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[SIGNATURE PAGE FOLLOWS]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series B 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.

Date of Authentication: December 23, 2010.

WELLS FARGO BANK, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE –
ISSUER SUBSIDY – BUILD AMERICA BONDS)

No. BR-2 $39,465,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
7.650%	April 1, 2040	December 23, 2010	95639RDX4

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: THIRTY NINE MILLION FOUR HUNDRED SIXTY FIVE THOUSAND DOLLARS ($39,465,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 B Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 B Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are subject to optional make-whole redemption and extraordinary optional redemption prior to their stated maturity dates as set forth in the Resolution.

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.

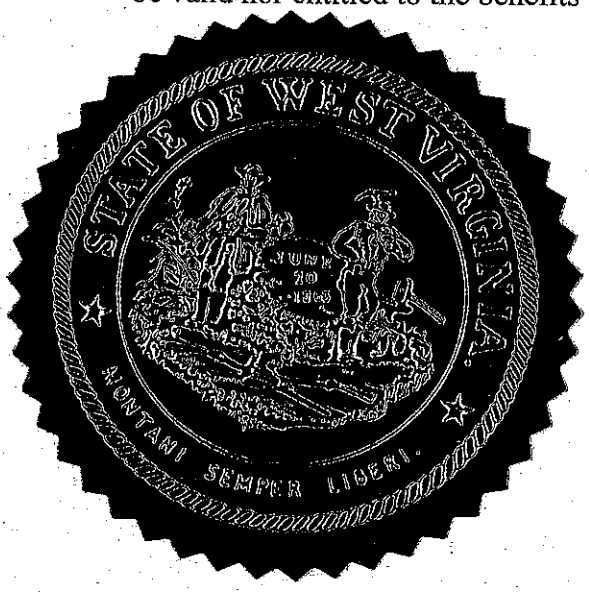
This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company shall 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.

[SIGNATURE PAGE FOLLOWS]

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 Trust Company, 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.



[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series B 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.

Date of Authentication: December 23, 2010.

WELLS FARGO BANK, N.A., as Registrar

Specimen

By: _____

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

No. CR-1 $1,340,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
2.140%	April 1, 2012	December 23, 2010	95639RDY2

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION THREE HUNDRED FORTY THOUSAND DOLLARS ($1,340,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[Signature Page Follows]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

No. CR-2 $1,370,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
2.740%	April 1, 2013	December 23, 2010	95639RDZ9

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION THREE HUNDRED SEVENTY THOUSAND DOLLARS ($1,370,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[Signature Page Follows]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: _____
Specimen
Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

No. CR-3 $1,405,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.330%	April 1, 2014	December 23, 2010	95639REA3

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION FOUR HUNDRED FIVE THOUSAND DOLLARS ($1,405,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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.

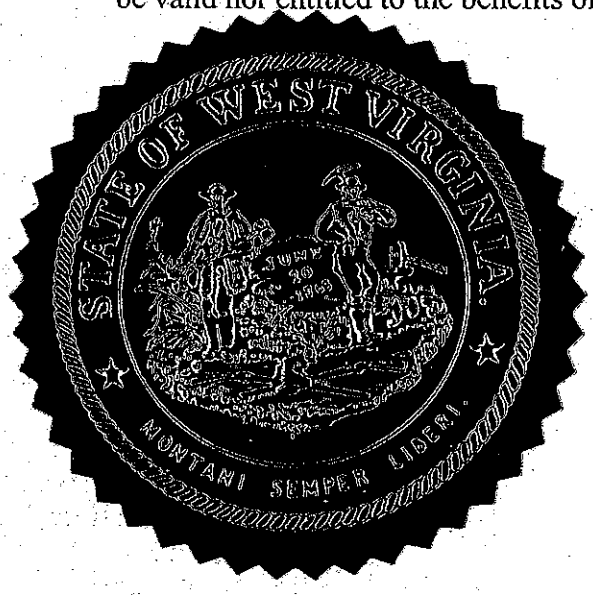
This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company shall 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.

[Signature Page Follows]

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 Trust Company, 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.



[Great Seal of the State
of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen
Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

No. CR-4 $1,455,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
3.930%	April 1, 2015	December 23, 2010	95639REB1

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION FOUR HUNDRED FIFTY FIVE THOUSAND DOLLARS ($1,455,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[Signature Page Follows]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

Specimen

By: _____
Earl Ray Tomblin
Governor of the State of West Virginia

Specimen

By: _____
Dr. Brian Noland
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

Specimen

By: _____

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C

No. CR-5 $1,510,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.390%	April 1, 2016	December 23, 2010	95639REC9

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION FIVE HUNDRED TEN THOUSAND DOLLARS ($1,510,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[Signature Page Follows]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

Specimen

By: _____
Earl Ray Tomblin
Governor of the State of West Virginia

Specimen

By: _____
Dr. Brian Noland,
Chancellor

Specimen

Attest:

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

No. CR-6 $1,580,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
4.840%	April 1, 2017	December 23, 2010	95639RED7

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION FIVE HUNDRED EIGHTY THOUSAND DOLLARS ($1,580,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[Signature Page Follows]

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 Trust Company, 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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland,
Chancellor

Attest: Specimen

By: _____
Natalie E. Tennant
Secretary of State of the State of West Virginia

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

By: Specimen

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

Specimen

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York Borrower ("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 BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

No. CR-7 $1,420,000

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.
5.280%	April 1, 2018	December 23, 2010	95639REE5

REGISTERED OWNER: Cede & Co.

PRINCIPAL AMOUNT: ONE MILLION FOUR HUNDRED TWENTY THOUSAND DOLLARS ($1,420,000)

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 April 1, 2011, 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 the Municipal Bond Commission, 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 Wells Fargo Bank, N.A., as construction trustee, registrar and transfer agent (in such capacity, the "Trust Company"), 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 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 $76,865,000 (the "Bonds") authorized and issued to provide funds to (i) provide capital improvements at institutions of higher education located throughout the State, and (ii) pay the costs associated with the issuance of the 2010 C Bonds, all pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees (the "Board of Trustees") and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System (the "Board of Directors"), predecessors to the Commission, as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution," and together with the General 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 18B, Articles 1B and 10 and Chapter 13, Article 4 (collectively, the "Act") and Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, (the "Lottery Act") and the Senate Concurrent Resolution No. 41.

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.

The 2010 C Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution. This Bond is a special obligation of the Commission, payable together with the Prior Bonds 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, and Prior 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 of this issue are not subject to 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 Trust Company and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Trust Company 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.

[Signature Page Follows]

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.

[Great Seal of the State of West Virginia]

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: Specimen
Earl Ray Tomblin
Governor of the State of West Virginia

By: Specimen
Dr. Brian Noland
Chancellor

Attest: Specimen

By:
Natalie E. Tennant
Secretary of State of the State of West Virginia

2534596

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2010 Series C 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.

Date of Authentication: December 23, 2010.

WELLS FARGO, N.A., as Registrar

Specimen

By: _____

Its: Authorized Officer

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfer unto _____

_____

_____(Please print or typewrite name, address and Social Security Number of Transferee)_____the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

_____

NOTICE: The 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 enlargement or any change whatever.

10791.7

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Internal Revenue Service
Ogden, UT 84201

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RECEIVED
396 FEB 22 2011 RS-OSC
OGDEN, UT

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) 7008 2810 0002 1175 8121

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7008 2810 0002 1175 8121

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OGDEN UT 84201

OFFICIAL USE

Postage	$ $0.88	0714
Certified Fee	$2.80	08
Return Receipt Fee (Endorsement Required)	$2.30	Postmark Here
Restricted Delivery Fee (Endorsement Required)	$0.00	
Total Postage & Fees	$ $5.98	02/15/2011

TOWN CENTER STATION 25375 USPS FEB 15 2011 WV

Sent To

Street, Apt. No.; or PO Box No.

City, State, ZIP+4

Internal Revenue Service
Ogden, UT 84201

PS Form 3800, August 2006 See Reverse for Instructions

TOWN CENTER STATION
CHARLESTON, West Virginia
253899997
5514560714 -0097
02/15/2011 (800)275-8777 03:58:09 PM

Sales Receipt

Product Description	Sale Qty	Unit Price	Final Price
OGDEN UT 84201 Zone-7			$0.88
First-Class Large Env			
0.70 oz.			
Expected Delivery: Fri 02/18/11			
Return Rcpt (Green Card)			$2.30
Certified			$2.80
Label #:	70082810000211758121		
Customer Postage			-$6.15
Subtotal:			$0.00
Total:			$0.00

Paid by:

Order stamps at USPS.com/shop or call 1-800-Stamp24. Go to USPS.com/clicknship to print shipping labels with postage. For other information call 1-800-ASK-USPS.
****
****
Get your mail when and where you want it with a secure Post Office Box. Sign up for a box online at usps.com/poboxes.
****
****

Bill#: 1000302735161
Clerk: 08

All sales final on stamps and postage
Refunds for guaranteed services only
Thank you for your business
****
****
HELP US SERVE YOU BETTER

Go to: https://postalexperience.com/Pos

TELL US ABOUT YOUR RECENT
POSTAL EXPERIENCE

YOUR OPINION COUNTS
****
****

Customer Copy

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

February 15, 2011

John F. Allevato
304.340.3885
jallevato@spilmanlaw.com

CERTIFIED MAIL 7008 2810 0002 1175 8121
RETURN RECEIPT REQUESTED

Internal Revenue Service
Ogden, UT 84201

Re: Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt)

Dear Sir or Madam:

Enclosed is the Form 8038-G, Information Return for Tax-Exempt Governmental Obligations Bonds, relative to the above-described bond issue. Please file same and send confirmation of this filing to the Issuer.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

John F. Allevato

JFA:KMM:cb2-2651440
Enclosures

Form **8038-G**
(Rev. May 2010)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.
Caution: *If the issue price is under $100,000, use Form 8038-GC.*

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name: Higher Education Policy Commission
2 Issuer's employer identification number (EIN): 55 0517092
3 Number and street (or P.O. box if mail is not delivered to street address): 1018 Kanawha Boulevard, East — Room/suite:
4 Report number (For IRS Use Only): 3
5 City, town, or post office, state, and ZIP code: Charleston, WV 25301
6 Date of issue: December 23, 2010
7 Name of issue: Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt)
8 CUSIP number: 95639RDU0
9 Name and title of officer of the issuer or other person whom the IRS may call for more information: John F. Allevato, Esquire
10 Telephone number of officer or other person: (304) 340-3885

Part II Type of Issue (enter the issue price) See instructions and attach schedule

11	Education	11	16,319,886	05
12	Health and hospital	12		
13	Transportation	13		
14	Public safety	14		
15	Environment (including sewage bonds)	15		
16	Housing	16		
17	Utilities	17		
18	Other. Describe	18		
19	If obligations are TANs or RANs, check only box 19a ☐			
	If obligations are BANs, check only box 19b ☐			
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.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	April 1, 2026	$ 16,319,886.05	$ 16,520,000	11.9540 years	4.9328 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest			22		
23	Issue price of entire issue (enter amount from line 21, column (b))			23	16,319,886	05
24	Proceeds used for bond issuance costs (including underwriters' discount)	24	130,933 54			
25	Proceeds used for credit enhancement	25	0			
26	Proceeds allocated to reasonably required reserve or replacement fund	26	0			
27	Proceeds used to currently refund prior issues	27	0			
28	Proceeds used to advance refund prior issues	28	0			
29	Total (add lines 24 through 28)			29	130,933	54
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			30	16,188,952	51

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	N/A years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded	N/A years
33	Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	N/A
34	Enter the date(s) the refunded bonds were issued (MM/DD/YYYY) N/A	

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	0
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a	0
b	Enter the final maturity date of the GIC		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	0

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 ☐

Signature and Consent

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. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Signature of issuer's authorized representative — Date — **Dr. Brian Noland, Chancellor** Type or print name and title

Paid Preparer's Use Only

Preparer's signature	Date 2/14/11	Check if self-employed ☐	Preparer's SSN or PTIN P01083380
Firm's name (or yours if self-employed), address, and ZIP code	Spilman Thomas & Battle, PLLC (JFA) 300 Kanawha Blvd, E., Charleston, WV 25301	EIN 55 : 0282458 Phone no. (304) 340-3885	

Detailed Results

Tracking no.: 796681919260 Select time format: 12H | 24H E-mail notifications

Delivered

Initiated → Picked up → In transit → Delivered

Delivered
Signed for by: M.DAVIS

Shipment Dates	Destination
Ship date Jan 21, 2011	OGDEN, UT
Delivery date Jan 24, 2011 10:29 AM	Signature Proof of Delivery

Shipment Options

Help

Hold at FedEx Location
Hold at FedEx Location service is not available for this shipment.

Shipment Facts

Help

Service type	Priority Envelope	Delivered to	Shipping/Receiving
Weight	0.5 lbs/.2 kg	Reference	10791.7

Shipment Travel History

Help

Select time zone: Local Scan Time

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Jan 24, 2011 10:29 AM	Delivered	OGDEN, UT	
Jan 24, 2011 8:35 AM	On FedEx vehicle for delivery	OGDEN, UT	
Jan 24, 2011 7:45 AM	At local FedEx facility	OGDEN, UT	
Jan 22, 2011 6:07 AM	At dest sort facility	SALT LAKE CITY, UT	
Jan 22, 2011 4:00 AM	Departed FedEx location	MEMPHIS, TN	
Jan 21, 2011 9:00 PM	Left FedEx origin facility	CHARLESTON, WV	
Jan 21, 2011 7:36 PM	Picked up	CHARLESTON, WV	
Jan 21, 2011 3:50 PM	Shipment information sent to FedEx		

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SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

January 21, 2011

John F. Allevato
304.340.3885
jallevato@spilmanlaw.com

VIA FEDERAL EXPRESS

Internal Revenue Service
Ogden, UT 84201

Re: Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds)

Dear Sir or Madam:

Enclosed is the Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds, relative to the above-described bond issue. Please file same and send confirmation of this filing to the Issuer.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

John F. Allevato

JFA:kmm-2603085
Enclosures

Form **8038-B**
(January 2010)
Department of the Treasury
Internal Revenue Service

Information Return for Build America Bonds and Recovery Zone Economic Development Bonds

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.

OMB No. 1545-2161

Part I Reporting Authority

Check if Amended Return ▶ ☐

1 Issuer's name
Higher Education Policy Commission

2 Issuer's employer identification number (EIN)
55-0517092

3 Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)
John F. Allevato, Esquire

4 Report number (For IRS Use Only)
1

5 Number and street (or P.O. Box if mail is not delivered to street address)
300 Kanawha Boulevard, East

6 City, town, or post office, state, and ZIP code
Charleston, WV 25301

7 Date of issue (MM/DD/YYYY)
12/23/2010

8 Name of issue
Revenue Bonds (Higher Ed Facilities) 2010 Series B (Federally Taxable-Issuer Subsidy-BABs)

9 CUSIP number
95639RDX4

10 Name and title of officer of issuer whom the IRS may call for more information (see instructions)

11 Telephone number of officer or other person (see instructions)
304.340.3885

Part II Type of Bonds (see instructions, if the box on line 1b or 1c is checked, complete lines 2 and 3)

1a Build America bonds (Tax Credit) (section 54AA(a)) ☐
b Build America bonds (Direct Payment) (sections 54AA(g) and 6431) ☒
c Recovery zone economic development bonds (Direct Payment) (sections 1400U-2 and 6431) ☐
2 Enter the first interest payment date (MM/DD/YYYY) ▶ 04/01/2011
3 Interest payment date frequency: (Check box) (see instructions and attach debt service schedule)
a ☐ annual,
b ☒ semi-annual,
c ☐ quarterly,
d ☐ monthly, or
e ☐ other
f If line 3e above is checked, please describe the payment frequency:

Part III Purpose of Issue

			Amount (Whole Dollars)
1	For a build America bond, identify the purpose of issue and enter the issue price. (see instructions and attach schedule)		
a	Education	1a	50,265,000
b	Health and hospital	1b	
c	Transportation	1c	
d	Public safety	1d	
e	Environment (including sewage bonds)	1e	
f	Housing	1f	
g	Utilities	1g	
h	Other description ▶	1h	
2	For a recovery zone economic development bond, identify the purpose of issue and enter the issue price. (see instructions and attach schedule)		
a	Capital expenditures relating to property located in the zone	2a	
b	Public infrastructure and construction of public facilities	2b	
c	Job training and educational programs	2c	
d	Other description	2d	
3	Total issue price (Part III, lines 1a through 1h or lines 2a through 2d)	3	50,265,000

4 If obligations are TANs or RANs, check only box 4a ▶ ☐ If obligations are BANs, check only box 4b ▶ ☐
5 If obligations are in the form of a lease or installment sale, check box ▶ ☐

Part IV Description of Obligations (Complete for the entire issue for which this form is being filed.)

1	Stated redemption price at maturity	1	50,265,000
2	Final maturity date (MM/DD/YYYY) 04/01/2040		
3	Weighted average maturity 23.70 years		
4	Yield 4.9492 %		

5 If the issue is a variable rate issue, check box 5a ▶ ☐ Please indicate the frequency rates are reset 5b ▶

Part V Use of Proceeds of Issue

			Amount (Whole Dollars)
1	Sales proceeds	1	50,265,000
2	Expected investment proceeds	2	
3	Proceeds used for accrued interest	3	
4	Proceeds used for bond issuance cost (including underwriter's discount)	4	405,667.00
5	Proceeds used for credit enhancement	5	
6	Proceeds allocated to a reasonably required reserve fund	6	1,338,285.00
7	Proceeds used for capital expenditures	7	48,521,047.00
8	Proceeds used for working capital expenditures	8	
9	Proceeds used to currently refund prior issues	9	
10	Proceeds used to advance refund prior issues	10	

Part VI Description of Refunded Bonds (complete this part only for refunding bonds)

1 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . N/A years

2 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . N/A years

3 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) / /

4 Enter the date the refunded bonds were issued (if more than one date of issue, attach a schedule) (MM/DD/YYYY) (see instructions) / /

Part VII Miscellaneous

1 Enter the amount of the volume cap allocated to the issue (see instructions) (attach volume cap certification) 1

2a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) 2a

b Enter the final maturity date of the GIC (MM/DD/YYYY) ▶ / /

c Enter the name of the GIC provider ▶

3 Proceeds of this issue that are to be used to make loans to other governmental units 3

4a If this issue is a loan made from the proceeds of another issue, check box ▶ ☐ and enter the following information:

b Enter the issue date of the master pool obligation (MM/DD/YYYY) ▶ / /

c Enter the EIN of the issuer of the master pool obligation ▶

d Enter the name of the issuer of the master pool obligation ▶

5a If the issuer entered into a hedge, check box ▶ ☐ and enter the following information:

b Name of hedge provider ▶

c Type of hedge ▶

d Term of hedge ▶

6 If the issuer has superintegrated the hedge, check box ▶ ☐

7 If the issuer elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

8 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated in accordance with the requirements under Regulations section 1.141-12, check box ▶ ☒

9 If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ ☒

Signature and Consent

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. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process the return, to the person(s) that I have authorized above.

▶ Signature of issuer's authorized representative | Date 12/23/2010 | ▶ Dr. Brian Noland, Chancellor — Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶	Date 1/19/11	Check if self-employed ☐	Preparer's SSN or PTIN P01083380
Firm's name (or yours if self-employed), address, and ZIP code ▶	Spilman Thomas & Battle, PLLC 300 Kanawha Blvd, E., Charleston, WV 25301	EIN 55-0282458 Phone no. 340-3885	

Part VIII Consent to Disclosure of Certain Information from this Return

1 For build America bonds that provide a tax credit to bondholders, does the issuer give the IRS consent to publish, through a website or in a publication, its name and address, employer identification number, name and description of bond issue, date of issuance, CUSIP number, issue price, final maturity date, and stated redemption price at maturity, to assist in the proper reporting of interest, tax credits, or other benefits under section 6049 and Regulations thereunder? ▶ ☐ Yes ☐ No

Under penalties of perjury, I declare that I am an officer of the above named issuer and that I am authorized to give consent on behalf of the above named issuer for the IRS to publish the items of information described in line 1 of Part VIII of this form to assist in the reporting obligations under section 6049.

Sign Here ▶ Signature | Date | ▶ Type or print name and title

Attachment to Form 8038-B
For
State of West Virginia
Higher Education Policy Commission
(Higher Education Facilities) 2010 Series B
(Federally Taxable – Issuer Subsidy – Build America Bonds)
TIN 55-0517092

Date of Issue: December 23, 2010

PART I – REPORTING AUTHORITY

9. Cusip Number:

$10,800,000 7.450% 2010 Series B Term Bond due April 1, 2030 at a yield of 100%
(CUSIP: 95639RDW6)

$39,465,000 7.650% 2010 Series B Term Bond due April 1, 2040 at a yield of 100%
(CUSIP: 95639RDX4)

PART II – TYPE OF BONDS

FIXED RATE BOND-DEBT SERVICE SCHEDULE

See Bond Debt Service Schedule attached hereto. The Bonds are callable at any time prior to maturity.

PART III – PURPOSE OF ISSUE

1. Purpose of Issue:

To provide capital improvements at the higher education facilities listed below:

Marshall University (governmental entity)	EIN: 556-000-789
Glenville State College (governmental entity)	EIN: 556-000-779
Shepherd University (governmental entity)	EIN: 556-000-799
West Liberty University (governmental entity)	EIN: 556-000-822
West Virginia University Institute of Technology (governmental entity)	EIN: 556-000-842
West Virginia State University (governmental entity)	EIN: 556-000-839

All project expenditures, costs of issuance and reasonably required reserve funds are for education purposes and the amounts as set out in Part V.

West Virginia Higher Education Policy Commission
2010 Series B (Federally Taxable - Build America Bonds)
Net Debt Service

FIXED RATE BOND - DEBT SERVICE SCHEDULE

Maturity	Principal	Interest	Total Debt Service	35% Direct Subsidy	BABs Subsidy Reserve	Net Debt Service	Annual Net D/S	Outstanding Principal
4/1/2011		1,040,888.63	1,040,888.63	(364,311.02)		676,577.61	676,577.61	50,265,000.00
10/1/2011		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2012		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2012		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2013		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2013		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2014		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2014		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2015		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2015		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2016		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2016		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2017		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2017		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2018		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2018		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2019		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2019		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2020		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2020		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2021		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2021		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2022		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2022		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2023		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2023		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2024		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2024		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2025		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2025		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2026		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56	2,485,387.12	50,265,000.00
10/1/2026		1,911,836.25	1,911,836.25	(669,142.69)		1,242,693.56		
4/1/2027	2,510,000.00	1,911,836.25	4,421,836.25	(669,142.69)		3,752,693.56	4,995,387.12	47,755,000.00
10/1/2027		1,818,338.75	1,818,338.75	(636,418.56)		1,181,920.19		
4/1/2028	2,635,000.00	1,818,338.75	4,453,338.75	(636,418.56)		3,816,920.19	4,998,840.38	45,120,000.00
10/1/2028		1,720,185.00	1,720,185.00	(602,064.75)		1,118,120.25		
4/1/2029	2,760,000.00	1,720,185.00	4,480,185.00	(602,064.75)		3,878,120.25	4,996,240.50	42,360,000.00
10/1/2029		1,617,375.00	1,617,375.00	(566,081.25)		1,051,293.75		
4/1/2030	2,895,000.00	1,617,375.00	4,512,375.00	(566,081.25)		3,946,293.75	4,997,587.50	39,465,000.00
10/1/2030		1,509,536.25	1,509,536.25	(528,337.69)		981,198.56		
4/1/2031	3,035,000.00	1,509,536.25	4,544,536.25	(528,337.69)		4,016,198.56	4,997,397.12	36,430,000.00
10/1/2031		1,393,447.50	1,393,447.50	(487,706.63)		905,740.87		
4/1/2032	3,185,000.00	1,393,447.50	4,578,447.50	(487,706.63)		4,090,740.87	4,996,481.74	33,245,000.00
10/1/2032		1,271,621.25	1,271,621.25	(445,067.44)		826,553.81		
4/1/2033	3,345,000.00	1,271,621.25	4,616,621.25	(445,067.44)		4,171,553.81	4,998,107.62	29,900,000.00
10/1/2033		1,143,675.00	1,143,675.00	(400,286.25)		743,388.75		
4/1/2034	3,510,000.00	1,143,675.00	4,653,675.00	(400,286.25)		4,253,388.75	4,996,777.50	26,390,000.00
10/1/2034		1,009,417.50	1,009,417.50	(353,296.13)		656,121.37		
4/1/2035	3,685,000.00	1,009,417.50	4,694,417.50	(353,296.13)		4,341,121.37	4,997,242.74	22,705,000.00
10/1/2035		868,466.25	868,466.25	(303,963.19)		564,503.06		
4/1/2036	3,870,000.00	868,466.25	4,738,466.25	(303,963.19)		4,434,503.06	4,999,006.12	18,835,000.00
10/1/2036		720,438.75	720,438.75	(252,153.56)		468,285.19		
4/1/2037	4,060,000.00	720,438.75	4,780,438.75	(252,153.56)		4,528,285.19	4,996,570.38	14,775,000.00
10/1/2037		565,143.75	565,143.75	(197,800.31)		367,343.44		
4/1/2038	4,265,000.00	565,143.75	4,830,143.75	(197,800.31)		4,632,343.44	4,999,686.88	10,510,000.00
10/1/2038		402,007.50	402,007.50	(140,702.63)		261,304.87		
4/1/2039	4,475,000.00	402,007.50	4,877,007.50	(140,702.63)		4,736,304.87	4,997,609.74	6,035,000.00
10/1/2039		230,838.75	230,838.75	(80,793.56)		150,045.19		
4/1/2040	6,035,000.00	230,838.75	6,265,838.75	(80,793.56)	1,338,285.38	4,846,759.81	4,996,805.00	-
	50,265,000.00	90,760,631.13	141,025,631.13	(31,766,221.00)	1,338,285.38	107,921,124.75	107,921,124.75	

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

CERTIFICATE OF DETERMINATION

The undersigned, Dr. Brian Noland, Chancellor, on behalf of the Higher Education Policy Commission (the "Commission"), in accordance with a General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992 (collectively, the "General Resolution"), both of which remain in effect as amended, consolidated and supplemented from time to time, and the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General Resolution, collectively, the "Resolution"), with respect to the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable Bonds) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), hereby finds and determines as follows:

(i) The 2010 Bonds shall be issued in the aggregate principal amount of $76,865,000 and shall be dated the date of delivery. Such principal amount does not exceed $90,000,000, being the maximum principal amount of such Bonds authorized by the Resolution.

(ii) The 2010 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 bonds which maturities do not extend beyond thirty (30) years from the date of issuance, being the maximum maturity authorized by the Resolution. The Interest Payment Dates on the 2010 Bonds shall be each April 1 and October 1, commencing April 1, 2011.

(iii) The 2010 Bonds shall bear interest at the rates set forth on Schedule I attached hereto and incorporated herein, which interest rates or yields do not exceed (i) six percent (6%) per annum on the 2010 A Bonds and (ii) eight and one-half percent (8.5%) per annum on the 2010 B Bonds and 2010 C Bonds issued as taxable bonds, being the maximum interest rates authorized by the Resolution.

(iv) The 2010 A Bonds are subject to optional redemption, and the 2010 B Bonds are subject to make-whole redemption and extraordinary optional redemption, as provided in Schedule I attached hereto and incorporated herein. The optional redemption feature of the 2010 B Bonds includes a make-whole provision equivalent to the treasury rate, plus 50 basis points, which satisfies the requirements of the Resolution. The 2010 C Bonds are not subject to redemption.

(v) The 2010 Bonds shall be sold to Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc (the "Underwriters") pursuant to the terms of the Bond Purchase Agreement between the Underwriters and the Commission, at an aggregate purchase price of $76,274,581.79 (representing par value of $76,865,000, less an underwriting discount of $390,304.26, less an original issue discount of $200,113.95 on the 2010 Bonds).

(vii) The 2010 Bonds shall be dated the date of delivery thereof. The 2010 Bonds shall be delivered in fully registered form in denominations of $5,000 and any integral multiple thereof. The 2010 Bonds shall be evidenced by one bond for each Maturity of 2010 Bonds in the total aggregate principal amount of the 2010 Bonds. The 2010 Bonds 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 2010 Bonds shall mature on their respective Maturity Dates as set forth in Schedule I. The 2010 A Bonds shall be numbered from AR-1 upward, the 2010 B Bonds shall be numbered from BR-1 upward, and the 2010 C Bonds shall be numbered from CR-1 upward. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.

(viii) The 2010 Bonds shall be issued in three series and shall be designated as the "State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt)," in the aggregate principal amount of $16,520,000, the "State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds)," in the aggregate amount of $50,265,000 and the "State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable)," in the aggregate amount of $10,080,000.

(ix) The 2010 B Bonds are hereby designated as "federally taxable Build America Bonds (Direct Payment)" within the meaning of the Recovery Act and Section 54AA of the Internal Revenue Code of 1986, as amended.

(x) There shall be no Remarketing Agent, Tender Agent, Auction Agent, Liquidity Provider, Credit Provider, Bond Insurer, or other Service Provider with respect to the 2010 Bonds.

(xi) The Commission has pledged under Section 2.10 of the Resolution, all of its right, title and interest of the Commission in and to any refundable interest credit under Section 54AA(g) of the Code (the "Interest Credit"). The Commission will, or will cause the Interest Credit to be deposited into the 2010 Bond Fund (Higher Education Facilities) held by the Paying Agent (as hereinafter appointed) for payment of the debt service on the 2010 Bonds.

(xii) $1,338,285.38, being a sum equal to the Interest Subsidy Reserve Requirement, shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund.

(xiii) The West Virginia Municipal Bond Commission is hereby appointed as Paying Agent for the 2010 Bonds.

(xiv) Wells Fargo Bank, N.A., is hereby appointed as Construction Trustee, Registrar and Transfer Agent for the 2010 Bonds.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Resolution.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The undersigned hereby certifies that the foregoing terms and conditions of the 2010 Bonds are within the limitations prescribed by the Resolution, and the 2010 Bonds may be issued upon such terms and conditions as authorized by the Resolution and this Certificate of Determination.

WITNESS my signature this 17th day of December, 2010.

HIGHER EDUCATION POLICY COMMISSION

Brian Noland, Ph.D., Chancellor

2511219 (10791.7)

Schedule I

MATURITIES, AMOUNTS, INTEREST RATES AND PRICE OR YIELDS

2010 Series A (Tax-Exempt)
$16,520,000 Revenue Bonds (Higher Education Facilities)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield	CUSIP
2018	$235,000	3.500%	3.680%	95639RDV8
2019	1,735,000	3.750%	3.980%	95639RDS5
2020	1,800,000	4.000%	4.250%	95639RDT3

$12,750,000 5.000% 2010 Series A Term Bond due April 1, 2026 at a yield of 5.100%
(CUSIP: 95639RDU0)

2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds)
$50,265,000 Revenue Bonds (Higher Education Facilities)

$10,800,000 7.450% 2010 Series B Term Bond due April 1, 2030 at a yield of 100%
(CUSIP: 95639RDW6)

$39,465,000 7.650% 2010 Series B Term Bond due April 1, 2040 at a yield of 100%
(CUSIP: 95639RDX4)

2010 Series C (Taxable)
$10,080,000 Revenue Bonds (Higher Education Facilities)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield	CUSIP
2012	$1,340,000	2.140%	100%	95639RDY2
2013	1,370,000	2.740%	100%	95639RDZ9
2014	1,405,000	3.330%	100%	95639REA3
2015	1,455,000	3.930%	100%	95639REB1
2016	1,510,000	4.390%	100%	95639REC9
2017	1,580,000	4.840%	100%	95639RED7
2018	1,420,000	5.280%	100%	95639REE5

REDEMPTION:

Optional Redemption of the 2010 Bonds. The 2010 A Bonds maturing on April 1, 2026 are subject to redemption at the option of the Commission, prior to maturity, in whole or in part on or after April 1, 2020 from amounts deposited with the West Virginia Municipal Bond Commission, (the "Municipal Bond Commission") as Paying Agent by the Commission and from other funds available therefor at a redemption price of par, plus accrued interest to the date fixed for redemption. The 2010 B Bonds subject to an Optional Make-Whole Redemption (as provided below) and an Extraordinary Make-Whole Redemption. The 2010 C Bonds are not subject to redemption prior to maturity.

Optional Make-Whole Redemption. The 2010 B Bonds shall be subject to optional redemption prior to maturity, at the option of the Commission, in whole or in part, on any Business Day, at the Make-Whole Redemption Price, which is equal to the greater of (i) 100% of the principal amount of the 2010 B Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2010 B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 B Bonds are to be redeemed, discounted to the date on which the 2010 B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (hereinafter defined) plus 50%, plus accrued and unpaid interest on the 2010 B Bonds to be redeemed on the Redemption Date.

Extraordinary Optional Redemption. The 2010 B Bonds are subject to redemption prior to their maturity at the option of the Commission, in whole or in part (in $5,000 increments), upon the occurrence of the Extraordinary Event at a redemption price equal to the greater of:

1) 100% of the principal amount of the 2010 B Bonds to be redeemed; and
2) The sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2010 B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 B Bonds are to be redeemed, discounted to the date on which the 2010 B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate, plus 100%;

plus, in each case, accrued interest on the 2010 B Bonds to be redeemed to the redemption date.

An "Extraordinary Event" will have occurred if a material adverse change has occurred to Section 54AA or 6431 of the Code (as such Sections were added by Section 1531 of the Recovery Act, pertaining to "Build America Bonds") pursuant to which the Commission's 35% cash subsidy payment from the Treasury is reduced or eliminated with respect to the 2010 B Bonds.

"Treasury Rate" means, with respect to any redemption date for a particular 2010 B Bond, the yield to maturity as of such redemption date of Treasury securities with a constant maturity excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the 2010 B Bond to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded Treasury securities adjusted to a constant maturity of one year will be used.

At the request of the Paying Agent, the redemption price of the 2010 B Bonds to be redeemed at the option of the Commission will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the Commission at the Commission's expense to calculate such redemption price. The Paying Agent and the Commission may conclusively rely on the determination of such redemption price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

Mandatory Sinking Fund Redemption of the 2010 A Bonds. The 2010 A Bonds maturing April 1, 2026 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2021	$1,875,000
2022	1,970,000
2023	2,065,000
2024	2,170,000
2025	2,280,000
2026*	2,390,000

*Denotes Final Maturity

Mandatory Sinking Fund Redemption of the 2010 B Bonds. The 2010 B Bonds maturing April 1, 2030 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2027	$2,510,000
2028	2,635,000
2029	2,760,000
2030*	2,895,000

* Denotes Final Maturity

The 2010 B Bonds maturing April 1, 2040 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2031	$3,035,000
2032	3,185,000
2033	3,345,000
2034	3,510,000
2035	3,685,000
2036	3,870,000
2037	4,060,000
2038	4,265,000
2039	4,475,000
2040*	6,035,000

*Denotes Final Maturity

Notice of Redemption. Notice of redemption of the 2010 Bonds will be given by the Registrar by mailing a copy of such notice to DTC, as the registered owner of the 2010 Bonds, not less than thirty (30) days and not more than sixty (60) days prior to the redemption date.

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

ORDER AS TO AUTHENTICATION AND DELIVERY OF BONDS
AND APPLICATION OF BOND PROCEEDS

December 23, 2010

Wells Fargo Bank, N.A.
as Construction Trustee, Registrar and Transfer Agent
Four Gateway Center
Suite 1400
444 Liberty Avenue
Pittsburgh, PA 15222

Ladies and Gentlemen:

We herewith hand to you, Wells Fargo Bank, N.A. in your capacity as Construction Trustee, Registrar and Transfer Agent (the "Registrar"), the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), in the aggregate principal amount of $76,865,000, duly executed and issued by the Higher Education Policy Commission (the "Commission") and authorized to be issued under and pursuant to the General Resolution (as hereinafter defined) of the Commission.

As of this date, we have delivered to you:

A. Copies of the General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees, predecessor to the Commission, and the General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessor to the Commission, as the same have been amended and supplemented from time to time (collectively, the "General Resolution"), and the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution"), all certified by the Secretary of the Commission;

B. A copy of the Certificate of Determination of the Commission dated December 17, 2010;

C. The opinions of Spilman Thomas & Battle, PLLC, bond counsel, dated December 23, 2010, delivered in connection with the issuance of the 2010 Bonds, to the effect that (i) the Fifth Consolidated 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), and/or any refundable interest credit under Section 54AA(g) of the Code which may be received by the Commission in connection with the issuance by the Commission of any federally taxable Build America Bonds (Direct Payment), 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 2010 Bonds will have been duly and validly authorized and issued in accordance with the General Resolution;

D. This written order of the Commission, dated December 23, 2010, as to the authentication, registration and delivery of the 2010 Bonds and the application of the proceeds thereof, signed by the Chancellor of the Commission; and

E. A Certificate of the Commission, dated December 23, 2010, signed by the Chancellor of the Commission, 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 2010 Bonds and no Event of Default under the General Resolution or any Related Supplemental Resolution is now existing;

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.01 of the General Resolution, collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2010

Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2010 Bonds and the Prior 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 2010 Bonds, plus Projected Revenues (as defined below) have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2010 Bonds and the Prior Bonds; and (b) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2010 Bonds and the Prior Bonds. For purposes of this section (c), 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 the 2010 Bonds; and

F. A copy of the Agreement between the Commission and the Registrar.

The proceeds of the 2010 Bonds wired to the Registrar shall be deposited as follows:

(a) The sum of $226,296.41 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund.

(b) The sum of $16,188,952.51 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $6,184,023.36 shall be deposited into the 2010 A Bonds Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the 2010 A Bonds Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the 2010 A Bonds Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the 2010 A Bonds West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the 2010 A Bonds Additional Project Subaccount.

(c) The sum of $48,521,047.49 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $18,815,976.64 shall be deposited into the 2010 B Bonds Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the 2010 B Bonds Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the 2010 B Bonds Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the 2010 B Bonds West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the 2010 B Bonds Additional Project Subaccount.

(d) The sum of $10,000,000.00 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund and then transferred by the Registrar into the 2010 C Bonds Commission Project Subaccount.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the General Resolution and the Fifth Consolidated Supplemental Resolution.

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You are hereby requested and authorized to authenticate and deliver the 2010 Bonds, on behalf of the Commission, to Citigroup Global Markets, Inc. for the benefit of itself, Crews & Associates, Inc. and Raymond James & Associates, Inc. as original purchasers of the 2010 Bonds.

HIGHER EDUCATION POLICY COMMISSION

Brian Noland, Ph.D., Chancellor

Attest:

Kathy G. Eddy, Secretary

HEPC – Order to Authenticate and Deliver Bonds
2512726 (10791.7)

$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

259010

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
John Perdue, State Treasurer

MUNICIPAL BOND COMMISSION

By: _____
Witter Hallan, Executive Director

259010

TAB 40

State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 18B, ARTICLE 1B OF THE WEST VIRGINIA CODE, AND CHAPTER 18B, ARTICLE 1B OF THE 2010 SUPPLEMENT TO 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

December 22, 2010

Secretary of State

ARTICLE 1B

HIGHER EDUCATION POLICY COMMISSION

Section
18B-1B-1. Higher education policy commission established; development of public policy agenda.
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§ 18B-1B-1. Higher education policy commission established; development of public policy agenda

There is hereby created the "higher education policy commission", hereinafter referred to as the "commission". It is the intent of the Legislature that the commission be responsible to develop, gain consensus around and oversee the public policy agenda for higher education and other statewide issues pursuant to section one-a, article one of this chapter under the following conditions:

(a) It is the responsibility of the commission to work collaboratively with the council to develop and gain consensus around the public policy agenda for community and technical colleges.

(b) It is the responsibility of the council to oversee the implementation of the public policy agenda for the institutions under its jurisdiction.

(c) All matters of governance not specifically assigned to the commission or council by law are the duty and responsibility of the governing boards.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2004, c. 92, eff. March 13, 2004.

Cross References

Institutional Board of Governors, powers and duties, see § 18B-2A-4.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B–1B–2. Composition of commission; terms and qualifications of members; vacancies; eligibility for reappointment; oath of office; removal from office

(a) The commission is comprised of ten members, all of whom are entitled to vote. The membership of the commission is as follows:

(1) The Secretary of Education and the Arts, ex officio.

(2) The State Superintendent of Schools, ex officio;

(3) The chair of the West Virginia Council for Community and Technical College Education, ex officio.

(4) Seven at-large members who are citizens of the state, appointed by the Governor, by and with the advice and consent of the Senate: *Provided*, That prior to appointment, the Governor shall interview each candidate to assure that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compacts and in section one-a, article one of this chapter. The Governor shall invite the President of the Senate, the Speaker of the House of Delegates, the chairs of the Senate and House of Delegates Committees on Finance and Education and such other legislative leaders as the Governor may determine to participate in interviewing potential candidates.

(b) Each of the at-large members appointed by the Governor shall represent the public interest and shall be committed to the legislative intent and goals set forth in state law and policy.

(c) The Governor may not appoint any person to be a member of the commission who is an officer, employee or member of the council or an advisory board of any state college or university; an officer or member of any political party executive committee; the holder of any other public office or public employment under the government of this state or any of its political subdivisions; an appointee or employee of any governing board; or an immediate family member of any employee under the jurisdiction of the commission, the council or any governing board.

(d) Of the seven, at-large members appointed by the Governor:

(1) No more than four may belong to the same political party;

(2) At least two shall be appointed from each congressional district; and

(3) Effective the first day of July, two thousand eight, no more than one member may serve from the same county.

(e) The at-large members appointed by the Governor serve overlapping terms of four years.

(f) The Governor shall appoint a member to fill any vacancy among the seven at-large members, by and with the advice and consent of the Senate. Any member appointed to fill a vacancy serves for the unexpired term of the vacating member. The Governor shall fill the vacancy within thirty days of the occurrence of the vacancy.

(g) An at-large member appointed by the Governor may not serve more than two consecutive terms.

(h) Before exercising any authority or performing any duties as a member of the commission, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof shall be filed with the Secretary of State.

(i) A member of the commission appointed by the Governor may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2004, c. 92, eff. March 13, 2004; Acts 2006, c. 79, eff. July 1, 2006.

Library References

Colleges and Universities ⚷7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B-1B-3. Meetings and compensation

(a) The secretary of education and the arts shall call the initial meeting of the commission and preside until a chairperson is selected. Thereafter, the commission shall meet as needed at the time and place specified by the call of the chairperson.

(b) The commission shall hold an annual meeting each June for the purpose of electing officers for the next fiscal year. At the annual meeting, the commission shall elect from its members appointed by the governor a chairperson and other officers as it may consider necessary or desirable: Provided, That the initial meeting for the purpose of selecting the first chairperson and other officers shall be held during July, two thousand, or as soon thereafter as practicable. All officers shall be elected from the citizen appointees. The chairperson and other officers shall be elected for a one-year term commencing on the first day of July following the annual meeting and ending on the thirtieth day of June of the following year: Provided, however, That the terms of officers elected in July, two thousand, begin upon election and end on the thirtieth day of June, two thousand one. The chairperson of the board may serve no more than two consecutive terms as chair.

(c) Members of the commission shall be reimbursed for actual and necessary expenses incident to the performance of their duties upon presentation of an itemized sworn statement thereof. The foregoing reimbursement for actual and necessary expenses shall be paid from appropriations made by the Legislature to the commission.

(d) A majority of the members constitutes a quorum for conducting the business of the commission.

Acts 2000, c. 100, eff. 90 days after March 19, 2000.

Library References

Colleges and Universities ⟹7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B–1B–4. Powers and duties of higher education policy Commission

(a) The primary responsibility of the Commission is to develop, establish and implement policy that will achieve the goals and objectives found in section one-a, article one of this chapter. The Commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for community and technical college education and the powers and duties assigned to the governing boards of Marshall University and West Virginia University, respectively. To that end, the Commission has the following powers and duties relating to the institutions under its jurisdiction:

(1) Develop, oversee and advance the public policy agenda pursuant to section one, article one-a of this chapter to address major challenges facing the state, including, but not limited to, the goals and objectives found in section one-a, article one of this chapter and including specifically those goals and objectives pertaining to the compacts created pursuant to section two, article one-a of this chapter and to develop and implement the master plan described in section nine of this article for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the implementation jointly with the Council of a financing policy for higher education in West Virginia. The policy shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to, those found in section one-a, article one of this chapter; and

(D) Incorporate the plan for strategic funding to strengthen capacity for support of community and technical college education established by the West Virginia Council for Community and Technical College Education pursuant to the provisions of section six, article two-b of this chapter;

(3) In collaboration with the Council, create a policy leadership structure capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the Commission and Council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary edu-

cation systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding the higher education institutions and the higher education systems as a whole accountable for accomplishing their missions and implementing the provisions of the compacts;

(4) Develop and adopt each institutional compact;

(5) Review and adopt the annual updates of the institutional compacts;

(6) Serve as the accountability point to:

(A) The Governor for implementation of the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(7) Jointly with the Council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional achievement towards state policy priorities and institutional missions pursuant to section two, article one-a of this chapter;

(10) Annually report to the Legislature and to the Legislative Oversight Commission on Education Accountability during the January interim meetings on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:

(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the higher education system as a whole in meeting the goals and objectives set forth in section one-a, article one of this chapter;

(B) An analysis of enrollment data collected pursuant to section one, article ten of this chapter and recommendations for any changes necessary to assure access to high-quality, high-demand education programs for West Virginia residents;

(C) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority;

(D) Recommendations of the Commission for statutory changes needed to further the goals and objectives set forth in section one-a, article one of this chapter;

(11) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. It is the responsibility of the Commission to assure a fair distribution of funds for capital projects between the Commission and the Council. To that end the Commission shall take the following steps:

(A) Receive the list of priorities developed by the Council for capital investment for the institutions under the Council's jurisdiction pursuant to subsection (b), section six, article two-b of this chapter;

(B) Place the ranked list of projects on the agenda for action within sixty days of the date on which the list was received;

(C) Select a minimum of three projects from the list submitted by the Council to be included on the ranked list established by the Commission. At least one of the three projects selected must come from the top two priorities established by the Council.

(12) Maintain guidelines for institutions to follow concerning extensive capital project management except the governing boards of Marshall University and West Virginia University are not subject to the provisions of this subdivision as it relates to the state institutions of higher education known as Marshall University and West Virginia University. The guidelines shall provide a process for developing capital projects, including, but not limited to, the notification by an institution to the Commission of any proposed capital project which has the potential to exceed one million dollars in cost. Such a project may not be pursued by an institution without the approval of the Commission. An institution may not participate directly or indirectly with any public or private entity in any capital project which has the potential to exceed one million dollars in cost;

(13) Acquire legal services as are considered necessary, including representation of the Commission, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the Commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the Commission and the Council, in accordance with the provisions of article four of this chapter;

(16) Provide suitable offices in Charleston for the chancellor, vice chancellors and other staff;

(17) Advise and consent in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article. The role of the Commission in approving an institutional president is

to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compact and in section one-a, article one of this chapter;

(18) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, as proposed by the governing boards. The governing boards must obtain approval from the Commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package;

(19) Establish and implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

(20) Approve and implement a uniform standard jointly with the Council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the State Superintendent of schools;

(21) Review and approve or disapprove capital projects as described in subdivision (11) of this subsection;

(22) Jointly with the Council, develop and implement an oversight plan to manage systemwide technology such as the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the Council, Commission and state institutions of higher educations are not subject to the jurisdiction of the Chief Technology Officer for any purpose.

(23) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(24) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state

higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(25) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(26) Establish and implement policies and programs, in cooperation with the Council and the institutions of higher education, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate by competency-based assessment that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

(27) Seek out and attend regional, national and international meetings and forums on education and workforce development-related topics, as in the Commission's discretion is critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals and objectives pursuant to section one-a, article one of this chapter;

(28) Develop, establish and implement a rule for higher education governing boards and institutions to follow when considering capital projects. The guidelines shall assure that the governing boards and institutions do not approve or promote capital projects involving private sector businesses which would have the effect of reducing property taxes on existing properties or avoiding, in whole or in part, the full amount of taxes which would be due on newly developed or future properties;

(29) Consider and submit to the appropriate agencies of the executive and legislative branches of state government a budget that reflects recommended appropriations from the Commission and the institutions under its jurisdiction. The Commission shall submit as part of its budget proposal the separate recommended appropriations it received from the Council, both for the Council and the institutions under the Council's jurisdiction. The Commission annually shall submit the proposed institutional allocations based on each institution's progress toward meeting the goals of its institutional compact;

(30) The Commission has the authority to assess institutions under its jurisdiction, including the state institutions of higher education known as Marshall University and West Virginia University, for the payment of expenses of the Commission or for the funding of statewide higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state;

(31) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to institutions of higher education for qualifying

noncapital expenditures incurred in the provision of services to students with physical, learning or severe sensory disabilities;

(32) Make appointments to boards and commissions where this code requires appointments from the State College System Board of Directors or the University of West Virginia System Board of Trustees which were abolished effective the thirtieth day of June, two thousand, except in those cases where the required appointment has a specific and direct connection to the provision of community and technical college education, the appointment shall be made by the Council. Notwithstanding any provisions of this code to the contrary, the Commission or the Council may appoint one of its own members or any other citizen of the state as its designee. The Commission and Council shall appoint the total number of persons in the aggregate required to be appointed by these previous governing boards;

(33) Pursuant to the provisions of article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules as necessary or expedient to fulfill the purposes of this chapter. The Commission and the Council shall promulgate a uniform joint legislative rule for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

(34) Determine when a joint rule among the governing boards of the institutions under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards of all the institutions under its jurisdiction, promulgate the joint rule;

(35) In consultation with the Governing Boards of Marshall University and West Virginia University, implement a policy jointly with the Council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(36) Promulgate a joint rule with the Council establishing tuition and fee policy for all institutions of higher education, other than state institutions of higher education known as Marshall University and West Virginia University which are subject to the provisions of section one, article ten of this chapter. The rule shall include, but is not limited to, the following:

(A) Comparisons with peer institutions;

(B) Differences among institutional missions;

(C) Strategies for promoting student access;

(D) Consideration of charges to out-of-state students; and

(E) Such other policies as the Commission and Council consider appropriate; and

(37) Implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and activities that can increase risks; measures that can be taken to prevent

contact or infection; and potential benefits of vaccination. The Commission shall encourage institutions that provide medical care to students to provide access to the vaccine for those who wish to receive it.

(b) In addition to the powers and duties listed in subsection (a) of this section, the Commission has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda:

(1) Planning and policy leadership including a distinct and visible role in setting the state's policy agenda and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the system as a whole or a geographical region thereof;

(3) Development and implementation of institutional mission definitions including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

(4) Academic program review and approval for institutions under its jurisdiction, including the use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes. The Commission's authority to review and approve academic programs for either the state institution of higher education known as Marshall University or West Virginia University is limited to programs that are proposed to be offered at a new location not presently served by that institution;

(5) Distribution of funds appropriated to the Commission, including incentive and performance-based funding;

(6) Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of any rules necessary to administer those programs;

(7) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(8) Development, establishment and implementation of information, assessment and accountability systems, including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(9) Jointly with the Council, developing, establishing and implementing policies for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state pursuant to the findings and policy recommendations required by section eleven of this article;

(10) Development, implementation and oversight of statewide and region-wide projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal

categorical programs or those using incentive and performance-based funding from any source; and

(11) Quality assurance that intersects with all other duties of the Commission particularly in the areas of research, data collection and analysis, planning, policy analysis, program review and approval, budgeting and information and accountability systems.

(c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties as may be assigned to it by law, the Commission has such other powers and duties as may be necessary or expedient to accomplish the purposes of this article.

(d) The Commission is authorized to withdraw specific powers of any governing board of an institution under its jurisdiction for a period not to exceed two years, if the Commission makes a determination that:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in article one of this chapter;

(2) The Commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

(3) Other circumstances which, in the view of the Commission, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

The period of withdrawal of specific powers may not exceed two years during which time the Commission is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2004, c. 92, eff. March 13, 2004; Acts 2005, c. 86, eff. July 1, 2005.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B-1B-5. Employment of Chancellor for Higher Education; office; powers and duties generally; employment of Vice Chancellors

(a) The Commission, created pursuant to section one of this article, shall employ a Chancellor for Higher Education who is the Chief Executive Officer of the Commission and who serves at its will and pleasure.

(b) The Commission shall set the qualifications for the position of Chancellor and shall conduct a thorough nationwide search for qualified candidates. A qualified candidate is one who meets at least the following criteria:

(1) Possesses an excellent academic and administrative background;

(2) Demonstrates strong communication skills;

(3) Has significant experience and an established national reputation as a professional in the field of higher education;

(4) Is free of institutional or regional biases; and

(5) Holds or retains no other administrative position within a system of higher education while employed as chancellor.

(c) The Commission shall conduct written performance evaluations of the Chancellor annually and may offer the Chancellor a contract not to exceed three years. At the end of each contract period, the Commission shall review the evaluations and make a determination by vote of its members on continuing employment and compensation level.

(d) When filling a vacancy in the position of Chancellor, the Commission shall enter into an initial employment contract for one year with the candidate selected. At the end of the initial contract period, and each contract period thereafter, the Commission shall review the evaluations and make a determination by vote of its members on continuing employment and compensation level for the Chancellor.

(e) The Commission sets the Chancellor's salary. The salary may not exceed by more than twenty percent the average annual salary of chief executive officers of state systems of higher education in the states that comprise the membership of the Southern Regional Education Board.

(f) The Commission may employ a Vice Chancellor for Health Sciences who serves at the will and pleasure of the Commission. The Vice Chancellor for Health Sciences shall coordinate the West Virginia University School of Medicine, the Marshall University School of Medicine and the West Virginia School of Osteopathic Medicine and also shall provide assistance to the governing boards on matters related to medical education and health sciences. The Vice Chancellor for Health Sciences shall perform all duties assigned by the Chancellor, the Commission and state law. In the case of a vacancy in the office of Vice Chancellor of Health Sciences, the duties assigned to this Office by law are the responsibility of the Chancellor or a designee.

(g) The Commission shall employ a Vice Chancellor for Administration pursuant to section two, article four of this chapter.

(h) The Commission may employ a Vice Chancellor for State Colleges who serves at the will and pleasure of the Commission. It is the duty and responsibility of the Vice Chancellor for State Colleges to:

(1) Provide assistance to the Commission, the Chancellor and the state colleges on matters related to or of interest and concern to these institutions;

(2) Advise, assist and consult regularly with the institutional presidents and institutional boards of governors of each state college;

(3) Serve as an advocate and spokesperson for the state colleges to represent them and to make their interests, views and issues known to the Chancellor, the Commission and governmental agencies;

(4) Perform all duties assigned by the Chancellor, the Commission and state law.

In addition, the Vice Chancellor for State Colleges has the responsibility and the duty to provide staff assistance to the institutional presidents and governing boards to the extent practicable.

(i) On behalf of the Commission, the Chancellor may enter into agreements with any state agency or political subdivision of the state, any state higher education institution or any other person or entity to enlist staff assistance to implement the powers and duties assigned by the Commission or by state law.

(j) The Chancellor is responsible for the daily operations of the Commission and has the following responsibilities relating to the Commission and the institutions under its jurisdiction:

(1) To carry out policy and program directives of the Commission;

(2) To develop and submit annual reports on the implementation plan to achieve the goals and objectives set forth in section one-a, article one of this chapter and in the institutional compacts;

(3) To prepare and submit to the Commission for its approval the proposed budget of the Commission including the offices of the Chancellor and the Vice Chancellors;

(4) To assist the governing boards in developing rules, subject to the provisions of section six, article one of this chapter. Nothing in this chapter requires the rules of the governing boards to be filed pursuant to the rule-making procedures provided in article three-a, chapter twenty-nine-a of this code. The Commission and the Council, either separately or jointly as appropriate, are responsible for ensuring that any policy which is required to be uniform across the institutions is applied in a uniform manner;

(5) To perform all other duties and responsibilities assigned by the Commission or by state law.

(k) The Chancellor shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(*l*) The Chancellor, with the Commission, advises the Legislature on matters of higher education in West Virginia. The Chancellor shall work closely with the Legislative Oversight Commission on Education Accountability and with the elected leadership of the state to ensure that they are fully informed about higher education issues and that the Commission fully understands the goals for higher education that the Legislature has established by law.

(m) The Chancellor may design and develop for consideration by the Commission new statewide or regional initiatives in accordance with the goals set forth in section one-a, article one of this chapter and the public policy agenda articulated by the Commission. In those instances where the initiatives to be proposed have a direct and specific impact or connection to community and technical college education as well as to baccalaureate and graduate education, the Chancellor for Higher Education and the Chancellor for Community and

Technical College Education shall design and develop the initiatives jointly for consideration by the Commission and the Council.

(n) The Chancellor shall work closely with members of the State Board of Education and with the State Superintendent of Schools to assure that the following goals are met:

(1) Development and implementation of a seamless kindergarten-through college system of education; and

(2) Appropriate coordination of missions and programs. To further the goals of cooperation and coordination between the Commission and the State Board of Education, the Chancellor serves as an ex officio, nonvoting member of the State Board of Education.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2004, c. 92, eff. March 13, 2004; Acts 2005, c. 86, eff. July 1, 2005.

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§ 18B–1B–6. Appointment of institutional presidents; evaluation

(a) *Appointment of institutional presidents.* — Appointment of presidents of the state institutions of higher education shall be made as follows:

(1) Subject to the approval of the commission, the governing board of the institution appoints a president for Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty State College, West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

(2) Subject to the approval of the council and to the provisions of article three-c of this chapter, the Governing Board of West Virginia University appoints the president of the regional campus known as West Virginia University at Parkersburg. The president serves at the will and pleasure of the governing board. When selecting candidates for consideration to fill the office of president, the governing board shall use the search and screening process provided in section one, article six of this chapter.

Until the first day of July, two thousand seven, and subject to the approval of the commission, the Governing Board of West Virginia University appoints the president of the regional campus known as West Virginia University Institute of Technology. The president of the regional campus serves at the will and pleasure of the appointing governing board.

(3) Subject to the approval of the council, the governing board of the community and technical college appoints a president for Eastern West Virginia Community and Technical College, Southern West Virginia Community and Technical College and West Virginia Northern Community and Technical College.

(4) Subject to the approval of the council, the governing board of the sponsoring institution appoints a president for each administratively linked community and technical college which shares a physical campus location with the sponsoring institution, including Pierpont Community and Technical College, a division of Fairmont State University, Marshall Community and Technical College, the Community and Technical College at West Virginia University Institute of Technology and West Virginia State Community and Technical College. The president of the administratively linked community and technical college serves at the will and pleasure of the appointing governing board.

(5) Subject to the approval of the council, the governing board of the community and technical college appoints a president for each administratively linked community and technical college which does not share a physical campus location with the sponsoring institution, including New River Community and Technical College and Blue Ridge Community and Technical College.

(b) *Other appointments.* — The institutional president appoints a provost to be the administrative head of the Potomac campus of West Virginia University and, effective the first day of July, two thousand seven, for West Virginia University Institute of Technology.

(c) *Evaluation of presidents.* — The appointing governing board shall conduct written performance evaluations of each institution's president, including the presidents of administratively linked community and technical colleges. Evaluations shall be done in every fourth year of employment as president, recognizing unique characteristics of the institution and utilizing institutional personnel, institutional boards of advisors as appropriate, staff of the appropriate governing board and persons knowledgeable in higher education matters who are not otherwise employed by a governing board. A part of the evaluation shall be a determination of the success of the institution in meeting the requirements of its institutional compact.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2003, c. 96, eff. March 8, 2003; Acts 2004, c. 92, eff. March 13, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2006, c. 84, eff. July 1, 2006.

Historical and Statutory Notes

Acts 2006, c. 85, also amended this section to read:

"(a) *Appointment of institutional presidents.* — Appointment of presidents of the state institutions of higher education shall be made as follows:

"(1) Subject to the approval of the commission, the governing board of the institution appoints a president for Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty State College, West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

"(2) Subject to the approval of the council and to the provisions of article three-c of this chapter, the governing board of West Virginia University appoints the president of the regional campus known as West Virginia University at Parkersburg. The president serves at the will and pleasure of the governing board. When selecting candidates for consideration to fill the office of president, the governing board shall use the search and screening process provided in section one, article six of this chapter.

"Until the first day of July, two thousand seven and subject to the approval of the commission, the Governing Board of West Virginia University appoints the President of the regional campus known as West Virginia University Institute of Technology. The president of the regional campus serves at the will and pleasure of the appointing governing board.

"(3) Subject to the approval of the council, the governing board of the community and technical college appoints a president for Eastern West Virginia Community and Technical College, Southern West Virginia Community and Technical College and West Virginia Northern Community and Technical College.

"(4) Subject to the approval of the council, the governing board of the sponsoring institution appoints a president for each administratively linked community and technical college which shares a physical campus location with the sponsoring institution, including Fairmont State Community and Technical College, Marshall Community and Technical College, The Community and Technical College at West Virginia University Institute of Technology and West Virginia State Community and Technical College.

"(5) Subject to the approval of the council, the governing board of the community and technical college appoints a president for each administratively linked community and technical college which does not share a physical campus location with the sponsoring institution, including New River Community and Technical College and Blue Ridge Community and Technical College.

"(b) *Other appointments.* — The institutional president appoints a provost to be the administrative head of the Potomac campus of West Virginia University and, effective the first day of July, two thousand seven, for West Virginia University Institute of Technology.

"(c) *Evaluation of presidents.* — The appointing governing board shall conduct written performance evaluations of each institution's president, including the presidents of administratively linked community and technical colleges. Evaluations shall be done in every fourth year of employment as president, recognizing unique characteristics of the institution and utilizing institutional personnel, institutional boards of advisors as appropriate, staff of the appropriate governing board and persons knowledgeable in higher education matters who are not otherwise employed by a governing board. A part of the evaluation shall be a determination of the success of the institution in meeting the requirements of its institutional compact."

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B–1B–7. Repealed by Acts 2004, c. 92, eff. March 13, 2004

Historical and Statutory Notes

The repealed section, which related to the duties of the higher education policy commission, was derived from Acts 2000, c. 100.

§ 18B–1B–8. Higher education accountability; institutional and statewide report cards

Effective on the first day of July, two thousand one:

(a) The commission is directed to make information available to parents, students, faculty, staff, state policymakers and the general public on the quality and performance of public higher education. This information shall be consistent and comparable between and among the state institutions of higher education and, if applicable, comparable with information from peer institutions in the region and the nation.

(b) On or before the first day of July, two thousand one, the chancellor shall review policy series sixteen, related to the higher education report card, of the rules of the board of trustees and board of directors and determine whether a new rule should be adopted providing for the collection, analysis and dissemination of data and information on the performance of the state institutions of higher education, including health sciences education, in relation to the find-

ings, directives, goals and objectives set forth in section one-a, article one of this chapter, the institutional compacts and in comparison to their peers. The rules shall provide the legislative oversight commission on education accountability with full and accurate information while minimizing the institutional burden of recordkeeping and reporting. The rules shall include uniform definitions for the various indicators of student and institutional performance and guidelines for the collection and reporting of data and the preparation, printing and distribution of report cards under this section. The report card forms shall provide for brief, concise reporting in nontechnical language of required information. Any technical or explanatory material which a governing board wishes to include shall be contained in a separate appendix available for a reasonable fee to the general public upon request.

(c) The president or chief executive officer of each public college, university or community and technical college shall prepare and submit annually all requested data to the commission at the time established by the commission.

The commission shall prepare report cards for institutions under their jurisdiction and in accordance with the guidelines set forth in this section and rules promulgated under this section.

(d) The higher education central office staff under the direction of the vice chancellor for administration shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide report card from information submitted by each governing board. The statewide report card shall include the data for each institution for each separately listed, applicable indicator and the aggregate of the data for all public institutions of higher education. The statewide report card shall be prepared using actual institutional, state, regional and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards and the state system of higher education. The report card also shall include goals and trends for the institutions and the higher education system and shall include all the information required either by statute or by rule as authorized in subsection (b) of this section. Statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case such year shall be clearly footnoted.

(e) The statewide report card shall be completed and disseminated with copies to the legislative oversight commission on education accountability prior to the first day of January of each year.

(f) For a reasonable fee, the chancellor shall make copies of the report cards available to any individual requesting them.

Acts 2000, c. 100, eff. 90 days after March 19, 2000.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B–1B–9. Statewide master plan

(a) The commission shall develop a master plan for higher education for the state.

(b) The plan shall be developed on or before the first day of July, two thousand one, and shall be communicated to the legislative oversight commission on education accountability.

(c) The master plan shall include, but not be limited to, the following:

(1) A detailed demonstration of how the master plan will be used to meet the goals and objectives outlined in section one-a, article one of this chapter;

(2) A well-developed set of goals, as set forth in section one-a, article one of this chapter, outlining missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and other planning determinants and projections for public higher education and other matters necessary in such a plan to assure that the needs of the state for a quality system of higher education are addressed; and

(3) A plan for involving and collaborating with the state board of education, the public and private institutions of higher education and other education providers to assure that a comprehensive system of education is developed for West Virginia.

(d) The master plan for higher education for the state shall be established for periods of not less than three nor more than six years and shall be revised periodically as necessary.

Acts 2000, c. 100, eff. 90 days after March 19, 2000.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B–1B–10. Goals of efficiency and effectiveness; findings; reports to commission and legislative oversight commission on education accountability

(a) The Legislature finds that it is in the best interests of the citizens of West Virginia for state institutions of higher education to work diligently toward achieving the goals and objectives set forth in section one-a, article one of this chapter and in the institutional compacts. One way these goals may be achieved is through collaborative agreements between or among two or more institutions to enhance the scope, quality, or efficiency of education services.

(b) To further these goals of cooperation and coordination, to avoid unnecessary duplication of program development and delivery, and to ensure that programs and services address the public policy agenda established by the Legislature and the commission, compact elements and goals for post-secondary education, by the first day of September, two thousand three, Concord college and Bluefield state college jointly shall complete a comprehensive study

of the degree to which these institutions are making progress toward meeting the goals for post-secondary education, their institutional compacts and the public policy agenda and shall report their finding to the commission. The report shall address specific examples of collaboration, cooperation or brokering in academic programs, administrative services or any joint efforts which aim to avoid unnecessary duplication and to ensure delivery of high quality education services.

(c) The commission shall analyze the report prepared by Concord college and Bluefield state college, together with any other relevant data, and report to the legislative oversight commission on education accountability by the first day of November, two thousand three. The report shall contain findings and recommendations to address at least the following areas relevant to the two institutions:

(1) The fiscal status;

(2) The progress in meeting the goals for post-secondary education, the institutional compact, and the public policy agenda;

(3) Possible academic and fiscal advantages that might be derived from an administrative link between the two institutions; and

(4) Any changes to the programs or services of either institution required by the commission based on their findings or those of the institutions.

(d) If the commission determines that either institution has made insufficient progress toward the goals established in this chapter, in the institutional compacts, in the public policy agenda established by the commission, or has not complied with the changes required by the commission pursuant to subsection (c) of this section, the commission immediately shall take any action necessary to further the goals and requirements of this section.

(e) The commission shall continue to monitor and review each institution's compliance with this section.

Acts 2003, c. 96, eff. March 8, 2003.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B–1B–11. Study of licensing and oversight of certain institutions providing post–secondary education

(a) The commission and the council shall conduct a joint study of current policies relating to licensing and oversight of both public and private degree-granting and nondegree-granting entities providing post-secondary education programs or courses within the state or from locations outside this state through distance learning or any technology methods.

(b) The study shall include, but is not limited to, the following:

(1) The strengths and weaknesses of current state and higher education policies including a determination of how well the policies protect consumers and whether such protection should be expanded;

(2) The appropriate entity within public higher education to assume licensing and oversight of each type of institution;

(3) The standards to be used for program approval or a method to develop such standards; and

(4) The requirements for fees and bonding.

The commission and the council shall report their findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate the recommendations, to the legislative oversight commission on education accountability by the first day of December, two thousand four.

Acts 2004, c. 92, eff. March 13, 2004.

Library References

Colleges and Universities ⚷7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B-1B-12. Research challenge

(a) There is established in the state treasury a special revenue fund known as the "research challenge fund". Moneys deposited in this fund shall be administered by the higher education policy commission.

The moneys deposited in this fund shall be used to fund coal research and development projects at institutions of higher education located in this state. Research includes, but is not limited to, carbon sequestration and carbon technology research and development projects. The moneys deposited in this fund shall also be used to fund other research and development projects at institutions of higher education in this state.

(b) The policy commission shall use the recommendations of the EPSCoR state advisory council in its allocation of appropriations made to the research challenge fund and in its development of procedures for competitive application and review of proposals for funding. The research challenge is a critical component in the state's strategic plan for economic development and the contribution of higher education in the economic health of the state and the EPSCoR state advisory council is well qualified, by virtue of its research oriented mission and membership, to advise the policy commission in the allocation of research challenge funding.

The objectives of the research challenge are to:

(1) Increase the research capacity of institutions of higher education and the competitiveness of these institutions to apply for external funding;

(2) Stimulate the development of research and research products that are directly applicable in improving the economic competitiveness of existing West Virginia industries and the development of new business and jobs in the state;

(3) Leverage limited state resources with private and federal funds to support projects and activities directly related to economic development by requiring matching funds and cooperative agreements with external partners;

(4) Increase the production of undergraduate and graduate students of programs in the sciences, technology, engineering and mathematics, with special attention to emerging disciplines such as biometrics; and

(5) Hold institutions more accountable for the success of research projects funded under this program with the expectation that state support will be phased out and the project or activity will be terminated if it is unable to generate ongoing external support.

(c) The priorities for the research challenge shall be:

(1) Research on energy generation, distribution and utilization that builds on the state's existing energy research strengths, related research products and technology transfer programs;

(2) Research, education and outreach conducted by the EPSCoR program. This federal program is recognized by the national science foundation as the state's primary entity for developing the research capacity that is so important to the state's economic and educational development;

(3) Research projects that are related to the economic development of the state and that have significant potential to attract participation and funding from industrial, federal or foundation partners;

(4) Collaborative projects between higher education and public education to improve science and mathematics education;

(5) Graduate education in science (including medical education), technology, engineering and mathematics. The allocation shall be used for the increase in doctoral students and programs at West Virginia university and Marshall university in these fields; and

(6) Recruitment of eminent scholars to strengthen research capacity and competitiveness for external funding.

(d) The policy commission shall report to the legislative oversight committee on educational accountability annually on the results of the projects and activities funded by the research challenge appropriation.

(e) The priorities established in subsection (c) of this section shall be reviewed biannually by the policy commission and the EPSCoR state advisory council beginning in two thousand six. The policy commission shall include any recommended adjustments in its budget request for the two thousand seven budget.

Acts 2004, c. 123, eff. March 21, 2004.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

§ 18B-1B-13. Study of issues affecting employees in public higher education

(a) In consultation with the Council, the governing boards, the State Advisory Council of Faculty established pursuant to section two, article six of this

chapter and the State Advisory Council of Classified Employees established pursuant to section five, article six of this chapter, the Commission shall conduct a study relating to issues affecting employees in public higher education.

(b) The study includes, but is not limited to, the following:

(1) Reviewing statutes, rules, guidelines, interpretations and other statements of policy;

(2) Surveying the capacity, professional training and practices of human resources staff by institution, including the number of staff employed in each institutional human resources office, their job titles and responsibilities;

(3) Evaluating the strengths and weaknesses of the statewide classification and compensation system and examining alternatives;

(4) Reviewing job titles and responsibilities to determine if certain families of jobs should be classified or nonclassified;

(5) Evaluating and recommending best practices and methods to establish salary rates for faculty, classified employees, nonclassified employees and administrators, including:

(A) Developing measurable indicators of "merit" and "performance" if these terms are to be used in a system for determining benefits;

(B) Developing reliable instruments of performance evaluation for all classes of employees; and

(C) Exploring the feasibility of authorizing employee bonuses under a merit or performance-based system;

(6) Determining the most effective and efficient method to train administrators who perform employee evaluations and assuring that they use these instruments appropriately;

(7) Exploring justifications for maintaining or removing the internal preference for hiring, promoting and transferring classified employees pursuant to article seven of this chapter;

(8) Developing recommendations for a fair and rational policy covering reductions in force;

(9) Identifying unnecessary state-level paperwork requirements related to personnel and recommending methods to eliminate them while maintaining strict fiscal accountability;

(10) Evaluating the strengths and weaknesses of statewide tenure and promotion policies for faculty and examining alternatives;

(11) Evaluating the feasibility of implementing differential salary rates based on cost of living or other relevant factors;

(12) Determining whether employees whose salaries are derived from funds other than state appropriations should be subject to the provisions of article seven of this chapter and how such employees should be treated in any policy on reductions in force; and

(13) Determining the true costs or benefits as well as the advantages and disadvantages that may accrue as a result of decisions to outsource certain institutional functions. In order to perform a cost/benefit analysis, the Commission must first develop an accurate database of institutional practices including the number of positions being outsourced or filled by temporary employees and the true amount of cost savings, if any.

(c) The Commission shall report to the Legislative Oversight Commission on Education Accountability by the first day of October, two thousand five, and every six months thereafter on the progress of the study.

(d) The Commission shall complete its work and report its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate the recommendations, to the Legislative Oversight Commission on Education Accountability by the first day of December, two thousand eight.

(1) In making its recommendations, the Commission shall take into account the impact of proposed changes on employees and the communities in which state institutions of higher education are located; and

(2) The Commission shall include documentation to support any conclusion or recommendation included as a part of their findings and shall attach estimates of cost or savings to each recommendation, if that recommendation has a fiscal impact on any public agency or institution.

Acts 2005, c. 86, eff. July 1, 2005.

Library References

Colleges and Universities ⇐7.
Westlaw Topic No. 81.
C.J.S. Colleges and Universities §§ 15 to 18.

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

Chapters 18A to 18C

2010

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ARTICLE 1B
HIGHER EDUCATION POLICY COMMISSION

Section
18B-1B-3. Meetings and compensation.
18B-1B-4. Powers and duties of Higher Education Policy Commission.
Section
18B-1B-6. Appointment of institutional presidents; evaluation.
18B-1B-8, 18B-1B-9. Repealed.
18B-1B-11. Repealed.

§ 18B-1B-3. Meetings and compensation

(a) The commission shall meet as needed at the time and place specified by the call of the chairperson.

(b) The commission shall hold an annual meeting at the final, regularly scheduled meeting of each fiscal year for the purpose of electing officers. At the annual meeting, the commission shall elect from its members appointed by the Governor a chairperson and other officers as it may consider necessary or desirable. All officers are elected from the citizen appointees. The chairperson and other officers are elected for a one-year term commencing on the first day of July following the annual meeting and ending on the thirtieth day of June of the following year. The chairperson of the commission may serve no more than four consecutive terms as chair.

(c) Members of the commission shall be reimbursed for actual and necessary expenses incident to the performance of their duties upon presentation of an itemized sworn statement thereof. The foregoing reimbursement for actual and necessary expenses shall be paid from appropriations made by the Legislature to the commission.

(d) A majority of the members constitutes a quorum for conducting the business of the commission.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2007, 2nd Ex. Sess., c. 10, eff. Aug. 21, 2007.

§ 18B-1B-4. Powers and duties of Higher Education Policy Commission

(a) The primary responsibility of the commission is to develop, establish and implement policy that will achieve the goals and objectives found in section one-a, article one of this chapter. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards of Marshall University and West Virginia University, respectively. To that end, the commission has the following powers and duties relating to the institutions under its jurisdiction:

(1) Develop, oversee and advance the public policy agenda pursuant to section one, article one-a of this chapter, to address major challenges facing the state, including, but not limited to, the goals and objectives found in section one-a, article one of this chapter and including specifically those goals and objectives pertaining to the compacts created pursuant to section two, article one-a of this chapter and to develop and implement the master plan described in section nine of this article for the purpose of accomplishing the mandates of this section;

(2) Develop, oversee and advance the implementation jointly with the council of a financing policy for higher education in West Virginia. The policy shall meet the following criteria:

(A) Provide an adequate level of education and general funding for institutions pursuant to section five, article one-a of this chapter;

(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources and deferred maintenance;

(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to, those found in section one-a, article one of this chapter; and

(D) Incorporate the plan for strategic funding to strengthen capacity for support of community and technical college education established by the West Virginia Council for Community and Technical College Education pursuant to the provisions of section six, article two-b of this chapter;

(3) In collaboration with the council, create a policy leadership structure capable of the following actions:

(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

(C) Holding the higher education institutions and the higher education systems as a whole accountable for accomplishing their missions and implementing the provisions of the compacts;

(4) Develop and adopt each institutional compact;

(5) Review and adopt the annual updates of the institutional compacts;

(6) Serve as the accountability point to:

(A) The Governor for implementation of the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(7) Jointly with the council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional achievement towards state policy priorities and institutional missions pursuant to section two, article one-a of this chapter;

(10) Annually report to the Legislature and to the Legislative Oversight Commission on Education Accountability during the January interim meetings on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:

(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting goals stated in the compacts and progress of the institutions and the higher education system as a whole in meeting the goals and objectives set forth in section one-a, article one of this chapter;

(B) An analysis of enrollment data collected pursuant to section one, article ten of this chapter and recommendations for any changes necessary to assure access to high-quality, high-demand education programs for West Virginia residents;

(C) The priorities established for capital investment needs pursuant to subdivision (11) of this subsection and the justification for such priority;

(D) Recommendations of the commission for statutory changes needed to further the goals and objectives set forth in section one-a, article one of this chapter;

(11) Establish a formal process for identifying needs for capital investments and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process. It is the responsibility of the commission to assure a fair distribution of funds for capital projects between the commission and the council. To that end the commission shall take the following steps:

(A) Receive the list of priorities developed by the council for capital investment for the institutions under the council's jurisdiction pursuant to subsection (b), section six, article two-b of this chapter;

(B) Place the ranked list of projects on the agenda for action within sixty days of the date on which the list was received;

(C) Select a minimum of three projects from the list submitted by the council to be included on the ranked list established by the commission. At least one of the three projects selected must come from the top two priorities established by the council;

(12) Maintain guidelines for institutions to follow concerning extensive capital project management except the governing boards of Marshall University and West Virginia University are not subject to the provisions of this subdivision as it relates to the state institutions of higher education known as Marshall University and West Virginia University. The guidelines shall provide a process for developing capital projects, including, but not limited to, the notification by an institution to the commission of any proposed capital project which has the potential to exceed $1 million in cost. Such a project may not be pursued by an institution without the approval of the commission. An institution may not participate directly or indirectly with any public or private entity in any capital project which has the potential to exceed $1 million in cost;

(13) Acquire legal services as are considered necessary, including representation of the commission, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(14) Employ a Chancellor for Higher Education pursuant to section five of this article;

(15) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with the provisions of article four of this chapter;

(16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors and other staff;

(17) Advise and consent in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article. The role of the commission in approving an institutional president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compact and in section one-a, article one of this chapter;

(18) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, as proposed by the governing boards. The governing boards must obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package;

(19) Establish and implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

(20) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the State Superintendent of Schools;

(21) Review and approve or disapprove capital projects as described in subdivision (11) of this subsection;

(22) Jointly with the council, develop and implement an oversight plan to manage system-wide technology such as the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system;

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission and state institutions of higher education are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

(23) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(24) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(25) Establish and implement policies and procedures to ensure that students may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

(26) Establish and implement policies and programs, in cooperation with the council and the institutions of higher education, through which students who have gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or internet-based education programs, may demonstrate, by competency-based assessment, that they have the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate degree or a bachelor's degree at a state institution of higher education;

(27) Seek out and attend regional, national and international meetings and forums on education and workforce development related topics, as in the commission's discretion is critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals and objectives pursuant to section one-a, article one of this chapter;

(28) Develop, establish and implement a rule for higher education governing boards and institutions to follow when considering capital projects. The guidelines shall assure that the governing boards and institutions do not approve or promote capital projects involving private sector businesses which would have the effect of reducing property taxes on existing properties or avoiding, in whole or in part, the full amount of taxes which would be due on newly developed or future properties;

(29) Consider and submit to the appropriate agencies of the executive and legislative branches of state government a budget that reflects recommended appropriations from the commission and the institutions under its jurisdiction. The commission shall submit as part of its budget proposal the separate recommended appropriations it received from the council, both for the council and the institutions under the council's jurisdiction. The commission annually shall submit the proposed institutional allocations based on each institution's progress toward meeting the goals of its institutional compact;

(30) The commission has the authority to assess institutions under its jurisdiction, including the state institutions of higher education known as Marshall University and West Virginia University, for the payment of expenses of the commission or for the funding of statewide

higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state;

(31) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to institutions of higher education for qualifying noncapital expenditures incurred in the provision of services to students with physical, learning or severe sensory disabilities;

(32) Make appointments to boards and commissions where this code requires appointments from the State College System Board of Directors or the University of West Virginia System Board of Trustees which were abolished effective June 30, 2000, except in those cases where the required appointment has a specific and direct connection to the provision of community and technical college education, the appointment shall be made by the council. Notwithstanding any provisions of this code to the contrary, the commission or the council may appoint one of its own members or any other citizen of the state as its designee. The commission and council shall appoint the total number of persons in the aggregate required to be appointed by these previous governing boards;

(33) Pursuant to the provisions of article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules as necessary or expedient to fulfill the purposes of this chapter. The commission and the council shall promulgate a uniform joint legislative rule for the purpose of standardizing, as much as possible, the administration of personnel matters among the institutions of higher education;

(34) Determine when a joint rule among the governing boards of the institutions under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards of all the institutions under its jurisdiction, promulgate the joint rule;

(35) In consultation with the governing boards of Marshall University and West Virginia University, implement a policy jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(36) Promulgate a joint rule with the council establishing tuition and fee policy for all institutions of higher education, other than state institutions of higher education known as Marshall University and West Virginia University which are subject to the provisions of section one, article ten of this chapter. The rule shall include, but is not limited to, the following:

(A) Comparisons with peer institutions;

(B) Differences among institutional missions;

(C) Strategies for promoting student access;

(D) Consideration of charges to out-of-state students; and

(E) Such other policies as the commission and council consider appropriate;

(37) Implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and activities that can increase risks; measures that can be taken to prevent contact or infection; and potential benefits of vaccination. The commission shall encourage institutions that provide medical care to students to provide access to the vaccine for those who wish to receive it; and

(38) Notwithstanding any other provision of this code to the contrary, sell, lease, convey or otherwise dispose of all or part of any real property which it may own, either by contract or at public auction, and to retain the proceeds of any such sale or lease: *Provided*, That:

(A) The commission may not sell, lease, convey or otherwise dispose of any real property without first:

(i) Providing notice to the public in the county in which the real property is located by a Class II legal advertisement pursuant to section two, article three, chapter fifty-nine of this code;

(ii) Holding a public hearing on the issue in the county in which the real property is located; and

(iii) Providing notice to the Joint Committee on Government and Finance; and

(B) Any proceeds from the sale, lease, conveyance or other disposal of real property that is used jointly by institutions or for statewide programs under the jurisdiction of the commission or the council shall be transferred to the General Revenue Fund of the state.

(b) In addition to the powers and duties listed in subsection (a) of this section, the commission has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda:

(1) Planning and policy leadership, including a distinct and visible role in setting the state's policy agenda and in serving as an agent of change;

(2) Policy analysis and research focused on issues affecting the system as a whole or a geographical region thereof;

(3) Development and implementation of institutional mission definitions, including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

(4) Academic program review and approval for institutions under its jurisdiction, including the use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes. The commission's authority to review and approve academic programs for either the state institution of higher education known as Marshall University or West Virginia University is limited to programs that are proposed to be offered at a new location not presently served by that institution;

(5) Distribution of funds appropriated to the commission, including incentive and performance-based funding;

(6) Administration of state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of any rules necessary to administer those programs;

(7) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(8) Development, establishment and implementation of information, assessment and accountability systems, including maintenance of statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(9) Jointly with the council, developing, establishing and implementing policies for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state pursuant to the findings and policy recommendations required by section eleven of this article;

(10) Development, implementation and oversight of statewide and regionwide projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funding from any source; and

(11) Quality assurance that intersects with all other duties of the commission particularly in the areas of research, data collection and analysis, planning, policy analysis, program review and approval, budgeting and information and accountability systems.

(c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties as may be assigned to it by law, the commission has such other powers and duties as may be necessary or expedient to accomplish the purposes of this article.

(d) The commission is authorized to withdraw specific powers of any governing board of an institution under its jurisdiction for a period not to exceed two years, if the commission makes a determination that:

(1) The governing board has failed for two consecutive years to develop an institutional compact as required in article one of this chapter;

"(2) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

"(3) Other circumstances which, in the view of the commission, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

"The period of withdrawal of specific powers may not exceed two years during which time the commission is authorized to take steps necessary to reestablish the conditions for restoration of sound, stable and responsible institutional governance.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2004, c. 92, eff. March 13, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2007, 2nd Ex. Sess., c. 10, eff. Aug. 21, 2007; Acts 2010, c. 68, eff. March 13, 2010.

Historical and Statutory Notes

Acts 2010, c. 56, also amended this section to read:

"(a) The primary responsibility of the commission is to develop, establish and implement policy that will achieve the goals and objectives found in section one-a, article one and article one-d of this chapter. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards of Marshall University and West Virginia University, respectively. To that end, the commission has the following powers and duties relating to the institutions under its jurisdiction:

"(1) Develop, oversee and advance the public policy agenda pursuant to section one, article one-a of this chapter to address major challenges facing the state, including but not limited to the goals and objectives found in section one-a, article one of this chapter and article one-d of this chapter and including specifically those goals and objectives pertaining to the compacts created pursuant to section seven, article one-d of this chapter and to develop and implement the master plan described in section five, article one-d of this chapter for the purpose of accomplishing the mandates of this section;

"(2) Develop, oversee and advance the promulgation and implementation of a financing rule for state institutions of higher education under its jurisdiction. The rule shall meet the following criteria:

"(A) Provide for an adequate level of educational and general funding for institutions pursuant to section five, article one-a of this chapter;

"(B) Serve to maintain institutional assets, including, but not limited to, human and physical resources, and eliminating deferred maintenance;

"(C) Invest and provide incentives for achieving the priority goals in the public policy agenda, including, but not limited to those found in section one-a, article one of this chapter; and

"(D) Evaluate institutions' requests for tuition and fee increases except Marshall University and West Virginia University which are subject to the provisions of section one, article ten of this chapter;

"(3) In collaboration with the council, create a policy leadership structure capable of the following actions:

"(A) Developing, building public consensus around and sustaining attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature and the Governor and specifically from the State Board of Education and local school districts in order to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

"(B) Ensuring that the governing boards carry out their duty effectively to govern the individual institutions of higher education; and

"(C) Holding the higher education institutions and the higher education systems as a whole accountable for accomplishing their missions and implementing the provisions of the compacts;

"(4) Develop and adopt each institutional compact;

"(5) Review and adopt the annual updates of the institutional compacts;

"(6) Serve as the accountability point to state policymakers:

"(A) The Governor for implementation of the public policy agenda; and

"(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

"(7) Jointly with the council, promulgate legislative rules pursuant to article three-a, chapter twenty-nine-a of this code to fulfill the purposes of section five, article one-a of this chapter;

"(8) Establish and implement a peer group for each institution as described in section three, article one-a of this chapter;

"(9) Establish and implement the benchmarks and performance indicators necessary to measure institutional progress in achieving state policy pro-

orities and institutional missions pursuant to section seven, article one-d of this chapter;

"(10) Report to the Legislature and to the Legislative Oversight Commission on Education Accountability annually during the January interim meeting period on a date and at a time and location to be determined by the President of the Senate and the Speaker of the House of Delegates. The report shall address at least the following:

"(A) The performance of its system of higher education during the previous fiscal year, including, but not limited to, progress in meeting the goals, objectives, and priorities set forth in article one and article one-d of this chapter and in the commission's master plan and institutional compacts;

"(B) The commission's priorities for new operating and capital investments, and the justification for the priority;

"(C) Recommendations of the commission for statutory changes necessary or expedient to achieve state goals and objectives;

"(11) Establish a formal process for identifying capital investment needs and for determining priorities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process pursuant to article nineteen of this chapter;

"(12) Develop standards and evaluate governing board requests for capital project financing in accordance with article nineteen of this chapter;

"(13) Ensure that governing boards manage capital projects and facilities needs effectively, including review and approval or disapproval of capital projects, in accordance with article nineteen of this chapter;

"(14) Acquire legal services that are considered necessary, including representation of the commission, its institutions, employees and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

"(15) Employ a Chancellor for Higher Education pursuant to section five of this article;

"(16) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with article four of this chapter;

"(17) Provide suitable offices in Charleston for the chancellor, vice chancellors, and other staff;

"(18) Advise and consent in the appointment of the presidents of the institutions of higher education under its jurisdiction pursuant to section six of this article. The role of the commission in approving an institutional president is to assure through personal interview that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compact and in section one-a, article one of this chapter;

"(19) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, as proposed by the governing boards. The governing boards shall obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package;

"(20) Establish and implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

"(21) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards throughout the public higher education system. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the State Superintendent of Schools;

"(22) Jointly with the council, develop and implement an oversight plan to manage systemwide technology by:

"(A) Expanding distance learning and technology networks to enhance teaching and learning, promote access to quality educational offerings with minimum duplication of effort; and

"(B) Increasing the delivery of instruction to nontraditional students, to provide services to business and industry and increase the management capabilities of the higher education system;

"(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission and state institutions of higher education are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

"(23) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a bachelor's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state community and technical college with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

"(24) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

"(25) Establish and implement policies and procedures to ensure that a student may transfer and apply toward the requirements for a master's degree the maximum number of credits earned at any regionally accredited in-state or out-of-state higher education institution with as few requirements to repeat courses or to incur additional costs as is consistent with sound academic policy;

"(26) Establish and implement policies and programs in cooperation with the council and the institutions of higher education, through which a student who has gained knowledge and skills through employment, participation in education and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

"(27) Seek out and attend regional, national and international meetings and forums on education and workforce development related topics, as in the commission's discretion is critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals and objectives pursuant to section one-a, article one of this chapter and article one-d of this chapter;

"(28) Promulgate and implement a rule for higher education governing boards and institutions to follow when considering capital projects pursuant to article nineteen of this chapter;

"(29) Consider and submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the institutions under its jurisdiction. The commission shall submit as part of its appropriation request the separate recommended appropriation request received from the council, both for the council and the institutions under the council's jurisdiction. The commission annually shall submit the proposed institutional allocations based on each institution's progress toward meeting the goals of its institutional compact;

"(30) The commission may assess institutions under its jurisdiction, including the state institutions of higher education known as Marshall University and West Virginia University, for the payment of expenses of the commission or for the funding of statewide higher education services, obligations or initiatives related to the goals set forth for the provision of public higher education in the state;

"(31) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to institutions of higher education for qualifying noncapital expenditures incurred in providing services to students with physical, learning or severe sensory disabilities;

"(32) Make appointments to boards and commissions where this code requires appointments from the State College System Board of Directors or the University of West Virginia System Board of Trustees which were abolished effective June 30, 2000, except in those cases where the required appointment has a specific and direct connection to the provision of community and technical college education, the appointment shall be made by the council. Notwithstanding any provisions of this code to the contrary, the commission or the council may appoint one of its own members or any other citizen of the state as its designee. The commission and council shall appoint the total number of persons in the aggregate required to be appointed by these previous governing boards;

"(33) Pursuant to article three-a, chapter twenty-nine-a of this code and section six, article one of this chapter, promulgate rules necessary or expedient to fulfill the purposes of this chapter. The commission and the council shall promulgate a uniform joint legislative rule for the purpose of standardizing, as much as possible, the administration of personnel matters among the state institutions of higher education;

"(34) Determine when a joint rule among the governing boards of the institutions under its jurisdiction is necessary or required by law and in those instances, in consultation with the governing boards of all the institutions under its jurisdiction, promulgate the joint rule;

"(35) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

"(36) By November 1, 2010, promulgate a rule pursuant to section one, article ten of this chapter, establishing tuition and fee policy for all institutions of higher education under the jurisdiction of the commission including Marshall University and West Virginia University. The rule shall include but is not limited to the following:

"(A) Comparisons with peer institutions;

"(B) Differences among institutional missions;

"(C) Strategies for promoting student access;

"(D) Consideration of charges to out-of-state students; and

"(E) Such other policies as the commission and council consider appropriate;

"(37) Implement general disease awareness initiatives to educate parents and students, particularly dormitory residents, about meningococcal meningitis, the potentially life threatening dangers of contracting the infection, behaviors and activities that can increase risks, measures that can be taken to prevent contact or infection, and potential benefits of vaccination. The commission shall encourage institutions that provide medical care to students to provide access to the vaccine for those who wish to receive it; and

"(38) Notwithstanding any other provision of this code to the contrary, sell, lease, convey or otherwise dispose of all or part of any real property that it owns in accordance with article nineteen of this chapter.

"(b) In addition to the powers and duties listed in subsection (a) of this section, the commission has the following general powers and duties related to its role in developing, articulating and overseeing the implementation of the public policy agenda:

"(1) Planning and policy leadership, including a distinct and visible role in setting the state's policy agenda and in serving as an agent of change;

"(2) Policy analysis and research focused on issues affecting the system as a whole or a geographical region of the system;

"(3) Development and implementation of institutional mission definitions, including use of incentive funds to influence institutional behavior in ways that are consistent with public priorities;

"(4) Academic program review and approval for institutions under its jurisdiction, including the use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes. The commission's authority to review and approve academic programs for either the state institution of higher education known as Marshall University or West Virginia University is limited to programs that are proposed to be offered at a new location not presently served by that institution;

"(5) Distribution of funds appropriated to the commission, including incentive and performance-based funding;

"(6) Administration of state and federal student aid programs under the supervision of the Vice Chancellor for Administration, including promulgation of any rules necessary to administer those programs;

"(7) Serving as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

"(8) Developing, establishing and implementing information, assessment and accountability systems, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

"(9) Jointly with the council, promulgating and implementing rules for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state pursuant to the findings and policy recommendations required by section eleven of this article;

"(10) Developing, implementing and overseeing statewide and regional projects and initiatives related to providing post-secondary education at the baccalaureate level and above such as those using funds from federal categorical programs or those using incentives and performance-based funding from any source; and

"(11) Quality assurance that intersects with all other duties of the commission particularly in the areas of research, data collection and analysis, planning, policy analysis, program review and approval, budgeting and information and accountability systems.

"(c) In addition to the powers and duties provided in subsections (a) and (b) of this section and any other powers and duties as may be assigned to it by law, the commission has any other powers and duties necessary or expedient to accomplish the purposes of this article.

"(d) The commission may withdraw specific powers of a governing board of an institution under its jurisdiction for a period not to exceed two years, if the commission makes a determination that any of the following conditions exist:

"(1) The governing board has failed for two consecutive years to develop or implement an institutional compact as required in article one-d of this chapter;

"(2) The commission has received information substantiated by independent audit of significant mismanagement or failure to carry out the powers and duties of the board of governors according to state law; or

"(3) Other circumstances which, in the view of the commission, severely limit the capacity of the board of governors to carry out its duties and responsibilities.

"Specific powers of a governing board may not be withdrawn for a period exceeding two years. During that time the commission may take all steps necessary to restore sound, stable and responsible institutional governance.

§ 18B-1B-6. Appointment of institutional presidents; evaluation

(a) *Appointment of institutional presidents.*— Appointment of presidents of the state institutions of higher education shall be made as follows:

(1) The initial contract term for a president of a state institution of higher education may not exceed two years. At the end of the initial contract period, and subject to the provisions of subsection (c) of this section, the governing board may offer the president a contract of longer duration, but not to exceed five years.

(A) The provisions relating to initial contract periods do not affect the terms of a current contract for any person holding a multiyear contract and serving as president of a state

institution of higher education or division of a state institution of higher education delivering community and technical education on the thirtieth day of June, two thousand eight;

(B) At the end of the current contract period and thereafter, the governing board shall make presidential appointments in accordance with the provisions of this section.

(2) The person who is president, provost, or divisional administrative head of the community and technical college on the thirtieth day of June, two thousand eight, becomes the president of the institution on the effective date of this section.

(3) The president of a state institution of higher education serves at the will and pleasure of the appointing governing board.

(4) Subject to the approval of the commission, the governing board of the institution appoints a president for Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty State College, West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

(5) Subject to the approval of the council, the governing board of the community and technical college appoints a president for Blue Ridge Community and Technical College, The Community and Technical College at West Virginia University Institute of Technology, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, West Virginia State Community and Technical College, and West Virginia University at Parkersburg.

(b) *Other appointments.* — The institutional president appoints a provost to be the administrative head of the Potomac campus of West Virginia University and a provost to be the administrative head of West Virginia University Institute of Technology.

(c) *Evaluation of presidents.* —

(1) The appointing governing board shall conduct written performance evaluations of the institution's president. Evaluations shall be done at the end of the initial two-year contract period and in every third year of employment as president thereafter, recognizing unique characteristics of the institution and using institutional personnel, boards of advisors, as appropriate, staff of the appropriate governing board and persons knowledgeable in higher education matters who are not otherwise employed by a governing board. A part of the evaluation shall be a determination of the success of the institution in meeting the requirements of its institutional compact and in achieving the goals, objectives and priorities established in articles one and one-d of this chapter.

(2) After reviewing the evaluations, the board of governors shall make a determination by majority vote of its members on continuing employment and the compensation level for the president in accordance with the provisions of subsection (a) of this section.

(d) The commission and council, each shall propose a rule for legislative approval in accordance with the provisions of section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code by the first day of September, two thousand eight, to provide guidance for the institutional governing boards in filling vacancies in the office of president in accordance with the provisions of this chapter. The rule shall include, but is not limited to, clarifying the powers, duties and roles of the governing boards, the commission, the council and the chancellors in the presidential appointment process.

(e) The Legislature finds that an emergency exists and, therefore, the commission and the council each shall file a rule to implement the provisions of this section as an emergency rule by the first day of September, two thousand eight, pursuant to the provisions of article three-a, chapter twenty-nine-a of this code. The emergency rule may not be implemented without prior approval of the Legislative Oversight Commission on Education Accountability.

Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2003, c. 96, eff. March 8, 2003; Acts 2004, c. 92, eff. March 13, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2006, c. 84, eff. July 1, 2006; Acts 2008, c. 87, eff. July 1, 2008.

Repealed

§§ 18B-1B-8, 18B-1B-9. Repealed by Acts 2008, c. 72, eff. March 8, 2008

Historical and Statutory Notes

The repealed sections related to institutional and statewide report cards and to a statewide master plan, respectively.

See, now, WV ST §§ 18B-1D-8, 18B-1D-5, respectively.

§ 18B-1B-11. Repealed by Acts 2008, c. 87, eff. July 1, 2008

Historical and Statutory Notes

The repealed section, which related to a study of licensing and oversight of certain institutions providing post-secondary education, was derived from Acts 2004, c. 92.

§ 18B-1B-12. Research challenge

United States Code Annotated

Department of Energy, education programs, science, engineering, and mathematics, see 42 U.S.C.A. § 7381g et seq.

Nonnuclear energy research and development, see 42 U.S.C.A. § 5901 et seq.

Renewable energy research and development, see 7 U.S.C.A. 8101 et seq.

ARTICLE 1C

WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY

Section

18B-1C-2. West Virginia University Institute of Technology; division of West Virginia University.

§ 18B-1C-2. West Virginia University Institute of Technology; division of West Virginia University

(a) West Virginia University Institute of Technology is a fully integrated division of West Virginia University. All administrative and academic units are consolidated with primary responsibility for direction and support assigned to West Virginia University. The advisory board previously appointed for West Virginia University Institute of Technology is known as the board of visitors and shall provide guidance to the division in fulfilling its mission. The chairperson of the board of visitors serves as an ex officio, voting member of the West Virginia University Board of Governors.

(b) The fully integrated division is named West Virginia University Institute of Technology. The headquarters of West Virginia University Institute of Technology remains in Montgomery, West Virginia.

(c) The provisions of this section do not affect the independent accreditation or continued operation of The Community and Technical College at West Virginia University Institute of Technology. Effective the first day of July, two thousand eight, the institution becomes an independent community and technical college administered by its own governing board under the jurisdiction and authority of the council and is subject to all applicable provisions of this chapter and chapter eighteen-c of this code.

(d) Auxiliary enterprises shall be incorporated into the West Virginia University auxiliary enterprise system. The West Virginia University Board of Governors shall determine if operations at West Virginia University Institute of Technology can be operated on a self-sufficient basis when establishing rates for auxiliary services and products.

(e) West Virginia University Institute of Technology has a strong reputation in engineering and other scientific disciplines. These programs shall be maintained, cultivated and emphasized further as its sustaining mission over the next decade.

State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 18B, ARTICLE 10 OF THE WEST VIRGINIA CODE, AND CHAPTER 18B, ARTICLE 10 OF THE 2010 SUPPLEMENT TO 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

December 22, 2010

Natalie E. Tennant

Secretary of State

ARTICLE 10

FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF HIGHER EDUCATION

Section

18B–10–1. Enrollment, tuition and other fees at education institutions; refund of fees.
18B–10–1a. Resident tuition rates for national guard members.
18B–10–1b. Special equity fee; purpose; exemptions.
18B–10–1c. Definitions.
18B–10–2. Higher education resource assessment.
18B–10–3. Repealed.
18B–10–4. Medical education.
18B–10–4a. Repealed.
18B–10–4b. Additional fee waivers for health sciences and technology academy programs.
18B–10–5. Fee waivers — Undergraduate schools.
18B–10–6. Fee waivers — Professional and graduate schools.
18B–10–6a. Undergraduate, graduate and professional fee waivers — Marshall University and West Virginia University.
18B–10–7. Tuition and fee waivers for children and spouses of officers and firefighters killed in the line of duty.
18B–10–7a. Tuition and fee waivers or adjustments for residents at least sixty–five years old.
18B–10–7b. Tuition waivers for high school graduates in foster care.
18B–10–8. Collection; disposition and use of capital and auxiliary capital fees; creation of special capital and auxiliary capital improvements funds; revenue bonds.
18B–10–9. Authority to excuse students in certain educational programs from payment of enrollment fees.
18B–10–10. Repealed.
18B–10–11. Fees and money derived from athletic contests.
18B–10–12. Student activities.
18B–10–13. Fees from operation of dormitories, faculty homes, dining halls and cafeterias.
18B–10–14. Bookstores.
18B–10–15. Authority of educational institutions to provide special services and programs; collection and disposition of fees therefor.
18B–10–16. Disposition of funds in state treasury.

§ 18B–10–1. Enrollment, tuition and other fees at education institutions; refund of fees

(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

(1) Tuition and required educational and general fees;

(2) Auxiliary and auxiliary capital fees; and

(3) Required educational and general capital fees.

(b) An institution may establish a single special revenue account for each of the following classifications of fees:

(1) All tuition and required educational and general fees collected;

(2) All auxiliary and auxiliary capital fees collected; and

(3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from such accounts, an institution may expend funds from each such special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a student's attorney to perform legal services for students in civil matters at the institutions: *Provided,* That the legal services are limited only to those types of cases, programs or services approved by the administrative head of the institution where the legal services are to be performed.

(d) The commission and council jointly shall propose a rule for legislative approval in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees.

(e) The Legislature finds that an emergency exists and, therefore, the commission and council jointly shall file the rule required by subsection (d) of this section as an emergency rule pursuant to the provisions of article three-a, chapter twenty-nine-a of this code, subject to the prior approval of the Legislative Oversight Commission on Education Accountability.

(f) The schedule of all tuition and fees, and any changes therein, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of such schedule and changes.

(g) The boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with the above provisions.

(h) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to the awarding of course credit at the end of the academic term.

(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis if the finances of a student are affected adversely.

(4) The commission and council jointly shall propose a rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code defining conditions under which an institution may offer tuition and fee deferred payment plans through the institution or through third parties.

(5) An institution may charge interest or fees for any deferred or installment payment plans.

(i) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

(j) Institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rule proposed by the commission and council jointly pursuant to this section. The tuition rule shall:

(1) Provide a basis for establishing nonresident tuition and fees;

(2) Allow institutions to charge different tuition and fees for different programs;

(3) Provide that a board of governors may propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

(B) Increases may not exceed previous state subsidies by more than ten percent;

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

(E) The commission, council or both, as appropriate, shall certify to the Legislature by the first day of October in the fiscal year following implementation of the fee, and annually thereafter, the amount of fees collected for each of the five years;

(4) Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(k) A penalty may not be imposed by the commission or council upon any institution based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission or council on the numbers of nonresidents and such other enrollment information as the commission or council may request.

(*l*) Tuition and fee increases of the governing boards, except for the governing boards of the state institutions of higher education known as Marshall University and West Virginia University, are subject to rules adopted by the commission and council jointly pursuant to this section and in accordance with the provisions of article three-a, chapter twenty-nine-a of this code.

(1) Subject to the provisions of subdivisions (4) and (8) of this subsection, a governing board of an institution under the jurisdiction of the commission may propose tuition and fee increases of up to nine and one-half percent for undergraduate resident students for any fiscal year. The nine and one-half percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established specialized fee which may be proposed by a governing board.

(2) A governing board of an institution under the jurisdiction of the council may propose tuition and fee increases of up to four and three quarters percent for undergraduate resident students for any fiscal year. The four and three-quarters percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established, specialized fee which may be proposed by a governing board.

(3) The commission or council, as appropriate, shall examine individually each request from a governing board for an increase.

(4) Subject to the provisions of subdivision (8) of this subsection the governing boards of Marshall University and West Virginia University, as these provisions relate to the state institutions of higher education known as Marshall University and West Virginia University, each may annually:

(A) Increase tuition and fees for undergraduate resident students to the maximum allowed by this section without seeking approval from the commission; and

(B) Set tuition and fee rates for post-baccalaureate resident students and for all nonresident students, including establishing regional tuition and fee rates, reciprocity agreements or both.

(C) The provisions of this subdivision do not apply to tuition and fee rates of the administratively linked institution known as Marshall Community and Technical College, the administratively linked institution known as the Community and Technical College at West Virginia University Institute of Technology, the regional campus known as West Virginia University at Parkersburg and, until the first day of July, two thousand seven, the regional campus known as West Virginia University Institute of Technology.

(5) Any proposed tuition and fee increase for state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University requires the approval of the commission or council, as appropriate. In determining whether to approve or deny the governing board's request, the commission or council shall determine the progress the institution has made toward meeting the conditions outlined in this subdivision and shall make this determination the predominate factor in its decision. The commission or council shall consider the degree to which each institution has met the following conditions:

(A) Has maximized resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

(B) Is consistently achieving the benchmarks established in the compact of the institution pursuant to the provisions of article one-a of this chapter;

(C) Is continuously pursuing the statewide goals for post-secondary education and the statewide compact established in articles one and one-a of this chapter;

(D) Has demonstrated to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

(E) Has demonstrated to the satisfaction of the commission or council that the institution is making adequate progress toward achieving the goals for education established by the southern regional education board; and

(F) To the extent authorized, will increase by up to five percent the available tuition and fee waivers provided by the institution. The increased waivers may not be used for athletics.

(6) This section does not require equal increases among institutions or require any level of increase at an institution.

(7) The commission and council shall report to the Legislative Oversight commission on Education Accountability regarding the basis for each approval or denial as determined using the criteria established in subdivision (5) of this subsection.

(8) Notwithstanding the provisions of subdivisions (1) and (4) of this subsection, tuition and fee increases at state institutions of higher education which are under the jurisdiction of the commission, including the state institutions of higher education known as Marshall University and West Virginia University, are subject to the following conditions:

(A) Institutions may increase tuition and fees for resident, undergraduate students by no more than an average of seven and one-half percent per year during any period covering four consecutive fiscal years, with the first fiscal year of the first four-fiscal year cycle beginning on the first day of July, two thousand seven;

(B) The seven and one-half percent average cap does not apply to an institution for any fiscal year in which the total state base operating budget appropriations to that institution are less than the total state base operating budget appropriations in the fiscal year immediately preceding;

(C) A new capital fee or an increase in an existing capital fee is excluded from the tuition and fee increase calculation in this subdivision:

(i) If the new fee or fee increase is approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of February, two thousand six; or

(ii) If the following conditions are met:

(I) The new fee or fee increase was approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of July, two thousand six;

(II) The institution for which the capital fee is approved has been designated a university pursuant to the provisions of section six, article two-a of this chapter by the effective date of this section; and

(III) The institutional board of governors previously oversaw a community and technical college that achieved independent accreditation and consequently acquired its own board of governors;

(D) Institutions shall provide, in a timely manner, any data on tuition and fee increases requested by the staff of the commission. The commission has the power and the duty to:

(i) Collect such data from any institution under its jurisdiction; and

(ii) Annually by the first day of July, provide a detailed analysis of the institutions' compliance with the provisions of this subdivision to the Legislative Oversight Commission on Education Accountability.

Acts 1989, c. 64; Acts 1993, c. 47; Acts 1995, c. 99, eff. March 11, 1995; Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2003, c. 96, eff. March 8, 2003; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2006, c. 84, eff. July 1, 2006.

Historical and Statutory Notes

Acts 2006, c. 79, also amended this section to read:

"(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

"(1) Tuition and required educational and general fees;

"(2) Auxiliary and auxiliary capital fees; and

"(3) Required educational and general capital fees.

"(b) An institution may establish a single special revenue account for each of the following classifications of fees:

"(1) All tuition and required educational and general fees collected;

"(2) All auxiliary and auxiliary capital fees collected; and

"(3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

"(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from such accounts, an institution may expend funds from each such special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

"(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a student's attorney to perform legal services for students in civil matters at the institutions: Provided, That the legal services are limited only to those types of cases, programs or services approved by the administrative head of the institution where the legal services are to be performed.

"(d) The commission and council jointly shall propose a rule for legislative approval in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees.

"(e) The Legislature finds that an emergency exists and, therefore, the commission and council jointly shall file the rule required by subsection (d) of this section as an emergency rule pursuant to the provisions of article three-a, chapter twenty-nine-a of this code, subject to the prior approval of the Legislative Oversight Commission on Education Accountability.

"(f) The schedule of all tuition and fees, and any changes therein, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of such schedule and changes.

"(g) The boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

"(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

"(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with the above provisions.

"(h) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

"(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to the awarding of course credit at the end of the academic term.

"(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

"(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis if the finances of a student are affected adversely.

"(4) The commission and council jointly shall propose a rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code, defining conditions under which an institution may offer tuition and fee deferred payment plans through the institution or through third parties.

"(5) An institution may charge interest or fees for any deferred or installment payment plans.

"(i) In addition to the other fees provided in this section, each governing board may impose,

collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

"(j) Institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rule proposed by the commission and council jointly pursuant to this section. The tuition rule shall:

"(1) Provide a basis for establishing nonresident tuition and fees;

"(2) Allow institutions to charge different tuition and fees for different programs;

"(3) Provide that a board of governors may propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

"(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

"(B) Increases may not exceed previous state subsidies by more than ten percent;

"(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

"(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

"(E) The commission, council or both, as appropriate, shall certify to the Legislature by the first day of October in the fiscal year following implementation of the fee, and annually thereafter, the amount of fees collected for each of the five years;

"(4) Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

"(k) A penalty may not be imposed by the commission or council upon any institution based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission or council on the numbers of nonresidents and such other enrollment information as the commission or council may request.

"(*l*) Tuition and fee increases of the governing boards, except for the governing boards of the state institutions of higher education known as Marshall University and West Virginia University, are subject to rules adopted by the commission and council jointly pursuant to this section and in accordance with the provisions of article three-a, chapter twenty-nine-a of this code.

"(1) Subject to the provisions of subdivisions (4) and (8) of this subsection, a governing board of an institution under the jurisdiction of the commission may propose tuition and fee increases of up to nine and one-half percent for undergraduate resident students for any fiscal year. The nine and one-half percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established, specialized fee which may be proposed by a governing board.

"(2) A governing board of an institution under the jurisdiction of the council may propose tuition and fee increases of up to four and three quarters percent for undergraduate resident students for any fiscal year. The four and three-quarters percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established, specialized fee which may be proposed by a governing board.

"(3) The commission or council, as appropriate, shall examine individually each request from a governing board for an increase.

"(4) Subject to the provisions of subdivision (8) of this subsection, the governing boards of Marshall University and West Virginia University, as these provisions relate to the state institutions of higher education known as Marshall University and West Virginia University, each may annually:

"(A) Increase tuition and fees for undergraduate resident students to the maximum allowed by this section without seeking approval from the commission; and

"(B) Set tuition and fee rates for post-baccalaureate resident students and for all nonresident students, including establishing regional tuition and fee rates, reciprocity agreements or both.

"(C) The provisions of this subdivision do not apply to tuition and fee rates of the administratively linked institution known as Marshall Community and Technical College, the administratively linked institution known as the Community and Technical College at West Virginia University Institute of Technology, the regional campus known as West Virginia University at

Parkersburg and, until the first day of July, two thousand seven, the regional campus known as West Virginia University Institute of Technology.

"(5) Any proposed tuition and fee increase for state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University requires the approval of the commission or council, as appropriate. In determining whether to approve or deny the governing board's request, the commission or council shall determine the progress the institution has made toward meeting the conditions outlined in this subdivision and shall make this determination the predominate factor in its decision. The commission or council shall consider the degree to which each institution has met the following conditions:

"(A) Has maximized resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

"(B) Is consistently achieving the benchmarks established in the compact of the institution pursuant to the provisions of article one-a of this chapter;

"(C) Is continuously pursuing the statewide goals for post-secondary education and the statewide compact established in articles one and one-a of this chapter;

"(D) Has demonstrated to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

"(E) Has demonstrated to the satisfaction of the commission or council that the institution is making adequate progress toward achieving the goals for education established by the southern regional education board; and

"(F) To the extent authorized, will increase by up to five percent the available tuition and fee waivers provided by the institution. The increased waivers may not be used for athletics.

"(6) This section does not require equal increases among institutions or require any level of increase at an institution.

"(7) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for each approval or denial as determined using the criteria established in subdivision (5) of this subsection.

"(8) Notwithstanding the provisions of subdivisions (1) and (4) of this subsection, tuition and fee increases at state institutions of higher education which are under the jurisdiction of the commission, including the state institutions of higher education known as Marshall University and West Virginia University, are subject to the following conditions:

"(A) Institutions may increase tuition and fees for resident, undergraduate students by no more than an average of seven and one-half percent per year during any period covering four consecutive fiscal years, with the first fiscal year of the first four-fiscal year cycle beginning on the first day of July, two thousand seven;

"(B) The seven and one-half percent average cap does not apply to an institution for any fiscal year in which the total state base operating budget appropriations to that institution are less than the total state base operating budget appropriations in the fiscal year immediately preceding;

"(C) A new capital fee or an increase in an existing capital fee is excluded from the tuition and fee increase calculation in this subdivision:

"(i) If the new fee or fee increase is approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of February, two thousand six; or

"(ii) If the following conditions are met:

"(I) The new fee or fee increase was approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of July, two thousand six;

"(II) The institution for which the capital fee is approved has been designated a university pursuant to the provisions of section six, article two-a of this chapter by the effective date of this section; and

"(III) The institutional board of governors previously oversaw a community and technical college that achieved independent accreditation and consequently acquired its own board of governors;

"(D) Institutions shall provide, in a timely manner, any data on tuition and fee increases requested by the staff of the commission. The commission has the power and the duty to:

"(i) Collect such data from any institution under its jurisdiction; and

"(ii) Annually by the first day of July, provide a detailed analysis of the institutions' compliance with the provisions of this subdivision to the Legislative Oversight Commission on Education Accountability."

Acts 2006, c. 85, also amended this section to read:

"(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

"(1) Tuition and required educational and general fees;

"(2) Auxiliary and auxiliary capital fees; and

"(3) Required educational and general capital fees.

"(b) An institution may establish a single special revenue account for each of the following classifications of fees:

"(1) All tuition and required educational and general fees collected;

"(2) All auxiliary and auxiliary capital fees collected; and

"(3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

"(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from such accounts, an institution may expend funds from each such special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

"(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a student's attorney to perform legal services for students in civil matters at the institutions: *Provided*, That the legal services are limited only to those types of cases, programs or services approved by the administrative head of the institution where the legal services are to be performed.

"(d) The commission and council jointly shall propose a rule for legislative approval in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees.

"(e) The Legislature finds that an emergency exists and, therefore, the commission and council jointly shall file the rule required by subsection (d) of this section as an emergency rule pursuant to the provisions of article three-a, chapter twenty-nine-a of this code, subject to the prior approval of the Legislative Oversight Commission on Education Accountability.

"(f) The schedule of all tuition and fees, and any changes therein, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of such schedule and changes.

"(g) The boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

"(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

"(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with the above provisions.

"(h) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

"(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to the awarding of course credit at the end of the academic term.

"(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

"(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis if the finances of a student are affected adversely.

"(4) The commission and council jointly shall propose a rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code, defining conditions under which an institution may offer tuition and fee deferred payment plans through the institution or through third parties.

"(5) An institution may charge interest or fees for any deferred or installment payment plans.

"(i) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

"(j) Institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rule proposed by the commission and council jointly pursuant to this section. The tuition rule shall:

"(1) Provide a basis for establishing nonresident tuition and fees;

"(2) Allow institutions to charge different tuition and fees for different programs;

"(3) Provide that a board of governors may propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

"(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

"(B) Increases may not exceed previous state subsidies by more than ten percent;

"(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

"(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

"(E) The commission, council or both, as appropriate, shall certify to the Legislature by the first day of October in the fiscal year following implementation of the fee, and annually thereafter, the amount of fees collected for each of the five years;

"(4) Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

"(k) A penalty may not be imposed by the commission or council upon any institution based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission or council on the numbers of nonresidents and such other enrollment information as the commission or council may request.

"(*l*) Tuition and fee increases of the governing boards, except for the governing boards of the state institutions of higher education known as Marshall University and West Virginia University, are subject to rules adopted by the commission and council jointly pursuant to this section and in accordance with the provisions of article three-a, chapter twenty-nine-a of this code.

"(1) Subject to the provisions of subdivision (4) of this subsection, a governing board of an institution under the jurisdiction of the commission may propose tuition and fee increases of up to nine and one-half percent for undergraduate resident students for any fiscal year. The nine and one-half percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established specialized fee which may be proposed by a governing board.

"(2) A governing board of an institution under the jurisdiction of the council may propose tuition and fee increases of up to four and three quarters percent for undergraduate resident students for any fiscal year. The four and three quarters percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established specialized fee which may be proposed by a governing board.

"(3) The commission or council, as appropriate, shall examine individually each request from a governing board for an increase.

"(4) The governing boards of Marshall University and West Virginia University, as these provisions relate to the state institutions of higher education known as Marshall University and West Virginia University, each may annually:

"(A) Increase tuition and fees for undergraduate resident students to the maximum allowed by this section without seeking approval from the commission; and

"(B) Set tuition and fee rates for post-baccalaureate resident students and for all nonresident students, including establishing regional tuition and fee rates, reciprocity agreements or both.

"(C) The provisions of this subdivision do not apply to tuition and fee rates of the administratively linked institution known as Marshall Community and Technical College, the administratively linked institution known as The Community and Technical College at West Virginia University Institute of Technology, the regional campus known as West Virginia University at Parkersburg and, until the first day of July, two thousand seven, the regional campus known as West Virginia University Institute of Technology.

"(5) Any proposed tuition and fee increase for state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University requires the approval of the commission or council, as appropriate. In determining whether to approve or deny the governing board's request, the commission or council shall determine the progress the institution has made toward meeting the conditions outlined in this subdivision and shall make this determination the predominate factor in its decision. The

commission or council shall consider the degree to which each institution has met the following conditions:

"(A) Has maximized resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

"(B) Is consistently achieving the benchmarks established in the compact of the institution pursuant to the provisions of article one-a of this chapter;

"(C) Is continuously pursuing the statewide goals for post-secondary education and the statewide compact established in articles one and one-a of this chapter;

"(D) Has demonstrated to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

"(E) Has demonstrated to the satisfaction of the commission or council that the institution is making adequate progress toward achieving the goals for education established by the southern regional education board; and

"(F) To the extent authorized, will increase by up to five percent the available tuition and fee waivers provided by the institution. The increased waivers may not be used for athletics.

"(6) This section does not require equal increases among institutions or require any level of increase at an institution.

"(7) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for each approval or denial as determined using the criteria established in subdivision (5) of this subsection."

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

United States Supreme Court

Student fees,

Public university student activity fee, extracurricular political and ideological speech, viewpoint neutrality, see Board of Regents of the University of Wisconsin System v. Southworth, U.S.Wis. 2000, 120 S.Ct. 1346, 529 US 217.

Tuition,

Residence requirement, equal protection, see Martinez v. Bynum, U.S.Tex.1983, 103 S.Ct. 1838, 461 U.S. 321, 75 L.Ed.2d 879.

Nonresident tuition, equal protection, see Martinez v. Bynum, U.S.Tex.1983, 103 S.Ct. 1838, 461 U.S. 321, 75 L.Ed.2d 879

§ 18B–10–1a. Resident tuition rates for national guard members

(a) The term "resident" or "residency", or any other term or expression used to designate a West Virginia resident student, when used to determine the rate of tuition to be charged students attending community colleges and state-related and state-owned institutions of higher education shall be construed to include members of the national guard who are not residents of West Virginia but who are active members of a national guard unit in West Virginia who are participating in the national guard education services program.

(b) A member of the national guard who qualifies as a resident, as that term is defined in subsection (a) of this section, on the first day of the semester or term of the college or institution, shall be charged resident tuition rates.

(c) The provisions of this section apply at the beginning of the semester or term immediately following the effective date of this section.

Acts 1999, c. 113, eff. July 1, 1999.

Library References

Colleges and Universities ⟹9.20(2).
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-1b. Special equity fee; purpose; exemptions

In addition to the other fees provided in this article, each governing board has the authority to impose, collect and expend the proceeds of a special equity fee under the following conditions:

(a) The fee shall be used solely for the purpose of complying with the athletic provisions of 20 U. S. C. 1681, *et seq.*, known as Title IX of the Education Amendment of 1972;

(b) The fee is exempt from limitations on fee increases set forth in this article for three years from the effective date of this section;

(c) The fee may not be used by an institution to advance its classification of participation in its athletics governing body; and

(d) The fee may not be imposed upon part-time students or students enrolled in an administratively-linked community and technical college.

Acts 2004, c. 92, eff. March 13, 2004

Library References

Colleges and Universities ⟹9.20(1).
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-1c. Definitions

For the purposes of this article, the following words have the meanings specified unless the context clearly indicates a different meaning:

(a) "Auxiliary capital fees" means charges levied on students to support debt service, capital projects and campus maintenance and renewal for the auxiliary facilities of the institutions;

(b) "Auxiliary fees" means charges levied on all students to support auxiliary enterprises or optional charges levied only on students using the auxiliary service. Auxiliary fees include sales and service revenue from entities that exist predominately to furnish goods or services to students, faculty or staff such as residence halls, faculty and staff housing, food services, intercollegiate athletics, student unions, bookstores, parking and other service centers;

(c) "Full-time graduate student" means a graduate student who is enrolled for nine or more credit hours in a regular term;

(d) "Full-time undergraduate student" means an undergraduate student who is enrolled for twelve or more credit hours in a regular term;

(e) "Required educational and general capital fees" means:

(1) Charges levied on all students to support debt service of systemwide bond issues; and

(2) Charges levied on all students to support debt service, capital projects and campus maintenance and renewal for an institution's educational and general educational facilities; and

(f) "Tuition and required educational and general fees" means:

(1) Charges levied on all students of that class or category to support educational and general program services; and

(2) Optional charges levied for education and general services collected only from students using the service or from students for whom the services are made available. Educational and general expenditures are categorized as instruction, research, academic support, student services, institutional support, operation and maintenance of plant and scholarships and fellowships. Education and general expenditures do not include expenditures for auxiliary enterprises, hospitals or independent operations.

Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

§ 18B-10-2. Higher education resource assessment

(a) Pursuant to the authority granted by section four, article one-b of this chapter, and section six, article two-b of this chapter, the commission and council jointly shall establish a higher education resource assessment per student for each state institution of higher education under their respective jurisdictions. Community and technical colleges shall transfer all funds collected pursuant to this section to the council. All other institutions shall transfer all funds collected pursuant to this section to the commission. Any reference in this code to higher education resource fee means this higher education resource assessment.

(b) The commission and council jointly shall fix the assessment for the various institutions and classes of students and may periodically change these assessments. The amount of the assessment for each institution shall be prorated for part-time students.

(c) Each institution shall maintain a level of support for libraries and library supplies, including books, periodicals, subscriptions and audiovisual materials, instructional equipment and materials; and for the improvement in quality and scope of student services comparable to that level supported by the higher education resource fee previously authorized by this section.

(d) The assessment shall be expended or allocated by the commission or council to meet its general operating expenses or to fund statewide programs. To the maximum extent practicable, the commission and council shall offset the impact, if any, on financially needy students of any potential assessment increase under this section by allocating an appropriate amount of the revenue to the state scholarship program to be expended in accordance with the provisions of article five, chapter eighteen-c of this code.

Acts 1989, c. 64; Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2004, c. 92, eff. March 13, 2004; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Historical and Statutory Notes

Acts 2004, c. 92, amended this section to read:

"§ 18B-10-2. Higher education resource fee

"In addition to the fees specifically provided for in section one of this article, all students enrolled for credit at a state institution of higher

education shall pay a higher education resource fee. The commission and council jointly shall fix the fee rates for the various institutions and classes of students under their respective jurisdictions and may from time to time change these rates. The amount of the fee charged at each institution shall be prorated for part-time students. The fee imposed by this section is in addition to the maximum fees allowed to be collected under the provision of section one of this article and is not limited thereby. Refunds of the fee may be made in the same manner as any other fee collected at state institutions of higher education.

"Ninety percent of the total fees collected at each institution pursuant to this section shall be deposited in a special fund in the state treasury for the institution at which the fees are collected and may be used by the institution for libraries and library supplies, including books, periodicals, subscriptions and audiovisual materials, instructional equipment and materials; and for the improvement in quality and scope of student services. Up to ten percent of the fee collections from institutions under the jurisdiction of the commission shall be deposited in a special fund and expended or allocated by the commission to meet general operating expenses of the commission or to fund statewide programs. Up to ten percent of the fee collections from institutions under the jurisdiction of the council shall be deposited in a special fund and expended or allocated by the council to meet general operating expenses of the council or to fund statewide programs. The boards shall, to the maximum extent practicable, offset the impact, if any, on financially needy students of any potential fee increases under this section by allocating an appropriate amount of such fee revenue to the state scholarship program to be expended in accordance with the provisions of article five, chapter eighteen-c of this code.

"The commission and council each shall, on or before the first day of July annually, provide the legislative auditor with a report of the projected fee collections for the board and each of its institutions and the expenditures proposed for such fee."

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-3. Repealed by Acts 2004, 1st Ex.Sess., c. 13, eff. March 21, 2004

Historical and Statutory Notes

The repealed section, which established a faculty improvement fee, was derived from Acts 1989, c. 64.

§ 18B-10-4. Medical education

The commission shall determine an appropriate portion of all tuition and fees paid by medical students enrolled for credit at the West Virginia university school of medicine, Marshall university school of medicine and the West Virginia school of osteopathic medicine to be used to support the health education student loan fund. The portion determined by the commission for this purpose shall be deposited into the health education student loan fund account in accordance with the provisions of article three, chapter eighteen-c of this code.

Acts 1989, c. 64; Acts 1991, 2nd Ex. Sess., c. 20; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-4a. Repealed by Acts 2004, 1st Ex.Sess., c. 13, eff. March 21, 2004

Historical and Statutory Notes

The repealed section, which established a health professions education fee, was derived from Acts 1989, c. 64.

§ 18B-10-4b. Additional fee waivers for health sciences and technology academy programs

(a) In addition to the number of fee waivers permitted in sections five and six of this article for undergraduate, graduate and professional schools, each state institution of higher education may waive all fees or any part thereof for students who are residents of West Virginia and who successfully complete the health sciences and technology academy affiliated programs.

(b) For purposes of this section, "Health Sciences and Technology Academy Programs" means those programs in the health sciences designed to assist junior high and high school students in conjunction with their parents and teachers, to enhance their knowledge and abilities in subject matters which will further a career in the field of health sciences.

Acts 1997, c. 87, eff. April 12, 1997; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-5. Fee waivers — Undergraduate schools

Each governing board periodically may establish fee waivers for students in undergraduate studies at institutions under its jurisdiction entitling recipients to waiver of tuition, capital and other fees subject to the following conditions and limitations:

(a) Undergraduate fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, for the state institutions of higher education known as Marshall University and West Virginia University, are subject to the provisions of section six-a of this Article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time a number of undergraduate fee waivers which exceeds five percent of the number of full-time equivalent undergraduate students registered during the fall semester of the immediately preceding academic year.

(2) Each undergraduate fee waiver entitles the recipient thereof to attend a designated state institution of higher education without payment of the tuition, capital and other fees as may be prescribed by the governing board and is for a period of time not to exceed eight semesters of undergraduate study.

(3) The governing board shall make rules pursuant to the provisions of section six, article one of this chapter, governing the award of undergraduate

fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be entered in the minutes of the meetings of the governing board.

(5) Students enrolled in an administratively-linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 86, eff. July 1, 2005.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B–10–6. Fee waivers — Professional and graduate schools

In addition to the fee waivers authorized for undergraduate study by the provisions of section five of this article, each governing board periodically may establish fee waivers for study in graduate and professional schools under its jurisdiction, including medicine and dentistry, entitling the recipients to waiver of tuition, capital, and other fees, subject to the following conditions and limitations:

(a) Graduate and professional fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, are subject to the provisions of section six-a of this Article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time a number of graduate and professional school fee waivers which exceeds five percent of the number of full-time equivalent graduate and professional students registered during the corresponding fall semester, spring semester and summer term of the immediately preceding academic year. In addition to the above five percent, all graduate assistants employed by these institutions shall be granted a fee waiver.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital and other fees as may be prescribed by the governing boards and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards shall make rules pursuant to the provisions of section six, article one of this chapter, governing the award of graduate and professional school fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the

recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 86, eff. July 1, 2005.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B–10–6a. Undergraduate, graduate and professional fee waivers — Marshall University and West Virginia University

(a) *Undergraduate fee waivers.* —

(1) The governing boards of Marshall University and West Virginia University, respectively, may establish fee waivers for students in undergraduate studies at institutions under their jurisdiction which entitle recipients to waiver of tuition, capital and other fees, in whole or in part.

(2) Each undergraduate fee waiver is for a period of time not to exceed eight semesters of undergraduate study.

(3) Each governing board shall promulgate rules pursuant to the provisions of section six, article one of this chapter to govern the award of undergraduate fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be entered in the minutes of the meetings of the governing board.

(5) Students enrolled in an administratively linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

(b) *Graduate and professional school fee waivers.* —

(1) In addition to the fee waivers authorized for undergraduate study by subsection (a) of this section, the governing boards of Marshall University and West Virginia University, respectively, each may establish fee waivers for study in the graduate and professional schools under its jurisdiction, including medicine and dentistry, which entitle the recipients to waiver of tuition, capital and other fees, in whole or in part.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital and other fees, in whole or in part, as may be

prescribed by the governing board and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards each shall promulgate a rule pursuant to the provisions of section six, article one of this chapter, governing the award of graduate and professional school fee waivers; the issuance and cancellation of certificates entitling the recipients to the benefits thereof; the use of the fee waivers by the recipients; and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

Acts 2005, c. 86, eff. July 1, 2005.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-7. Tuition and fee waivers for children and spouses of officers and firefighters killed in the line of duty

(a) Each state institution of higher education shall permit any person to attend its undergraduate courses and classes if classroom space is available without charging the person any tuition or any fees, if:

(1) The person is the child or spouse of an individual who was:

(A) A law-enforcement officer as defined in section one, article twenty-nine, chapter thirty of this code;

(B) A correctional officer at a state penal institution;

(C) A parole officer;

(D) A probation officer;

(E) A conservation officer; or

(F) A registered firefighter; and

(2) Killed in the line of duty while:

(A) Employed by the state or any political subdivision of the state; or

(B) A member of a volunteer fire department serving a political subdivision of this state.

(b) The state institution of higher education may require the person to pay:

(1) Special fees, including any laboratory fees, if the fees are required of all other students taking a single or that particular course; and

(2) Parking fees.

(c) The governing boards may promulgate rules:

(1) For determining the availability of classroom space;

(2) As it considers necessary to implement this section; and

(3) Regarding requirements for attendance, which may not exceed such requirements for other persons.

(d) The governing boards may extend to persons attending courses and classes under this section any rights, privileges or benefits extended to other students which it considers appropriate.

Acts 1989, c. 64; Acts 2006, c. 87, eff. July 1, 2006.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-7a. Tuition and fee waivers or adjustments for residents at least sixty-five years old

(a) Each governing board shall promulgate a rule establishing a reduced tuition and fee program for senior citizens. The rule shall include at least the following:

(1) One option for individuals who attend undergraduate and graduate courses without receiving credit and one option for those who attend undergraduate and graduate courses for credit;

(2) A requirement that the following conditions be met under either option of the program:

(A) The participant is a resident of West Virginia;

(B) The participant is sixty-five years of age or older; and

(C) Classroom space is available;

(3) A method of establishing priority for allowing a participant to attend a class or course;

(4) A determination of whether to require participants to pay special fees, including laboratory fees, if the fees are required of all other students;

(5) A determination of whether to require participants to pay for parking;

(6) Requirements for participants in the program under the no credit option:

(A) A grade or credit may not be given; and

(B) The total tuition and fees charged for each course or class, excluding laboratory and parking fees, may not exceed fifty dollars. After the first day of July, two thousand four, the governing boards may change the maximum fee; and

(7) A requirement for participants in the program under the for credit option that tuition and fee rates may not exceed fifty percent of the normal rates charged to state residents by the institution.

(b) The provisions of this section apply to both classroom-based courses, electronic and internet-based courses, and all other distance education delivery.

Acts 1999, c. 114, eff. 90 days after March 12, 1999; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-7b. Tuition waivers for high school graduates in foster care

The governing boards shall make provision for institutions under their respective jurisdictions to award a tuition and fee waiver for undergraduate courses at state institutions of higher education for any student, beginning with incoming freshmen in the Fall, two thousand, semester or term, who graduate from high school or pass the GED examination while in the legal custody of the state department of health and human resources. The student must be in foster care or other residential care for at least one year prior to the waiver award. If the foster care or other residential care is provided in another state, the student must first be returned to this state for waiver award eligibility.

To be eligible for a waiver award, a student must first: (1) Apply to and be accepted at the institution; and (2) apply for other student financial assistance, other than student loans, in compliance with federal financial aid rules, including the federal Pell grant.

Waiver renewal is contingent upon the student continuing to meet the academic progress standards established by the institution.

The waiver provided by this section for each eligible student may be used for no more than four years of undergraduate study. An initial waiver must be granted within two years of graduation from high school or passing the GED examination.

The waiver may only be used after other sources of financial aid that are dedicated solely to tuition and fees are exhausted.

Any award under this section is in addition to the number of fee waivers permitted in sections five and six of this article for undergraduate, graduate and professional schools.

No student who is enrolled in an institution of higher education as of the effective date of this section is eligible for a waiver award under the provisions of this section.

The governing boards may establish any limitations on the provisions of this section as they consider proper.

Acts 2000, c. 113, eff. March 11, 2000.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-8. Collection; disposition and use of capital and auxiliary capital fees; creation of special capital and auxiliary capital improvements funds; revenue bonds

(a) Effective the first day of July, two thousand four, this section, and any rules adopted by the commission, council, or both, in accordance with this

section and article three-a, chapter twenty-nine-a of this code, govern the collection, disposition and use of the capital and auxiliary capital fees authorized by section one of this article. Prior to the first day of July, two thousand four, the statutory provisions governing collection and disposition of capital funds in place prior to the enactment of this section remain in effect.

(b) *Fees for full-time students.* — The governing boards shall fix capital and auxiliary capital fees for full-time students at each state institution of higher education per semester. For institutions under its jurisdiction, a governing board may fix such fees at higher rates for students who are not residents of this state.

(c) *Fees for part-time students.* — For all part-time students and for all summer school students, the governing boards shall impose and collect such fees in proportion to, but not exceeding, the fees paid by full-time students. Refunds of such fees may be made in the same manner as any other fee collected at state institutions of higher education.

(d) There is created in the state treasury a special capital improvements fund and special auxiliary capital improvements fund for each state institution of higher education and the commission into which shall be paid all proceeds, respectively, of:

(1) The capital and auxiliary capital fees collected from students at all state institutions of higher education pursuant to this section; and

(2) The fees collected from such students pursuant to section one of this article.

The fees shall be expended by the commission and governing boards for the payment of the principal of or interest on any revenue bonds issued by the board of regents or the succeeding governing boards for which such fees were pledged prior to the enactment of this section.

(e) The governing boards may make expenditures from any of the special capital improvements funds or special auxiliary capital improvement funds established in this section to finance, in whole or in part, together with any federal, state or other grants or contributions, for any one or more of the following projects:

(1) The acquisition of land or any rights or interest therein;

(2) The construction or acquisition of new buildings;

(3) The renovation or construction of additions to existing buildings;

(4) The acquisition of furnishings and equipment for any such buildings; and

(5) The construction or acquisition of any other capital improvements or capital education facilities at such state institutions of higher education, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of such buildings, capital improvements or capital education facilities, including student unions, dormitories, housing

facilities, food service facilities, motor vehicle parking facilities and athletic facilities.

(f) The governing boards, in their discretion, may use the moneys in such special capital improvements funds and special auxiliary improvement funds to finance the costs of the above purposes on a cash basis. The commission, when singly or jointly requested by the governing boards, periodically may issue revenue bonds of the state as provided in this section to finance all or part of such purposes and pledge all or any part of the moneys in such special funds for the payment of the principal of and interest on such revenue bonds, and for reserves therefor. Any pledge of such special funds for such revenue bonds shall be a prior and superior charge on such special funds over the use of any of the moneys in such funds to pay for the cost of any of such purposes on a cash basis. Any expenditures from such special funds, other than for the retirement of revenue bonds, may be made by the commission or governing boards only to meet the cost of a predetermined capital improvements program for one or more of the state institutions of higher education, in such order of priority as was agreed upon by the governing board or boards and the commission and for which the aggregate revenue collections projected are presented to the governor for inclusion in the annual budget bill, and are approved by the Legislature for expenditure.

(g) Such revenue bonds periodically may be authorized and issued by the commission or governing boards to finance, in whole or in part, the purposes provided in this section in an aggregate principal amount not exceeding the amount which the commission determines can be paid as to both principal and interest and reasonable margins for a reserve therefor from the moneys in such special funds.

(h) The issuance of such revenue bonds shall be authorized by a resolution adopted by the governing board receiving the proceeds and the commission and such revenue bonds shall bear such date or dates; mature at such time or times not exceeding forty years from their respective dates; be in such form either coupon or registered, with such 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 prior redemption at such prices not exceeding one hundred five per centum of the principal amount thereof; and shall have such other terms and provisions as determined by the governing board receiving the proceeds and the commission. Such revenue bonds shall be signed by the governor and by the chancellor of the commission or the chair of the governing boards authorizing the issuance thereof, 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 chancellor of the commission or the chair of the appropriate governing boards. Such revenue bonds shall be sold in such manner as the commission or governing board determines is for the best interests of the state.

(i) The commission or governing boards may enter into trust agreements with banks or trust companies, within or without the state, and in such trust agreements or the resolutions authorizing the issuance of such bonds may enter

into valid and legally binding covenants with the holders of such revenue bonds as to the custody, safeguarding and disposition of the proceeds of such revenue bonds, the moneys in such special funds, sinking funds, reserve funds or any other moneys or funds; as to the rank and priority, if any, of different issues of revenue bonds by the commission or governing boards under the provisions of this section; as to the maintenance or revision of the amounts of such fees; as to the extent to which swap agreements, as defined in section two-h, article two-g, chapter thirteen of this code shall be used in connection with such revenue bonds, including such provisions as payment, term, security, default and remedy provisions as the commission shall consider necessary or desirable, if any, under which such fees may be reduced; and as to any other matters or provisions which are considered necessary and advisable by the commission or governing boards in the best interests of the state and to enhance the marketability of such revenue bonds.

(j) After the issuance of any of such revenue bonds, the fees at the state institutions of higher education pledged to the payment thereof may 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 shall be and constitute negotiable instruments under the uniform commercial code of this state; 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; and such revenue bonds may not be considered to be obligations or debts of the state and the credit or taxing power of the state may not be pledged therefor, but such revenue bonds shall be payable only from the revenue pledged therefor as provided in this section.

(k) Additional revenue bonds may be issued by the commission or governing boards pursuant to this section and financed by additional revenues or funds dedicated from other sources. It is the intent of the Legislature to authorize over a five-year period beginning on the first day of July, two thousand four, additional sources of revenue and funds to effect such funding for capital improvement.

(*l*) Funding of systemwide and campus-specific revenue bonds under any other section of this code is hereby continued and authorized pursuant to the terms of this section. Revenues of any state institution of higher education pledged to the repayment of any revenue bonds issued pursuant to this code shall remain pledged.

(m) Any revenue bonds for state institutions of higher education proposed to be issued under this section or other sections of this code first must be approved by the commission.

(n) Revenue bonds issued pursuant to this code may be issued by the commission or governing boards, either singly or jointly.

(*o*) Fees pledged for repayment of revenue bonds issued under this section or article twelve-b, chapter eighteen prior to the effective date of this section shall

be transferred to the commission in a manner prescribed by the commission. The commission shall have the authority to transfer funds from the accounts of institutions pledged for the repayment of revenue bonds issued prior to the effective date of this section or issued subsequently by the commission upon the request of institutions, if an institution fails to transfer the pledged revenues to the commission in a timely manner.

(p) Effective the first day of July, two thousand four, the capital and auxiliary capital fees authorized by this section and section one of this article are in lieu of any other fees set out in this code for capital and auxiliary capital projects to benefit public higher education institutions. Notwithstanding any other provisions of this code to the contrary, in the event any capital, tuition, registration or auxiliary fees are pledged to the payment of any revenue bonds issued pursuant to any general bond resolutions of the commission, any of its predecessors or any institution, adopted prior to the effective date of this section, such fees shall remain in effect in amounts not less than the amounts in effect as of that date, until such time as the revenue bonds payable from any of such fees have been paid or the pledge of such fees is otherwise legally discharged.

Acts 1989, c. 64; Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B–10–9. Authority to excuse students in certain educational programs from payment of enrollment fees

Whenever the cost of any institute, workshop, special course, or other educational program is wholly financed by a grant from any federal, state or local agency or from any foundation, corporation or other association or person, except for indirect costs of administration and other overhead expenses, such as the cost of providing classrooms and other facilities, the governing board of the state institution of higher education administering the program has the authority to excuse all students enrolled in such program from the payment of tuition and other fees.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B–10–10. Repealed by Acts 2004, 1st Ex.Sess., c. 13, eff. March 21, 2004

Historical and Statutory Notes

The repealed section, which related to the disposition and use of student union fees, was derived from Acts 1989, c. 64.

§ 18B-10-11. Fees and money derived from athletic contests

The governing board of a state institution of higher education may fix and charge admission fees to athletic contests at institutions under its jurisdiction. The governing board may enter into contracts and spend and receive money under such contracts for the student athletic teams of the institutions to contest with other athletic teams inside or outside the state. All money received from such fees and contracts shall be deposited in the auxiliary operating account of the institution and expended for any purpose considered necessary and proper by the governing board.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-12. Student activities

(a) The governing board of a state institution of higher education may make funds available from tuition and fees to support extracurricular activities of the students as considered necessary.

(b) Each institution shall maintain a level of support for extracurricular activities of the students comparable to that level supported by student activities fees previously authorized by this section.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⚷9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-13. Fees from operation of dormitories, faculty homes, dining halls and cafeterias

The appropriate governing board of each state institution of higher education shall fix the fees to be charged students and faculty members for rooms, board and meals at the dormitories, faculty homes, dining halls and cafeterias operated by such board at the institution. Such fees shall be commensurate with the complete cost of such services.

All fees collected for such services shall be used first to meet interest, principal and sinking fund requirements due on any outstanding revenue bonds for which the receipts may have been pledged as security and to pay the operating and maintenance costs of the dormitories, faculty homes, dining halls and cafeterias. Any such receipts not needed for these purposes may be expended by the appropriate governing board for any other auxiliary enterprise or educational and general instructional costs.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-14. Bookstores

(a) Each governing board may establish and operate a bookstore at the institutions under its jurisdiction to sell books, stationery and other school and office supplies generally carried in college bookstores.

(b) The prices to be charged may not be less than the prices fixed by any fair trade agreements and shall, in all cases, include in addition to the purchase price paid by the bookstore, a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage and other operating expenses.

(c) Each governing board shall ensure that bookstores operated at institutions under its jurisdiction minimize the costs to students of purchasing textbooks. The governing board may:

(1) Require the repurchase and resale of textbooks on an institutional or a statewide basis; and

(2) Provide for the use of certain basic textbooks for a reasonable number of years.

(d) The Legislature recognizes that in two thousand four, the Congress of the United States commissioned the United States Government Accountability Office to study the high prices of college textbooks. Upon completion of the study, the Legislative Oversight Commission on Education Accountability shall obtain the results and any related reports produced by the Office.

(e) An employee of a governing board:

(1) May not:

(A) Receive a payment, loan, subscription, advance, deposit of money, service, benefit or thing of value, present or promised, as an inducement for requiring students to purchase a specific textbook for coursework or instruction; or

(B) Require for any course a textbook that includes his or her own writing or work if the textbook incorporates either detachable worksheets or workbook-style pages intended to be written on or removed from the textbook. This provision does not prohibit an employee from requiring as a supplement to a textbook any workbook or similar material which is published independently from the textbook; and

(2) May receive:

(A) Sample copies, instructor's copies and instructional material which are not to be sold; and

(B) Royalties or other compensation from sales of textbooks that include the employee's own writing or work.

(f) A governing board shall provide to students a listing of textbooks required or assigned for any course offered at the institution.

(1) The listing shall be prominently posted:

(A) In a central location at the institution;

(B) In any campus bookstore; and

(C) On the institution's website.

(2) The list shall include for each textbook the International Standard Book Number (ISBN), the edition number and any other relevant information.

(3) An institution shall post a book to the listing when the adoption process is complete and the textbook is designated for order by the bookstore.

(g) All moneys derived from the operation of the bookstore shall be paid into a special revenue fund as provided in section two, article two, chapter twelve of this code. Subject to the approval of the Governor, each governing board periodically shall change the amount of the revolving fund necessary for the proper and efficient operation of each bookstore.

(h) Moneys derived from the operation of the bookstore shall be used first to replenish the stock of goods and to pay the costs of operating and maintaining the bookstore. Notwithstanding any other provision of this section, any institution that has contracted with a private entity for bookstore operation shall deposit into an appropriate account all revenue generated by the operation and enuring to the benefit of the institution. The institution shall use the funds for nonathletic scholarships.

(i) Each governing board shall promulgate a rule in accordance with the provisions of section six, article one of this chapter to implement the provisions of this section.

(j) This section applies to textbook sales and bookstores supported by an institution's auxiliary services and those operated by a private contractor.

Acts 1989, c. 64; Acts 1993, c. 47; Acts 2003, c. 96, eff. March 8, 2003; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 99, eff. 90 days after April 9, 2005.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-15. Authority of educational institutions to provide special services and programs; collection and disposition of fees therefor

(a) The governing board of each state institution of higher education may provide special services and special programs at such institutions and may fix and collect special fees or charges therefor. Such special services and special programs include, but are not limited to, any of the following:

(1) The conduct of music camps and band, orchestra or voice clinics for secondary school students or other youth groups; summer tutoring programs

for primary and secondary school students; speech therapy clinics and services; educational and psychological testing programs; student guidance programs; and statistical studies and calculations by an electronic computer service.

(2) Rental of lockers or other storage facilities and the maintenance and operation of parking facilities for use by students, faculty, staff and visitors.

(3) Rental of musical recordings, educational films, slides and other audiovisual aids.

(4) Microfilming or other mechanical reproduction of records and noncopyrighted library reference materials.

(5) Institutes, conferences, workshops, postgraduate and refresher noncredit courses and any other special program or special service customarily provided by institutions of higher education.

(6) Motor pools consisting of motor vehicles for the use of their employees when carrying on the business and affairs of the institutions.

(b) All fees or charges collected for any such special services or programs shall cover the total cost of the service or program.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004.

Library References

Colleges and Universities ⇐9.20.
Westlaw Topic No. 81.
C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-16. Disposition of funds in state treasury

Except as may be provided for in any bond resolution in effect, funds in the state treasury heretofore collected from any of the sources defined in the foregoing sections shall remain in the state treasury for use by the institution where collected. Any interest revenue generated by a special student fee account shall only be expended at or for the institution where such fee was collected.

Acts 1989, c. 64.

Library References

Colleges and Universities ⇐6(1).
Westlaw Topic No. 81.
C.J.S. Colleges and Universities § 10.

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

Chapters 18A to 18C

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position within a classification, together with the designation of an appropriate pay grade for each job title, which system shall be the same for corresponding positions of the commission and in institutions under all governing boards. The equitable system of job classification and the rules establishing it which were in effect immediately prior to the effective date of this section are hereby transferred to the jurisdiction and authority of the commission and shall remain in effect unless modified or rescinded by the commission.

(b) Any classified salary increases distributed within a state institution of higher education after the first day of July, two thousand one, shall be in accordance with the uniform classification system and a uniform and equitable salary policy adopted by each individual board of governors. Each salary policy shall detail the salary goals of the institution and the process whereby the institution will achieve or progress toward achievement of placing each classified employee at his or her minimum salary on the schedule established pursuant to section three of this article.

(c) A classified employee may receive a salary in excess of the salary established by the salary schedule for his or her pay grade and years of experience only if all such employees at the institution are receiving at least the minimum salary for their pay grade and years of experience as established for them by the salary schedule: *Provided*, That any salary increase must be provided in a manner that is consistent with the uniform classification system and the institution's salary policy.

Acts 1989, c. 64; Acts 1993, c. 47; Acts 2001, c. 110, eff. July 1, 2001; Acts 2007, 2nd Ex. Sess., c. 10, eff. Aug. 21, 2007.

Notes of Decisions

In general 1

1. In general

The specific authority granted by statute regarding the university board of governors' right to establish a uniform and equitable salary policy took precedence over the general grant of authority to the Higher Education Policy Commission to establish rules impacting the boards' administration of a system for managing personnel matters. West Virginia University Bd. of Governors v. West Virginia Higher Educ. Policy Com'n, 2007, 653 S.E.2d 649, 221 W.Va. 187. Colleges And Universities ⟹ 8(3)

The authority granted to the Higher Education Policy Commission to establish and maintain a personnel classification system did not encompass the right to set and control compensation and salary requirements for classified staff employed by West Virginia University. West Virginia University Bd. of Governors v. West Virginia Higher Educ. Policy Com'n, 2007, 653 S.E.2d 649, 221 W.Va. 187. Colleges And Universities ⟹ 8(3)

ARTICLE 10
FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF HIGHER EDUCATION

Section	
18B-10-1.	Enrollment, tuition and other fees at education institutions; refund of fees.
18B-10-5.	Fee waivers—Undergraduate schools.
18B-10-6.	Fee waivers—Professional and graduate schools.
18B-10-7.	Tuition and fee waivers for children and spouses of officers, firefighters, National Guard personnel, reserve personnel and active military duty personnel killed in the line of duty.
18B-10-7c.	Tuition and fee waivers for certain veterans receiving federal educational assistance benefits.
18B-10-8.	Collection; disposition and use of capital and auxiliary capital fees; creation of special capital and auxiliary capital improvements funds; revenue bonds.
18B-10-10.	The Medal of Honor and Andrew J. Trail Purple Heart Recipient Tuition Waiver.

§ 18B-10-1. Enrollment, tuition and other fees at education institutions; refund of fees

(a) Each governing board shall fix tuition and other fees for each school term for the different classes or categories of students enrolling at each state institution of higher

education under its jurisdiction and may include among the tuition and fees any one or more of the following as defined in section one-b of this article:

(1) Tuition and required educational and general fees;

(2) Auxiliary and auxiliary capital fees; and

(3) Required educational and general capital fees.

(b) An institution may establish a single special revenue account for each of the following classifications of fees:

(1) All tuition and required educational and general fees collected;

(2) All auxiliary and auxiliary capital fees collected; and

(3) All required educational and general capital fees collected to support existing systemwide and institutional debt service and future systemwide and institutional debt service, capital projects and campus renewal for educational and general facilities.

(4) Subject to any covenants or restrictions imposed with respect to revenue bonds payable from the accounts, an institution may expend funds from each special revenue account for any purpose for which funds were collected within that account regardless of the original purpose for which the funds were collected.

(c) The purposes for which tuition and fees may be expended include, but are not limited to, health services, student activities, recreational, athletic and extracurricular activities. Additionally, tuition and fees may be used to finance a student's attorney to perform legal services for students in civil matters at the institutions: *Provided*, That the legal services are limited only to those types of cases, programs or services approved by the administrative head of the institution where the legal services are to be performed.

(d) The commission and council jointly shall propose a rule for legislative approval in accordance with the provisions of article three-a, chapter twenty-nine-a of this code to govern the fixing, collection and expenditure of tuition and other fees.

(e) The schedule of all tuition and fees, and any changes in the schedule, shall be entered in the minutes of the meeting of the appropriate governing board and the board shall file with the commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of the schedule and changes.

(f) The boards shall establish the rates to be charged full-time students, as defined in section one-b of this article, who are enrolled during a regular academic term.

(1) Undergraduate students taking fewer than twelve credit hours in a regular term shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour and graduate students taking fewer than nine credit hours in a regular term shall have their fees reduced pro rata based upon one ninth of the full-time rate per credit hour.

(2) Fees for students enrolled in summer terms or other nontraditional time periods shall be prorated based upon the number of credit hours for which the student enrolls in accordance with the provisions of this subsection.

(g) All fees are due and payable by the student upon enrollment and registration for classes except as provided in this subsection:

(1) The governing boards shall permit fee payments to be made in installments over the course of the academic term. All fees shall be paid prior to the awarding of course credit at the end of the academic term.

(2) The governing boards also shall authorize the acceptance of credit cards or other payment methods which may be generally available to students for the payment of fees. The governing boards may charge the students for the reasonable and customary charges incurred in accepting credit cards and other methods of payment.

(3) If a governing board determines that a student's finances are affected adversely by a legal work stoppage, it may allow the student an additional six months to pay the fees for any academic term. The governing board shall determine on a case-by-case basis if the finances of a student are affected adversely.

(4) The commission and council jointly shall propose a rule in accordance with the provisions of article three-a, chapter twenty-nine-a of this code defining conditions under which an institution may offer tuition and fee deferred payment plans through the institution or through third parties.

(5) An institution may charge interest or fees for any deferred or installment payment plans.

(h) In addition to the other fees provided in this section, each governing board may impose, collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest research group if the students at the institution demonstrate support for the increased fee in a manner and method established by that institution's elected student government. The fee may not be used to finance litigation against the institution.

(i) Institutions shall retain tuition and fee revenues not pledged for bonded indebtedness or other purposes in accordance with the tuition rule proposed by the commission and council jointly pursuant to this section. The tuition rule shall:

(1) Provide a basis for establishing nonresident tuition and fees;

(2) Allow institutions to charge different tuition and fees for different programs;

(3) Provide that a board of governors may propose to the commission, council or both, as appropriate, a mandatory auxiliary fee under the following conditions:

(A) The fee shall be approved by the commission, council or both, as appropriate, and either the students below the senior level at the institution or the Legislature before becoming effective;

(B) Increases may not exceed previous state subsidies by more than ten percent;

(C) The fee may be used only to replace existing state funds subsidizing auxiliary services such as athletics or bookstores;

(D) If the fee is approved, the amount of the state subsidy shall be reduced annually by the amount of money generated for the institution by the fees. All state subsidies for the auxiliary services shall cease five years from the date the mandatory auxiliary fee is implemented;

(E) The commission, council or both, as appropriate, shall certify to the Legislature annually by the first day of October the amount of fees collected for each of the five years;

(4) Establish methodology, where applicable, to ensure that, within the appropriate time period under the compact, community and technical college tuition rates for community and technical college students in all independently accredited community and technical colleges will be commensurate with the tuition and fees charged by their peer institutions.

(j) A penalty may not be imposed by the commission or council upon any institution based upon the number of nonresidents who attend the institution unless the commission or council determines that admission of nonresidents to any institution or program of study within the institution is impeding unreasonably the ability of resident students to attend the institution or participate in the programs of the institution. The institutions shall report annually to the commission or council on the numbers of nonresidents and such other enrollment information as the commission or council may request.

(k) Tuition and fee increases of the governing boards, except for the governing boards of the state institutions of higher education known as Marshall University and West Virginia University, are subject to rules adopted by the commission and council jointly pursuant to this section and in accordance with the provisions of article three-a, chapter twenty-nine-a of this code.

(l) Subject to the provisions of subdivisions (4) and (8) of this subsection, a governing board of an institution under the jurisdiction of the commission may propose tuition and fee increases of up to nine and one-half percent for undergraduate resident students for any fiscal year. The nine and one-half percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established specialized fee which may be proposed by a governing board.

(2) A governing board of an institution under the jurisdiction of the council may propose tuition and fee increases of up to four and three-quarters percent for undergraduate resident students for any fiscal year, except a governing board may propose increases in excess of four and three-quarters percent if existing tuition and fee rates at the institution are below the state average for tuition and fees at institutions under the jurisdiction of the council. The four and three-quarters percent total includes the amount of increase over existing tuition and fees, combined with the amount of any newly established, specialized fee which may be proposed by a governing board.

(3) The commission or council, as appropriate, shall examine individually each request from a governing board for an increase.

(4) Subject to the provisions of subdivision (8) of this subsection, the governing boards of Marshall University and West Virginia University, as these provisions relate to the state institutions of higher education known as Marshall University and West Virginia University, each may annually:

(A) Increase tuition and fees for undergraduate resident students to the maximum allowed by this section without seeking approval from the commission; and

(B) Set tuition and fee rates for post-baccalaureate resident students and for all nonresident students, including establishing regional tuition and fee rates, reciprocity agreements or both.

(C) The provisions of this subdivision do not apply to tuition and fee rates of the administratively linked institution known as Marshall Community and Technical College, the administratively linked institution known as the Community and Technical College at West Virginia University Institute of Technology, the regional campus known as West Virginia University at Parkersburg and, until the first day of July, two thousand seven, the regional campus known as West Virginia University Institute of Technology.

(5) Any proposed tuition and fee increase for state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University requires the approval of the commission or council, as appropriate. In determining whether to approve or deny the governing board's request, the commission or council shall determine the progress the institution has made toward meeting the conditions outlined in this subdivision and shall make this determination the predominate factor in its decision. The commission or council shall consider the degree to which each institution has met the following conditions:

(A) Has maximized resources available through nonresident tuition and fee charges to the satisfaction of the commission or council;

(B) Is consistently achieving the benchmarks established in the compact of the institution pursuant to the provisions of article one-a of this chapter;

(C) Is continuously pursuing the statewide goals for post-secondary education and the statewide compact established in articles one and one-a of this chapter;

(D) Has demonstrated to the satisfaction of the commission or council that an increase will be used to maintain high-quality programs at the institution;

(E) Has demonstrated to the satisfaction of the commission or council that the institution is making adequate progress toward achieving the goals for education established by the southern regional education board; and

(F) To the extent authorized, will increase by up to five percent the available tuition and fee waivers provided by the institution. The increased waivers may not be used for athletics.

(6) This section does not require equal increases among institutions or require any level of increase at an institution.

(7) The commission and council shall report to the Legislative Oversight Commission on Education Accountability regarding the basis for each approval or denial as determined using the criteria established in subdivision (5) of this subsection.

(8) Notwithstanding the provisions of subdivisions (1) and (4) of this subsection, tuition and fee increases at state institutions of higher education which are under the jurisdiction of the

commission, including the state institutions of higher education known as Marshall University and West Virginia University, are subject to the following conditions:

(A) Institutions may increase tuition and fees for resident, undergraduate students by no more than an average of seven and one-half percent per year during any period covering four consecutive fiscal years, with the first fiscal year of the first four fiscal-year cycle beginning on the first day of July, two thousand seven;

(B) The seven and one-half percent average cap does not apply to an institution for any fiscal year in which the total state base operating budget appropriations to that institution are less than the total state base operating budget appropriations in the fiscal year immediately preceding;

(C) A new capital fee or an increase in an existing capital fee is excluded from the tuition and fee increase calculation in this subdivision:

(i) If the new fee or fee increase is approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of February, two thousand six; or

(ii) If the following conditions are met:

(I) The new fee or fee increase was approved by an institutional governing board or by a referendum of an institution's undergraduate students, or both, on or before the first day of July, two thousand six;

(II) The institution for which the capital fee is approved has been designated a university pursuant to the provisions of section six, article two-a of this chapter by the effective date of this section; and

(III) The institutional board of governors previously oversaw a community and technical college that achieved independent accreditation and consequently acquired its own board of governors;

(D) Institutions shall provide, in a timely manner, any data on tuition and fee increases requested by the staff of the commission. The commission shall:

(i) Collect the data from any institution under its jurisdiction; and

(ii) Annually by the first day of July, provide a detailed analysis of the institutions' compliance with the provisions of this subdivision to the Legislative Oversight Commission on Education Accountability.

Acts 1989, c. 64; Acts 1993, c. 47; Acts 1995, c. 99, eff. March 11, 1995; Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2003, c. 96, eff. March 8, 2003; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2006, c. 84, eff. July 1, 2006; Acts 2008, c. 81, eff. July 1, 2008.

§ 18B-10-5. Fee waivers—Undergraduate schools

Each governing board periodically may establish fee waivers for students in undergraduate studies at institutions under its jurisdiction entitling recipients to waiver of tuition, capital and other fees subject to the following conditions and limitations:

(a) Undergraduate fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, for the state institutions of higher education known as Marshall University and West Virginia University, are subject to the provisions of section six-a of this article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time undergraduate fee waivers totaling more in value than five percent of the tuition and required fees assessed for all full-time equivalent undergraduate students registered during the fall semester of the immediately preceding academic year;

(2) Each undergraduate fee waiver entitles the recipient of the waiver to attend a designated state institution of higher education without payment of the tuition, capital and

other fees as may be prescribed by the governing board and is for a period of time not to exceed eight semesters of undergraduate study.

(3) The governing board shall make rules pursuant to the provisions of section six, article one of this chapter governing the award of undergraduate fee waivers, the issuance and cancellation of certificates entitling the recipients to the benefits of the waiver, the use of the fee waivers by the recipients, and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of undergraduate fee waivers shall be entered in the minutes of the meetings of the governing board.

(5) Students enrolled in an administratively linked community and technical college shall be awarded a proportionate share of the total number of undergraduate fee waivers awarded by a governing board. The number to be awarded to students of the community and technical college is based upon the full-time equivalent enrollment of that institution.

(6) An institution may grant fee waivers to its employees, their spouses and dependents and these waivers are not counted when determining the maximum percentage of waivers permitted by this section.

(7) Any fee waivers mandated by this article or by section three, article nineteen, chapter eighteen of this code are not counted when determining the maximum percentage of waivers permitted by this section.

Acts 1989, c. 64. Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2008, c. 81, eff. July 1, 2008.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-6. Fee waivers—Professional and graduate schools

In addition to the fee waivers authorized for undergraduate study by the provisions of section five of this article, each governing board periodically may establish fee waivers for study in graduate and professional schools under its jurisdiction, including medicine and dentistry, entitling the recipients to waiver of tuition, capital and other fees subject to the following conditions and limitations:

(a) Graduate and professional fee waivers established by the governing boards of Marshall University and West Virginia University, respectively, are subject to the provisions of section six-a of this article;

(b) For the governing boards of state institutions of higher education other than the state institutions of higher education known as Marshall University and West Virginia University, the following conditions apply:

(1) An institution may not have in effect at any time graduate and professional school fee waivers totaling more in value than five percent of the tuition and required fees assessed for all full-time equivalent graduate and professional students registered during the corresponding fall semester, spring semester and summer term of the immediately preceding academic year. In addition to the five percent in this subdivision, all graduate assistants employed by these institutions shall be granted a fee waiver.

(2) Each graduate or professional school fee waiver entitles the recipient to waiver of the tuition, capital and other fees as may be prescribed by the governing boards and is for a period of time not to exceed the number of semesters normally required in the recipient's academic discipline.

(3) The governing boards shall make rules pursuant to the provisions of section six, article one of this chapter governing the award of graduate and professional school fee waivers, the issuance and cancellation of certificates entitling the recipients to the benefits of the waivers, the use of the fee waivers by the recipients, and the rights and duties of the recipients with respect to the fee waivers. These rules may not be inconsistent with the provisions of this section.

(4) The awarding of graduate and professional school fee waivers shall be entered in the minutes of the meeting of each governing board.

(5) An institution may grant fee waivers to its employees, their spouses and dependents, and these waivers are not counted when determining the maximum percentage of waivers permitted by this section.

(6) Any fee waivers mandated by this article or by section three, article nineteen, chapter eighteen of this code are not counted when determining the maximum percentage of waivers permitted by this section.

Acts 1989, c. 64; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2005, c. 86, eff. July 1, 2005; Acts 2008, c. 81, eff. July 1, 2008.

Library References

Colleges and Universities ⟹9.20.
Westlaw Topic No. 81.

C.J.S. Civil Rights §§ 122, 140.
C.J.S. Colleges and Universities §§ 29, 31.

§ 18B-10-7. Tuition and fee waivers for children and spouses of officers, firefighters, National Guard personnel, reserve personnel and active military duty personnel killed in the line of duty

(a) Each state institution of higher education shall waive tuition and fees for any person who is the child or spouse of an individual who:

(1) Was employed or serving as:

(A) A law-enforcement officer as defined in section one, article twenty-nine, chapter thirty of this code;

(B) A correctional officer at a state penal institution;

(C) A parole officer;

(D) A probation officer;

(E) A conservation officer; or

(F) A registered firefighter; and

(2) Was killed in the line of duty while:

(A) Employed by the state or any political subdivision of the state; or

(B) A member of a volunteer fire department serving a political subdivision of this state.

(b) Each state institution of higher education shall waive tuition and fees for any person who is the child or spouse of:

(1) A National Guard member or a member of a reserve component of the armed forces of the United States who is a resident of this state and is killed in the line of duty. The member is considered to have been killed in the line of duty if death resulted from performing a duty required by his or her orders or commander while in an official duty status, other than on federal active duty, authorized under federal or state law; or

(2) A person on federal or state active military duty who is a resident of this state and is killed in the line of duty. The person is considered to have been killed in the line of duty if death resulted from performance of a duty required by his or her orders or commander while in an official duty status.

(c) Any waiver granted pursuant to this section is subject to the following:

(1) The recipient may attend any undergraduate course if classroom space is available;

(2) The recipient has applied and been admitted to the institution;

(3) The recipient has applied for and submitted the Free Application for Federal Student Aid;

(4) The recipient has exhausted all other sources of student financial assistance dedicated solely to tuition and fees that exceed other grant assistance that are available to him or her, excluding student loans;

(5) Waiver renewal is contingent upon the recipient continuing to meet the academic progress standards established by the institution.

(d) The state institution of higher education may require the person to pay:

(1) Special fees, including any laboratory fees, if the fees are required of all other students taking a single course or that particular course; and

(2) Parking fees.

(e) The governing boards may promulgate rules:

(1) For determining the availability of classroom space;

(2) As each considers necessary to implement this section; and

(3) Regarding requirements for attendance, which may not exceed the requirements for other students.

(f) The governing boards may extend to persons attending courses and classes under this section any rights, privileges or benefits extended to other students which it considers appropriate.

Acts 1989, c. 64; Acts 2006, c. 87, eff. July 1, 2006; Acts 2008, c. 81, eff. July 1, 2008; Acts 2009, c. 86, eff. July 10, 2009.

§ 18B-10-7c. Tuition and fee waivers for certain veterans receiving federal educational assistance benefits

(a) The Legislature finds that:

(1) The United States Congress, in enacting the Post-9/11 Veterans Educational Assistance Act of 2008, 38 U.S.C. § 3301, *et seq.*, has established a program within the United States Department of Veterans Affairs known as the "Yellow Ribbon G.I. Education Enhancement Program";

(2) Under the Act, certain individuals who served or are serving on active duty in the United States Armed Forces after September 11, 2001, are eligible to receive educational assistance benefits equal to the cost of undergraduate resident tuition and mandatory fees charged by a state institution of higher education; and

(3) The Program provides additional educational assistance benefits above the cost of undergraduate resident tuition and mandatory fees to veterans receiving benefits under the Act.

(b) The purpose of this section is to require state institutions of higher education to participate in the Program and encourage private institutions of higher education located in the state to participate.

(c) As soon as practicable after the effective date of this section, the governing board of each state institution of higher education shall enter into an agreement with the United States Secretary of Veterans Affairs to participate in the Program. For every eligible veteran who is enrolled or will be enrolled as an undergraduate student, the agreement shall provide for a waiver of the cost of tuition and mandatory fees not otherwise covered under 38 U.S.C. § 3313(c)(1)(A) at a percentage equal to the maximum contribution available for match by the United States Department of Veterans Affairs. The agreement also may provide for a waiver of the cost of tuition and mandatory fees not otherwise covered under 38 U.S.C. § 3313(c)(1)(A) at a percentage equal to the maximum contribution available for match by the United States Department of Veterans Affairs for every eligible veteran who is, or will be enrolled in a graduate or professional program.

(d) For the purposes of the limitation on the amount of fee waivers permitted at state institutions of higher education set forth in sections five and six of this article, any waiver granted by a state institution of higher education in connection with the Program is not counted toward the amount of undergraduate, graduate or professional fee waivers permitted at that institution.

(e) The Legislature encourages every private institution of higher education located in the state to participate in the Program.

(f) For the purposes of this section:

(1) "The Act" means the Post-9/11 Veterans Educational Assistance Act of 2008, 38 U.S.C. § 3301, *et seq.*;

(2) "The Program" means the Yellow Ribbon G.I. Education Enhancement Program, 38 U.S.C. § 3317; and

(3) "Eligible veteran" means any individual who is eligible to participate in the Program.

Acts 2009, c. 86, eff. July 10, 2009.

§ 18B-10-8. Collection; disposition and use of capital and auxiliary capital fees; creation of special capital and auxiliary capital improvements funds; revenue bonds

(a) This section and any rules adopted by the commission, council or both, in accordance with this section and article three-a, chapter twenty-nine-a of this code, govern the collection, disposition and use of the capital and auxiliary capital fees authorized by section one of this article. The statutory provisions governing collection and disposition of capital funds in place prior to the enactment of this section remain in effect.

(b) *Fees for full-time students.* — The governing boards shall fix capital and auxiliary capital fees for full-time students at each state institution of higher education per semester. For institutions under its jurisdiction, a governing board may fix the fees at higher rates for students who are not residents of this state.

(c) *Fees for part-time students.* — For all part-time students and for all summer school students, the governing boards shall impose and collect the fees in proportion to, but not exceeding, the fees paid by full-time students. Refunds of the fees may be made in the same manner as any other fee collected at state institutions of higher education.

(d) There is continued in the State Treasury a special capital improvements fund and special auxiliary capital improvements fund for each state institution of higher education and the commission into which shall be paid all proceeds, respectively, of the following:

(1) The capital and auxiliary capital fees collected from students at all state institutions of higher education pursuant to this section; and

(2) The fees collected from the students pursuant to section one of this article. The fees shall be expended by the commission and governing boards for the payment of the principal of or interest on any revenue bonds issued by the board of regents or the succeeding governing boards for which the fees were pledged prior to the enactment of this section.

(e) The governing boards may make expenditures from any of the special capital improvements funds or special auxiliary capital improvement funds established in this section to finance or fund on a cash basis, in whole or in part, in combination with any federal, state or other grants or contributions, for any one or more of the following projects:

(1) The acquisition of land or any rights or interest in land;

(2) The construction or acquisition of new buildings;

(3) The renovation or construction of additions to existing buildings;

(4) The acquisition of furnishings and equipment for the buildings; and

(5) The construction or acquisition of any other capital improvements or capital education facilities at the state institutions of higher education, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities and athletic facilities.

(f) The commission, when singly or jointly requested by the council or governing boards, periodically may issue revenue bonds of the state as provided in this section to finance all or part of the purposes and pledge all or any part of the moneys in the special funds for the payment of the principal of and interest on the revenue bonds, and for reserves for the revenue bonds. Any pledge of the special funds for the revenue bonds shall be a prior and

superior charge on the special funds over the use of any of the moneys in the funds to pay for the cost of any of the purposes on a cash basis. Any expenditures from the special funds, other than for the retirement of revenue bonds, may be made by the commission or governing boards only to meet the cost of a predetermined capital improvements program for one or more of the state institutions of higher education, in the order of priority agreed upon by the governing board or boards and the commission and for which the aggregate revenue collections projected are presented to the Governor for inclusion in the annual budget bill, and are approved by the Legislature for expenditure. Any expenditure made pursuant to subsection (e) of this section shall be part of the ten-year campus development plan approved by the governing board pursuant to section three, article nineteen of this chapter.

(g) The revenue bonds periodically may be authorized and issued by the commission or governing boards to finance, in whole or in part, the purposes provided in this section in an aggregate principal amount not exceeding the amount which the commission determines can be paid as to both principal and interest and reasonable margins for a reserve therefor from the moneys in the special funds.

(h) The issuance of the revenue bonds shall be authorized by a resolution adopted by the governing board receiving the proceeds and the commission, and the revenue bonds shall bear the date or dates; mature at such time or times not exceeding forty years from their respective dates; be in such form, either coupon or registered, with such 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 prior redemption at such prices not exceeding one hundred five per centum of the principal amount thereof; and have the other terms and provisions determined by the governing board receiving the proceeds and by the commission. The revenue bonds shall be signed by the Governor and by the chancellor of the commission or the chair of the governing boards authorizing the issuance of the revenue bonds, under the Great Seal of the State, attested by the Secretary of State, and the coupons attached to the revenue bonds shall bear the facsimile signature of the chancellor of the commission or the chair of the appropriate governing boards. The revenue bonds shall be sold in the manner the commission or governing board determines is in the best interests of the state.

(i) The commission or governing boards may enter into trust agreements with banks or trust companies, within or without the state, and in the trust agreements or the resolutions authorizing the issuance of the bonds may enter into valid and legally binding covenants with the holders of the revenue bonds as to the custody, safeguarding and disposition of the proceeds of the revenue bonds, the moneys in the special funds, sinking funds, reserve funds or any other moneys or funds; as to the rank and priority, if any, of different issues of revenue bonds by the commission or governing boards under this section; as to the maintenance or revision of the amounts of the fees; as to the extent to which swap agreements, as defined in subsection (h), section two, article two-g, chapter thirteen of this code shall be used in connection with the revenue bonds, including such provisions as payment, term, security, default and remedy provisions as the commission considers necessary or desirable, if any, under which the fees may be reduced; and as to any other matters or provisions which are considered necessary and advisable by the commission or governing boards in the best interests of the state and to enhance the marketability of the revenue bonds.

(j) After the issuance of any revenue bonds, the fees at the state institutions of higher education pledged to the payment of the revenue bonds may not be reduced as long as any of the revenue bonds are outstanding and unpaid except under the terms, provisions and conditions contained in the resolution, trust agreement or other proceedings under which the revenue bonds were issued. The revenue bonds are and constitute negotiable instruments under the Uniform Commercial Code of this state; 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; and the revenue bonds may not be considered to be obligations or debts of the state and the credit or taxing power of the state may not be pledged therefor, but the revenue bonds shall be payable only from the revenue pledged therefor as provided in this section.

(k) Additional revenue bonds may be issued by the commission or governing boards pursuant to this section and financed by additional revenues or funds dedicated from other sources. The special revenue fund in the State Treasury known as the Community and Technical College Capital Improvement Fund into which shall be deposited the amounts specified in subsection (j), section eighteen, article twenty-two, chapter twenty-nine of this code is continued. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by the commission for community and technical college capital improvements or used by the council on a cash basis as provided under subdivision (4), subsection (j), section eighteen, article twenty-two, chapter twenty-nine of this code for community and technical college capital improvements or capital projects.

(*l*) Funding of systemwide and campus-specific revenue bonds under any other section of this code is continued and authorized pursuant to the terms of this section. Revenues of any state institution of higher education pledged to the repayment of any revenue bonds issued pursuant to this code shall remain pledged.

(m) Any revenue bonds for state institutions of higher education proposed to be issued under this section or other sections of this code first must be approved by the commission.

(n) Revenue bonds issued pursuant to this code may be issued by the commission or governing boards, either singly or jointly.

(*o*) Fees pledged for repayment of revenue bonds issued under this section or article twelve-b, chapter eighteen prior to or after the effective date of this section shall be transferred to the commission in a manner prescribed by the commission. The commission may transfer funds from the accounts of institutions pledged for the repayment of revenue bonds issued prior to the effective date of this section or issued subsequently by the commission upon the request of institutions, if an institution fails to transfer the pledged revenues to the commission in a timely manner.

(p) Effective July 1, 2004, the capital and auxiliary capital fees authorized by this section and section one of this article are in lieu of any other fees set out in this code for capital and auxiliary capital projects to benefit public higher education institutions. Notwithstanding any other provisions of this code to the contrary, in the event any capital, tuition, registration or auxiliary fees are pledged to the payment of any revenue bonds issued pursuant to any general bond resolutions of the commission, any of its predecessors or any institution, adopted prior to the effective date of this section, the fees shall remain in effect in amounts not less than the amounts in effect as of that date, until the revenue bonds payable from any of the fees have been paid or the pledge of the fees is otherwise legally discharged.

Acts 1989, c. 64; Acts 2000, c. 100, eff. 90 days after March 19, 2000; Acts 2001, c. 110, eff. July 1, 2001; Acts 2004, 1st Ex. Sess., c. 13, eff. March 21, 2004; Acts 2008, c. 90, eff. March 8, 2008; Acts 2009, 1st Ex. Sess., c. 14, eff. June 2, 2009; Acts 2010, c. 56, eff. June 10, 2010.

§ 18B-10-10. The Medal of Honor and Andrew J. Trail Purple Heart Recipient Tuition Waiver

(a) This section is known as the Medal of Honor and Andrew J. Trail Purple Heart Recipient Tuition Waiver.

(b) A state institution of higher education shall waive undergraduate tuition and mandatory fee charges for a state resident that has been honorably discharged from any branch of the United States armed forces if that resident:

(1) Has received the Medal of Honor or a Purple Heart Medal. The waiver pursuant to this subdivision is for the amount of tuition and mandatory fee charges that exceeds the total amount of any state and federal education benefits, grants or scholarships received by the resident;

(2) Has received the Medal of Honor or a Purple Heart Medal and sustained wounds during military combat that resulted in either a permanent disability or a loss of limb. The waiver pursuant to this subdivision is for the amount of tuition and mandatory fee charges that exceeds state and federal education benefits, grants or scholarships received by the resident that are designated solely for tuition and mandatory fees.

(c) Tuition and mandatory fee waivers provided pursuant to this section are not counted when determining the maximum number of waivers permitted at an institution by section five of this article.

(d) A tuition and mandatory fee waiver is available pursuant to this section for a maximum of eight semesters.

Acts 2007, c. 189, eff. July 1, 2007.

Historical and Statutory Notes

Former section: A former § 18B-10-10, which related to the disposition and use of student union fees, was repealed by Acts 2004, 1st Ex. Sess., c. 13, and was derived from Acts 1989, c. 64.

ARTICLE 11

MISCELLANEOUS INSTITUTES AND CENTERS

Section.

18B-11-5. Repealed.

§ 18B-11-5. Repealed by Acts 2008, c. 72, eff. March 8, 2008

Historical and Statutory Notes

The repealed section, which authorized the establishment of an institute for instructional technology, was derived from Acts 1995, c. 99; Acts 1997, c. 86.

§ 18B-11-6. National Institute for Teaching Excellence established

United States Code Annotated

Education, teacher education, TEACH grants, see 20 U.S.C.A. § 1070g et seq.

ARTICLE 11B

WEST VIRGINIA POISON CENTER

§ 18B-11B-1. Intent

United States Code Annotated

Dangerous biological agents and toxins, enhanced control, see 42 U.S.C.A. § 262a.

Poison Control, see 42 U.S.C.A. § 300d-71 et seq.

ARTICLE 12A

CENTERS FOR ECONOMIC DEVELOPMENT AND TECHNOLOGY ADVANCEMENT

§ 18B-12A-9. No waiver of sovereign immunity

United States Supreme Court

Foreign sovereign immunity,

Domestic real property held by sovereigns to house employees, tax liens, see Permanent Mission of India v. City of N.Y., 2007, 127 S.Ct. 2352, 168 L.Ed.2d 85.

State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 29, ARTICLE 22 OF THE WEST VIRGINIA CODE, AND CHAPTER 29, ARTICLE 22 OF THE 2010 SUPPLEMENT TO 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
December 22, 2010

Natalie E. Tennant
Secretary of State

ARTICLE 22

STATE LOTTERY ACT

Section

29-22-1. Short title.
29-22-2. Legislative findings and intent.
29-22-3. Definitions.
29-22-4. State lottery commission created; composition; qualifications; appointment; terms of office; chairman's removal; vacancies; compensation and expenses; quorum; oath and bond.
29-22-5. State lottery commission; powers and duties; cooperation of other agencies.
29-22-6. Lottery director; appointment; qualifications; oath and bond; salary.
29-22-7. Divisions of the state lottery office.
29-22-8. Lottery director; powers and duties; deputy directors; hiring of staff; civil service coverage; submission of proposed appropriations.
29-22-9. Initiation and operation of lottery; restrictions; prohibited themes, games, machines or devices; distinguishing numbers; winner selection; public drawings; witnessing of results; testing and inspection of equipment; price of tickets; claim for and payment of prizes; invalid, counterfeit tickets; estimated prizes and odds of winning; participant bound by lottery rules and validation procedures; security procedures; additional games; electronic and computer systems.
29-22-9a. Veterans instant lottery scratch-off game.
29-22-10. Licensed lottery sales agents; restrictions; annual license and fee; factors; application; bond; age; nonassignable license; organizations qualified; commissions; display of license; geographic distribution; monopoly prohibited; lottery retailers; preprinted instant type lottery tickets; fee; certificate of authority; security; bond.
29-22-11. Prohibited acts; restrictions on sales agents and retailers; unauthorized sales; sales to minors; gifts to minors; prizes to commission officers and staff prohibited; criminal penalties for prohibited acts.
29-22-12. Crimes; forgery, counterfeiting, etc. of lottery tickets; penalties.
29-22-13. Prohibited acts; conflict of interest; prohibited gifts and gratuities.
29-22-14. Administrative violations of articles; hearing; administrative penalties.
29-22-15. Payment of prizes to minors.
29-22-16. Disposition of unclaimed prize money.
29-22-17. Lottery proceeds; accounting therefor; deposit into account of state treasurer; reports; funds to be held in trust; failure to collect, account or deposit; personal liability.
29-22-18. State lottery fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; state lottery education fund; state lottery senior citizens fund; allocation and appropriation of net profits.
29-22-18a. State excess lottery revenue fund.
29-22-18b. Definition of term "state employees".
29-22-19. Post audit of accounts and transactions of office.
29-22-20. Monthly and annual reports.
29-22-21. Officials who may appear at lottery drawing.
29-22-22. Exemption of lottery prizes from state and local taxation.
29-22-23. Procurement; disclosures by vendors and related persons and entities; authorizing background investigation; unenforceability of contracts in contravention of section.

Section
29–22–24. Disclosures by vendors and related persons and entities of political contributions.
29–22–25. Preemption of state laws or local regulation.
29–22–26. Continuation of state lottery commission.
29–22–27. Penalties for criminal violations.
29–22–27a. Payment of prizes to the bureau for child support enforcement.
29–22–28. Severability.

Administrative Code References

State lottery rules, see W. Va. Code St. R. § 179–1–1 et seq.

United States Code Annotated

Lotteries or schemes for obtaining property through the mail by false representations, see 39 U.S.C.A. § 3005.

§ 29–22–1. Short title

This article shall be known and may be cited as the "State Lottery Act."

Acts 1985, c. 115.

Notes of Decisions

Collateral estoppel 4
Discrimination prohibited, generally 5
Powers and duties of state lottery commission 3
Regulation of games 1
Sovereign immunity 2

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1. Regulation of games

Electronic video lottery games at horse racing track are not "games" within meaning of statutes authorizing Lottery Commission to select type and number of public gaming systems or games and to implement games utilizing electronic components and electronic computer terminal devices and systems; another statute prohibits lottery machine which dispenses coins or currency, another statute requires selection of winner to be predicted totally by chance, and State Lottery Act lacks clear statement authorizing video gambling devices. Code, 29–22–1 et seq., 29–22–5(a)(3), 29–22–9(b)(4, 5), (c). State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⟹ 1

2. Sovereign immunity

The policy which underlies sovereign immunity is to prevent the diversion of state monies from legislatively appropriated purposes; thus, where monetary relief is sought against the state treasury for which a proper legislative appropriation has not been made, sovereign immunity raises a bar to suit. Const. Art. 6, § 35. Arnold Agency v. West Virginia Lottery Com'n, 1999, 526 S.E.2d 814, 206 W.Va. 583. States ⟹ 191.1

Not every entity created by the legislature is entitled to the protection of constitutional immunity. Const. Art. 6, § 35. Arnold Agency v. West Virginia Lottery Com'n, 1999, 526 S.E.2d 814, 206 W.Va. 583. States ⟹ 191.10

Lottery Commission was an agency of the state and, as such, was entitled to assert constitutional immunity, in advertising company's claims for breach of agreement for bidding on advertising contract and fraud in connection with bidding on contract; constitution expressly prohibited creation of lotteries with exception of those that are regulated, controlled, owned and operated by the state. Const. Art. 6, §§ 35, 36. Arnold Agency v. West Virginia Lottery Com'n, 1999, 526 S.E.2d 814, 206 W.Va. 583. States ⟹ 191.10

3. Powers and duties of state lottery commission

Under West Virginia law, Lottery Commission is empowered to establish rules and regulations for licensing of lottery sales agents for sale and dispensing of lottery tickets, materials and lottery games, and operations of electronic computer terminals. Code, 29–22–10(a). Paxton v. State Dept. of Tax and Revenue, 1994, 451 S.E.2d 779, 192 W.Va. 213. Lotteries ⟹ 1

Legislature may not vest Lottery Commission with unbridled or uncontrolled authority in connection with administration of State Lottery Act. Code, 29–22–1 to 29–22–28. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⟹ 1

Lottery Commission lacks authority under Constitution to establish electronic video lottery

legislature has not enacted general laws for regulation, control, ownership, and operation of electronic video lottery and failed to prescribe adequate standards to guide Commission in exercise of power conferred upon it with respect to electronic video lottery. Code, 29–22–1 et seq., 29–22–5(a)(3), 29–22–9(b)(2, 4, 5), (c); Const. Art. 6, § 36. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Constitutional Law ⟹ 62(5.1)

4. Collateral estoppel

Lottery Commission was not collaterally estopped from litigating issue of whether director's deceptive conduct was material to Commission's alleged breach of contract based on director's conviction for mail fraud, for purposes of determining whether advertising company's claim for breach of agreement for bidding on advertising contract fell within exclusion to state's wrongful acts liability coverage for acts involving fraud or dishonesty; mail fraud conviction did not involve adjudication of issue of whether director's deceptive conduct was material to alleged breach. Arnold Agency v. West Virginia Lottery Com'n, 1999, 526 S.E.2d 814, 206 W.Va. 583. Insurance ⟹ 3557

5. Discrimination prohibited, generally

Lottery Commission was clearly public entity within meaning of Americans with Disabilities Act (ADA), and it provided aid, benefit, or service on continuing basis for its licensee, and thus Lottery Commission came within scope of regulation precluding public entity that provides any aid, benefit, or service from allowing disability discrimination, either through contractual, licensing, or other arrangements; Commission did more than merely license lottery locations, given that Commission, through its contract vendors, furnished the lottery devices and services that allowed licensee to conduct lottery sales, and Commission controlled and obtained substantial monies from the lottery system. Americans with Disabilities Act of 1990, § 202, 42 U.S.C.A. § 12132; 28 C.F.R. § 35.130(b)(1). Paxton v. State Dept. of Tax and Revenue, 1994, 451 S.E.2d 779, 192 W.Va. 213. Civil Rights ⟹ 107(1)

§ 29–22–2. Legislative findings and intent

The Legislature finds and declares that the purpose of this article is to establish and implement a state-operated lottery under the supervision of the state lottery commission and the director of the state lottery office who shall be appointed by the governor and hold broad authority to administer the system in a manner which will provide the state with a highly efficient operation.

Acts 1985, c. 115.

§ 29–22–3. Definitions

(a) "State lottery commission" or "commission" means the state lottery commission created by this article.

(b) "Director" means the individual appointed by the governor to provide management and administration necessary to direct the state lottery office.

(c) "Lottery" means the public gaming systems or games established and operated by the state lottery office.

(d) "Lottery tickets" or "tickets" means tickets or other tangible evidence of participation used in lottery games or gaming systems.

Acts 1985, c. 115.

Library References

Key Numbers

Lotteries ⟹3.
Westlaw Key Number Search: 247k3.

Encyclopedias

C.J.S. Lotteries §§ 2 to 7, 11.

§ 29-22-4. State lottery commission created; composition; qualifications; appointment; terms of office; chairman's removal; vacancies; compensation and expenses; quorum; oath and bond.

(a) There is hereby created a state lottery commission which shall consist of seven members, all residents and citizens of the state, one who shall be a lawyer, one who shall be a certified public accountant, one who shall be a computer expert, one who shall have not less than five years experience in law enforcement and one who shall be qualified by experience and training in the field of marketing. The two remaining members shall be representative of the public at large. The commission shall carry on a continuous study and investigation of the lottery throughout the state and advise and assist the director of the state lottery. The commission members shall be appointed by the governor, by and with the advice and consent of the Senate, no later than the first day of July, one thousand nine hundred eighty-five. The terms of members first appointed expire as designated by the governor at the time of appointment: One at the end of one year; two at the end of two years; one at the end of three years; two at the end of four years; and one at the end of five years. Upon the effective date of this section, as vacancies occur, appointments to fill vacancies shall be made so that at least two members are appointed from each congressional district existing as of the first day of January, one thousand nine hundred ninety-three. No more than four members of such commission shall belong to the same political party. Members serve overlapping terms of five years and are eligible for successive appointments to the commission. On the first day of July of each year, the commission shall select a chairman from its membership. The governor may remove any commission member for cause notwithstanding the provisions of section four, article six, chapter six of this code. Vacancies shall be filled in the same manner as the original appointment but only for the remainder of the term. No person convicted of a felony or crime involving moral turpitude shall be eligible for appointment nor appointed as a commissioner.

(b) The board shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties: Provided, That the per mile rate to be reimbursed shall be the same rate as authorized for members of the Legislature. All such payments shall be made from the state lottery fund.

(c) At least one meeting per month shall be held by the commission. Additional meetings may be held at the call of the chairman, director or majority of the commission members.

(d) A majority of the members constitutes a quorum for the transaction of business, and all actions require a majority vote of the members present.

(e) Before entering upon the discharge of the duties as commissioner, each commissioner shall take and subscribe to the oath of office prescribed in section five, article IV of the constitution of West Virginia and shall enter into a bond in the penal sum of one hundred thousand dollars with a corporate surety authorized to engage in business in this state, conditioned upon the faithful discharge and performance of the duties of the office. The executed oath and bond shall be filed in the office of the secretary of state.

Acts 1985, c. 115; Acts 1993, c. 88.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

Notes of Decisions

In general 1
Privileges and liabilities of attorneys 2

1. In general

Indictment charging attorney for state lottery with devising scheme to defraud state, its citizenry, and lottery of attorney's honest and faithful services as lottery attorney by misappropriating and utilizing confidential nonpublic information regarding alleged plan to expand video lottery in state, and further charging attorney with trading in and tipping others to trade in stock of certain manufacturer of gaming equipment based on confidential information, adequately alleged claims of insider trading under misappropriation theory and wire fraud to survive motion to dismiss, notwithstanding attorney's contention that information in question was widely known and that there was in fact never plan to expand lottery. 18 U.S.C.A. §§ 1343, 1346; Securities Exchange Act of 1934, §§ 10(b), 32, 15 U.S.C.A. §§ 78j(b), 78ff. U.S. v. ReBrook, 1993, 837 F.Supp. 162, affirmed in part, reversed in part 58 F.3d 961, certiorari denied 116 S.Ct. 431, 516 U.S. 970, 133 L.Ed.2d 346. Securities Regulation ⚷ 195

2. Privileges and liabilities of attorneys

Lottery attorney had duty under West Virginia Governmental Ethics Act to refrain from disclosing confidentialities of which he became aware by virtue of his position, and alleged violation of duty by misappropriating nonpublic information regarding proposed expansion of video lottery and award of single-source contract for gaming equipment could serve as basis for federal wire fraud charge. 18 U.S.C.A. § 1346; W.Va.Code, 6B–2–5(e). U.S. v. ReBrook, 1993, 837 F.Supp. 162, affirmed in part, reversed in part 58 F.3d 961, certiorari denied 116 S.Ct. 431, 516 U.S. 970, 133 L.Ed.2d 346. Attorney And Client ⚷ 32(13)

§ 29–22–5. State lottery commission; powers and duties; cooperation of other agencies

(a) The commission has the authority to:

(1) Promulgate rules in accordance with chapter twenty-nine-a of this code: Provided, That those rules promulgated by the commission that are necessary to begin the lottery games selected shall be exempted from the provisions of chapter twenty-nine-a of this code in order that the selected games may commence as soon as possible;

(2) Establish rules for conducting lottery games, a manner of selecting the winning tickets and manner of payment of prizes to the holders of winning tickets;

(3) Select the type and number of public gaming systems or games, to be played in accordance with the provisions of this article;

(4) Contract, if deemed desirable, with the educational broadcasting authority to provide services through its microwave interconnection system to make available to public broadcasting stations servicing this state and, at no charge, for rebroadcast to commercial broadcasting stations within this state, any public gaming system or games drawing;

(5) Enter into interstate and international lottery agreements with other states or foreign countries, or any combination of one or more states and one or more foreign countries;

(6) Adopt an official seal;

(7) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided;

(8) Prescribe a schedule of fees and charges;

(9) Sue and be sued;

(10) Lease, rent, acquire, purchase, own, hold, construct, equip, maintain, operate, sell, encumber and assign rights of any property, real or personal, consistent with the objectives of the commission as set forth in this article;

(11) Designate one of the deputy directors to serve as acting director during the absence of the director;

(12) Hold hearings on any matter of concern to the commission relating to the lottery, subpoena witnesses, administer oaths, take testimony, require the production of evidence and documentary evidence and designate hearing examiners and employees to so act; and

(13) To make and enter into all agreements and do all acts necessary or incidental to the performance of its duties and the exercise of its powers under this article.

(b) Departments, boards, commissions or other agencies of this state shall provide assistance to the state lottery office upon the request of the director.

(c) Upon the request of the deputy director for the security and licensing division in conjunction with the director, the attorney general, department of public safety and all other law-enforcement agencies shall furnish to the director and the deputy director such information as may tend to assure the security, honesty, fairness and integrity in the operation and administration of the lottery as they may have in their possession, including, but not limited to, manual or computerized information and data. The director is to designate such employees of the security and licensing division as may be necessary to act as enforcement agents. Such agents are authorized to investigate complaints made to the commission or the state lottery office concerning possible violation of the provisions of this article and determine whether to recommend criminal prosecution. If it is determined that action is necessary, an agent, after approval of the director, is to make such recommendation to the prosecuting attorney in the county wherein the violation occurred or to any appropriate law-enforcement agency.

Acts 1985, c. 115; Acts 2001, 1st Ex.Sess., c. 6, eff. April 21, 2001.

Acts 2000, c. 229, redesignated the department of public safety as the West Virginia state police. See § 15–2–2.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

Notes of Decisions

Powers and duties of state lottery commission 2
Regulation of games 1

1. Regulation of games

Electronic video lottery games at horse racing track are not "games" within meaning of statutes authorizing Lottery Commission to select type and number of public gaming systems or games and to implement games utilizing electronic components and electronic computer terminal devices and systems; another statute prohibits lottery machine which dispenses coins or currency, another statute requires selection of winner to be predicted totally by chance, and State Lottery Act lacks clear statement authorizing video gambling devices. Code, 29–22–1 et seq., 29–22–5(a)(3), 29–22–9(b)(4, 5), (c). State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⚷ 1

Statutes authorizing Lottery Commission to select type and number of public gaming systems or games and to implement games utilizing electronic computers and electronic computer terminal devices and systems allow Commission to select common state-run lottery games which are included in lawful delegation of authority by legislature and can be operated in accordance with constitutional exception allowing legislature to authorize lotteries which are regulated, controlled, and owned and operated by state. Code, 29–22–5(a)(3), 29–22–9(c); Const. Art. 6, § 36. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⚷ 1

2. Powers and duties of state lottery commission

Lottery Commission lacks authority under Constitution to establish electronic video lottery; legislature has not enacted general laws for regulation, control, ownership, and operation of electronic video lottery and failed to prescribe adequate standards to guide Commission in exercise of power conferred upon it with respect to electronic video lottery. Code, 29–22–1 et seq., 29–22–5(a)(3), 29–22–9(b)(2, 4, 5), (c); Const. Art. 6, § 36. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Constitutional Law ⚷ 62(5.1)

§ 29–22–6. Lottery director; appointment; qualifications; oath and bond; salary

(a) There is hereby created the position of the lottery director whose duties include the management and administration of the state lottery office. The director shall be qualified by training and experience to direct the operations of the lottery, and shall be appointed, within ninety days of the effective date of this article, by the governor and shall serve at the will and pleasure of the governor. No person shall be appointed as lottery director who has been convicted of a felony or crime involving moral turpitude.

(b) The director serves on a full-time basis and may not be engaged in any other profession or occupation.

(c) The director:

(1) Shall have a good reputation, particularly as a person of honesty and integrity, and shall favorably pass a thorough background investigation prior to appointment;

(2) The director shall not hold political office in the government of the state either by election or appointment while serving as director;

(3) The director shall be a citizen of the United States and must become a resident of the state within ninety days of appointment;

(4) The director shall receive an annual salary as provided for by the governor; and

(5) The director and his or her executive secretary are ineligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code.

(d) Before entering upon the discharge of the duties as director, the director shall take and subscribe to the oath of office prescribed in section 5, article IV of the Constitution of West Virginia and shall enter into a bond in the penal sum of one hundred thousand dollars with a corporate surety authorized to engage in business in this state, conditioned upon the faithful discharge and performance of the duties of the office. The executed oath and bond shall be filed in the office of the secretary of state.

Acts 1985, c. 115.

Library References

Key Numbers

Lotteries ⚷1.

States ⚷46.

Westlaw Key Number Searches: 247k1; 360k46; 360k46.

Encyclopedias

C.J.S. Lotteries § 8.

C.J.S. States §§ 61, 80, 84, 102.

Notes of Decisions

Collateral estoppel 2
Judicial notice 1

1. Judicial notice

While court could take judicial notice of fact that Lottery Commission's director had been convicted of mail fraud, it could not take judicial notice of truth of the conviction in order to place advertising company's claim for breach of agreement for bidding on advertising contract within exclusion to state's wrongful acts liability coverage for acts involving fraud or dishonestly. Rules of Evid., Rule 201. Arnold Agency v. West Virginia Lottery Com'n, 1999, 526 S.E.2d 814, 206 W.Va. 583. Evidence ⚷ 43(3)

2. Collateral estoppel

Lottery Commission was not collaterally estopped from litigating issue of whether director's deceptive conduct was material to Commission's alleged breach of contract based on director's conviction for mail fraud, for purposes of determining whether advertising company's claim for breach of agreement for bidding on advertising contract fell within exclusion to state's wrongful acts liability coverage for acts involving fraud or dishonesty; mail fraud conviction did not involve adjudication of issue of whether director's deceptive conduct was material to alleged breach. Arnold Agency v. West Virginia Lottery Com'n, 1999, 526 S.E.2d 814, 206 W.Va. 583. Insurance ⚷ 3557

§ 29-22-7. Divisions of the state lottery office

There shall be established within the state lottery office a security and licensing division; a personnel, data processing, accounting and administration division; and a marketing, education and information division. Each division shall be under the supervision of a deputy director who shall administer and coordinate the operation of authorized activities in the respective division. Each deputy director shall have had three years management experience in areas pertinent to his prospective responsibilities and an additional three years of experience in the same field.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

§ 29-22-8. Lottery director; powers and duties; deputy directors; hiring of staff; civil service coverage; submission of proposed appropriations

(a) The director shall have the authority to:

(1) Appoint, with the approval of the commission, a deputy director for each of the divisions established in this article. The deputy directors appointed shall serve at the will and pleasure of the director at an annual salary established by the commission. Deputy directors shall not be eligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code;

(2) The director shall hire, pursuant to the approval of the commission, such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this article. No person shall be employed by the lottery who has been convicted of a felony or other crime involving moral turpitude. Each person employed by the commission shall execute an authorization to allow an investigation of that person's background;

(3) Designate the number and types of locations at which tickets may be sold.

(b) Effective the first day of July, one thousand nine hundred eighty-six, all employees of the commission, except as otherwise provided herein, shall be in the classified service under the provisions of article six, chapter twenty-nine of this code.

(c) The director shall, pursuant to the approval of the commission, prepare and submit the annual proposed appropriations for the commission to the governor.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

§ 29-22-9. Initiation and operation of lottery; restrictions; prohibited themes, games, machines or devices; distinguishing numbers; winner selection; public drawings; witnessing of results; testing and inspection of equipment; price of tickets; claim for and payment of prizes; invalid, counterfeit tickets; estimated prizes and odds of winning; participant bound by lottery rules and validation procedures; security procedures; additional games; electronic and computer systems

(a) The commission shall initiate operation of the state lottery on a continuous basis at the earliest feasible and practical time, first initiating operation of

the preprinted instant winner type lottery. The lottery shall be initiated and shall continue to be operated so as to produce the maximum amount of net revenues to benefit the public purpose described in this article consonant with the public good. Other state government departments, boards, commissions, agencies and their officers shall cooperate with the lottery commission so as to aid the lottery commission in fulfilling these objectives.

(b) The commission shall promulgate rules and regulations specifying the types of lottery games to be conducted by the lottery: Provided, That:

(1) No lottery may use the results of any amateur or professional sporting event, dog race or horse race to determine the winner.

(2) Electronic video lottery systems must include a central site system of monitoring the lottery terminals utilizing an on-line or dial-up inquiry.

(3) In a lottery utilizing a ticket, each ticket shall bear a unique number distinguishing it from each other ticket.

(4) No lottery utilizing a machine may use machines which dispense coins or currency.

(5) A lottery game which utilizes an electronic computer and a video screen to operate a lottery game and communicate the results thereof, such as the game "Travel", and which does not utilize an interactive electronic terminal device allowing input by an individual player, may only be made available by the commission in (A) private clubs licensed in accordance with the provisions of article seven, chapter sixty of this code, (B) retail licensees licensed in accordance with the provisions of article three-a of said chapter sixty, and (C) in the facilities of class A licensees which are licensed in accordance with the provisions of section nine, article sixteen, chapter eleven of this code, in which facility at least seventy-five percent of the nonintoxicating beer sold by the class A licensee in the preceding year was sold for consumption on the premises: Provided, That if sales information is not available for the preceding year, the commission in its discretion may base any issuance or denial of an annual license upon a reasonable projection of the volume of sales of nonintoxicating beer for consumption on the premises as a percentage of the total sales of nonintoxicating beer.

(6) Selection of the winner must be predicted totally on chance.

(7) Any drawings or winner selections shall be held in public and witnessed by an independent accountant designated by the director for such purposes.

(8) All lottery equipment and materials shall be regularly inspected and tested, before and after any drawings or winner selections, by independent qualified technicians.

(9) The director shall establish the price for each lottery and determine the method of selecting winners and the manner of payment of prizes, including providing for payment by the purchase of annuities for prizes payable in installments.

(10) All claims for prizes shall be examined and no prize shall be paid as a result of altered, stolen or counterfeit tickets or materials, or which fail to meet validation rules or regulations established for a lottery. No prize shall be paid more than once, and, in the event of a binding determination by the commission that more than one person is entitled to a particular prize, the sole remedy of the claimants shall be the award to each of them of an equal share in the single prize.

(11) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery, or the estimated odds of winning such prizes shall be printed on any lottery ticket, where feasible, or in descriptive materials, and shall be available at the offices of the commission.

(12) No prizes shall be paid which are invalid and not contemplated by the prize structure of the lottery involved.

(13) By purchasing a ticket or participation in a lottery, a participant agrees to abide by, and be bound by, the lottery rules which apply to the lottery or game play involved. An abbreviated form of such rules may appear on tickets and shall appear on descriptive materials and shall be available at the offices of the commission. A participant in a lottery agrees that the determination of whether the participant is a valid winner is subject to the lottery or game play rules and the winner validation tests established by the commission. The determination of the winner by the commission shall be final and binding upon all participants in a lottery and shall not be subject to review or appeal.

(14) The commission shall institute such security procedures as it deems necessary to ensure the honesty and integrity of the winner selection process for each lottery. All such security and validation procedures and techniques shall be, and remain, confidential, and shall not be subject to any discovery procedure in any civil, judicial, administrative or other proceeding, nor subject to the provisions of article one, chapter twenty-nine-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

(c) The commission shall proceed with operation of such additional lottery games, including the implementation of games utilizing a variety of existing or future technological advances at the earliest feasible date. The commission may operate lottery games utilizing electronic computers and electronic computer terminal devices and systems, which systems must include a central site system of monitoring the lottery terminals utilizing direct communication systems, or other technological advances and procedures, ensuring honesty and integrity in the operation of the lottery.

Acts 1985, c. 115; Acts 1990, c. 125; Acts 1994, 1st Ex. Sess., c. 35.

Library References

Key Numbers

Lotteries ⚷1, 3.

Westlaw Key Number Searches: 247k1; 247k3.

Encyclopedias

C.J.S. Lotteries §§ 2 to 8, 11.

Notes of Decisions

Powers and duties of state lottery commission 2
Regulation of games 1

1. Regulation of games

Electronic video lottery games at horse racing track are not "games" within meaning of statutes authorizing Lottery Commission to select type and number of public gaming systems or games and to implement games utilizing electronic components and electronic computer terminal devices and systems; another statute prohibits lottery machine which dispenses coins or currency, another statute requires selection of winner to be predicted totally by chance, and State Lottery Act lacks clear statement authorizing video gambling devices. Code, 29-22-1 et seq., 29-22-5(a)(3), 29-22-9(b)(4, 5), (c). State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⟹ 1

Statutes authorizing Lottery Commission to select type and number of public gaming systems or games and to implement games utilizing electronic computers and electronic computer terminal devices and systems allow Commission to select common state-run lottery games which are included in lawful delegation of authority by legislature and can be operated in accordance with constitutional exception allowing legislature to authorize lotteries which are regulated, controlled, and owned and operated by state. Code, 29-22-5(a)(3), 29-22-9(c); Const. Art. 6, § 36. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⟹ 1

Statutory authorization for Lottery Commission to promulgate rules and regulations with regard to electronic video lottery systems is inadequate standard to guide Lottery Commission in exercising delegated authority and is insufficient to vest it with authority to include electronic gaming devices as part of state lottery. Code, 29-22-9(b)(2); Const. Art. 6, § 36. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Constitutional Law ⟹ 62(5.1)

2. Powers and duties of state lottery commission

Under West Virginia law, Lottery Commission is empowered to establish rules and regulations for licensing of lottery sales agents for sale and dispensing of lottery tickets, materials and lottery games, and operations of electronic computer terminals. Code, 29-22-10(a). Paxton v. State Dept. of Tax and Revenue, 1994, 451 S.E.2d 779, 192 W.Va. 213. Lotteries ⟹ 4

Lottery Commission lacks authority under Constitution to establish electronic video lottery; legislature has not enacted general laws for regulation, control, ownership, and operation of electronic video lottery and failed to prescribe adequate standards to guide Commission in exercise of power conferred upon it with respect to electronic video lottery. Code, 29-22-1 et seq., 29-22-5(a)(3), 29-22-9(b)(2, 4, 5), (c); Const. Art. 6, § 36. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Constitutional Law ⟹ 62(5.1)

§ 29-22-9a. Veterans instant lottery scratch-off game

(a) Beginning the first day of September, two thousand, the commission shall establish an instant lottery scratch-off game designated as the veterans benefit game, which is offered by the lottery.

(b) Notwithstanding the provisions of section eighteen of this article, and subject to the provisions of subsection (c) of this section, all net profits received from the sale of veterans benefit game lottery tickets, materials and games are deposited with the state treasurer into the veterans lottery fund created under this section, and upon the effective date of the enactment of this section in two thousand two, the Legislature may make appropriations from this fund for architectural and other project costs associated with construction, and for payment of principal and interest for revenue bonds issued under provisions of section seven, article twenty-nine-a, chapter sixteen of this code: Provided, That once the payment of the principal and interest and architectural and other project costs associated with construction are paid in full for the construction of the initial veterans skilled nursing facility, the Legislature may appropriate from the fund created under this section moneys for the construction, including the architectural fees and other associated costs, equipping and operation of

additional skilled nursing facilities for veterans of the armed forces of the United States military: Provided, however, That after the payment of the above-mentioned items, the Legislature may appropriate any excess funds to the general revenue fund.

(c) Before appropriation of any of the net profits derived from the veterans benefit game for the uses set forth in this section, the Legislature shall first determine that the state has met all debt obligations for which lottery profits have been pledged for that fiscal year.

(d) There is hereby created in the state treasury a special revenue fund designated and known as the veterans lottery fund which shall consist of all revenues derived from the veterans benefit game, any appropriations to the fund by the Legislature and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. Revenues received by the veterans lottery fund shall be deposited in the West Virginia consolidated investment pool with the West Virginia investment management board, with the interest income a proper credit to all these funds.

(e) There is hereby created in the state treasury a special revenue fund designated and known as the veterans nursing home fund which shall consist of all funds for the architectural and other project costs related to the construction of the veteran's nursing home. These funds shall be transferred from the veterans lottery fund to the veterans nursing home fund upon written request of the director of the division of veterans affairs to the investment management board and the state treasurer. Following the selection of the architect, the director shall certify the estimated total cost of the architect and associated costs to the joint committee on government and finance prior to the transfer of funds. If funds transferred exceed the estimated costs certified to the joint committee, the director shall certify the additional costs to the joint committee.

(f) The commission shall change the design or theme of the veterans benefit game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the commission. The tickets for the instant lottery game created in this section shall clearly state that the profits derived from the game are being used to benefit veterans in this state.

Acts 2000, c. 276, eff. 90 days after March 11, 2000; Acts 2001, 1st Ex.Sess., c. 12, eff. 90 days after April 23, 2001; Acts 2002, c. 321, eff. March 4, 2002.

Cross References

Bonds, issuance by hospital finance authority, payment of bonds from profits of lottery, see § 16–1B–3.

§ 29–22–10. Licensed lottery sales agents; restrictions; annual license and fee; factors; application; bond; age; nonassignable license; organizations qualified; commissions; display of license; geographic distribution; monopoly prohibited; lottery retailers; preprinted instant type lottery tickets; fee; certificate of authority; security; bond

(a) The commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the

licensing of lottery sales agents for the sale and dispensing of lottery tickets, materials and lottery games, and the operations of electronic computer terminals therefor, subject to the following:

(1) The commission shall issue its annual license to the lottery sales agents for each lottery outlet and for a fee established by the commission to cover its costs, but not to exceed one thousand dollars. Application for licensing as a lottery sales agent shall be on forms prescribed and furnished by the director;

(2) No licensee may engage in business exclusively as a lottery sales agent;

(3) The commission shall ensure geographic distribution of lottery sales agents throughout the state;

(4) Before issuance of a license to an applicant, the commission shall consider factors such as the financial responsibility, security, background, accessibility of the place of business or activity to the public, public convenience and the volume of expected sales;

(5) No person under the age of twenty-one may be licensed as an agent. No licensed agent may employ any person under the age of eighteen for sales or dispensing of lottery tickets or materials or operation of a lottery terminal;

(6) A license is valid only for the premises stated on the license;

(7) The director may issue a temporary license when determined necessary;

(8) A license is not assignable or transferable;

(9) Before a license is issued, an agent shall be bonded for an amount and in the form and manner determined by the director, or shall provide other security, in an amount, form and manner determined by the director, that will ensure the performance of the agent's duties and responsibilities as a licensed lottery agent or the indemnification of the commission;

(10) The commission may issue licenses to any legitimate business, organization, person or entity, including, but not limited to, civic or fraternal organizations; parks and recreation commissions or similar authorities; senior citizen centers, state-owned stores, persons lawfully engaged in nongovernmental business on state property, persons lawfully engaged in the sale of alcoholic beverages; political subdivisions or their agencies or departments, state agencies, commission-operated agencies; persons licensed under the provisions of article twenty-three, chapter nineteen of this code; and religious, charitable or seasonal businesses;

(11) Licensed lottery sales agents shall receive seven percent of gross sales as commission for the performance of their duties: Provided, That a portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys accumulated under section sixteen of this article. In addition, the commission may promulgate a bonus-incentive plan as additional compensation not to exceed one percent of annual gross sales. The method and time of payment shall be determined by the commission;

(12) Licensed lottery sales agents shall prominently display the license on the premises where lottery sales are made; and

(13) No person or entity or subsidiary, agent or subcontractor of that person or entity may receive or hold more than twenty-five percent of the licenses to act as licensed lottery sales agent in any one county or municipality nor more than five percent of the licenses issued throughout this state: Provided, That the limitations of twenty-five percent and five percent in this subdivision do not apply if it is determined by the commission that there are not a sufficient number of qualified applicants for licenses to comply with these requirements.

(b) The commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code specifying the terms and conditions for contracting with lottery retailers for sale of preprinted instant type lottery tickets and may provide for the dispensing of the tickets through machines and devices. Tickets may be sold or dispensed in any public or private store, operation or organization, without limitation. The commission may establish an annual fee not to exceed fifty dollars for those persons, per location or site, and shall issue a certificate of authority to act as a lottery retailer to them. The commission shall establish procedures to ensure the security, honesty and integrity of the lottery and distribution system. The commission shall establish the method of payment, commission structure, methods of payment of winners, including payment in merchandise and tickets, and may require prepayment by lottery retailers, require bond or security for payment and require deposit of receipts in accounts established therefor. Retailers shall prominently display the certificate of authority issued by the commission on the premises where lottery sales are made.

Acts 1985, c. 115; Acts 1990, c. 125; Acts 1997, c. 126, eff. July 1, 1997; Acts 2002, c. 152, eff. July 1, 2002.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

Notes of Decisions

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1. Powers and duties of state lottery commission

Under West Virginia law, Lottery Commission is empowered to establish rules and regulations for licensing of lottery sales agents for sale and dispensing of lottery tickets, materials and lottery games, and operations of electronic computer terminals. Code, 29-22-10(a). Paxton v. State Dept. of Tax and Revenue, 1994, 451 S.E.2d 779, 192 W.Va. 213. Lotteries ⚷ 4

2. Gross sales

'Gross sales,' as contained in W.Va. Code 29-22-10(a)(11) (1986), refers to the full face value of lottery tickets sold, and the 'gross amount received from each lottery,' as contained in W. Va. Code § 29-22-18(c), (d) and (e) (1989), refers to gross sales less the statutory five percent commission. Therefore, calculations of the statutory allocations under W. Va. Code § 29-22-18 should be based upon the amount actually received after the appropriate deduction for commissions. Gleason, Op.Atty. Gen., April 13, 1990.

3. Video lottery

The video lottery game Mountaineer Magic does not violate W. Va. Code § 61-10-1 and the assignment of the daily operation of this video lottery system to Mountaineer Park, pursuant to W. Va. Code § 29-22-10, does not violate W. Va. Const. art. VI, § 36.Kutsch, Op.Atty.Gen., Feb. 14, 1991.

§ 29–22–11. Prohibited acts; restrictions on sales agents and retailers; unauthorized sales; sales to minors; gifts to minors; prizes to commission officers and staff prohibited; criminal penalties for prohibited acts

(a) No person may sell lottery tickets or materials unless authorized by the commission to so act. No person may perform the functions of a licensed lottery sales agent unless licensed by the commission. No person may perform the functions of a lottery retailer unless authorized therefor by the commission. No person may sell a lottery ticket or material at a price greater than that established by the commission; except, that nothing in this section may be construed to prevent any person from giving a lottery ticket or material to another as a gift or bonus. No person other than a licensed lottery sales agent or an employee thereof, while acting within the scope of such employment, shall sell lottery tickets, and then only on the premises stated on the license.

(b) No ticket shall be sold to any person under the age of eighteen years. This section does not prohibit the purchase of a ticket by a person eighteen years of age or older for the purpose of making the ticket a gift to a person less than that age.

(c) No ticket may be purchased by and no prizes received by or awarded to any officers or employees of the commission or any member of their immediate household.

(d) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷16.
Westlaw Key Number Search: 247k16.

Encyclopedias
C.J.S. Lotteries § 20.

§ 29–22–12. Crimes; forgery, counterfeiting, etc. of lottery tickets; penalties

Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a lottery ticket is guilty of a felony, and, upon conviction thereof, shall be fined not more than one thousand dollars, or be imprisoned in the penitentiary for not less than one year or both fined and imprisoned.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷20 to 26.
Westlaw Key Number Searches: 247k20 to 247k26.

Encyclopedias
C.J.S. Commerce § 131(4).
C.J.S. Lotteries §§ 22 to 23.

United States Code Annotated

Counterfeiting and forgery, federal crimes and offenses, see 18 U.S.C.A. § 471 et seq.

§ 29-22-13. Prohibited acts; conflict of interest; prohibited gifts and gratuities

(1) The commissioners, the director, the deputy directors and the employees of the lottery may not, directly or indirectly, individually, or as a member of a partnership or as a shareholder of a corporation have an interest in dealing in a lottery.

(2) A member of the commission, the director, and an employee of the lottery or a member of their immediate families may not ask for, offer to accept, or receive any gift, gratuity or other thing of value from any person, corporation, association or firm contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery or from an applicant for a license to sell tickets in the lottery or from a licensee.

(3) A person, corporation, association or firm contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery, an applicant for a license to sell tickets in the lottery or a licensee may not offer a member of the commission, an employee of the lottery, or a member of their immediate families any gift, gratuity or other thing of value.

Acts 1985, c. 115; Acts 1990, c. 125.

Library References

Key Numbers
Lotteries ⟹26.
Westlaw Key Number Search: 247k26.

Encyclopedias
C.J.S. Lotteries § 22.

§ 29-22-14. Administrative violations of articles; hearing; administrative penalties

(a) In addition to any criminal penalty imposed under the provisions of this article or any other chapter of this code:

(1) No person shall be appointed, employed or continue to serve in any position or employment with the commission who has been convicted of any violation of this article, or of any felony or any crime related to theft or gambling or involving moral turpitude. The commission shall remove or discharge any person so convicted.

(2) No person shall be licensed as a lottery sales agent nor authorized to act as a lottery retailer who has been convicted of any violation of this article, or of any felony or any crime related to theft or gambling or involving moral turpitude. The commission shall revoke the license or the authority of any person so convicted.

(3) No person shall be permitted to act as vendor to the commission who has been convicted of any violation of this article, or of any felony or any crime related to theft, bribery or gambling or involving moral turpitude. The com-

mission shall deny the privilege of acting as a vendor to the commission for any person so convicted.

(b) Any person aggrieved by any action of the commission under the provisions of this article may in writing to the commission request a hearing which shall be held before the commission or its duly authorized representative. Upon receipt of the request for a hearing, the commission shall set a hearing date within thirty days of the receipt of the request and shall notify the aggrieved party in writing at least seven days in advance of the hearing date of the time, date and place of the hearing. The commission shall issue an order within thirty days after the hearing date, either affirming or reversing the action of the director. The provisions of chapter twenty-nine-a of this code shall apply to such hearings.

(c) After hearing and determination that any provision of this article or rule or regulation of the commission has been violated, the commission may impose a penalty not to exceed one hundred dollars per violation.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷20.
Westlaw Key Number Search: 247k20.

Encyclopedias
C.J.S. Commerce § 131(4).
C.J.S. Lotteries § 22.

§ 29–22–15. Payment of prizes to minors

If the person entitled to a prize or any winning ticket is under the age of eighteen years, and such prize is less than five thousand dollars, the director may direct payment of the prize by delivery to an adult member of the minor's family or a legal guardian of the minor of a check or draft payable to the order of the minor. If the person entitled to a prize or any winning ticket is under the age of eighteen years, and the prize is five thousand dollars or more, the director may direct payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a legal guardian of the minor as guardian for the minor. The person so named as guardian shall have qualified under and shall have the same duties and powers as a person designated as a guardian in the manner as provided in article ten, chapter forty-four of this code. The commission and director shall be discharged of all further liability upon payment of a prize pursuant to this section.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷20.
Westlaw Key Number Search: 247k20.

Encyclopedias
C.J.S. Commerce § 131(4).
C.J.S. Lotteries § 22.

§ 29–22–16. Disposition of unclaimed prize money

Unclaimed prize money for the prize on a winning ticket shall be retained by the director for the person entitled thereto for one hundred eighty days after the

drawing in which the prize was won or for one hundred eighty days after the announced end of a game. If no claim is made for said money within one hundred eighty days, the prize money reverts to the state lottery fund for the purposes of paying a portion of the sales commission to lottery sales agents pursuant to section ten of this article or for awarding additional prizes. The commission shall promulgate rules for the awarding of additional prizes.

Acts 1985, c. 115; Acts 1997, c. 126, eff. July 1, 1997.

Library References

Key Numbers
Lotteries ⟹10.
Westlaw Key Number Search: 247k10.

Encyclopedias
C.J.S. Lotteries § 4.

§ 29-22-17. Lottery proceeds; accounting therefor; deposit into account of state treasurer; reports; funds to be held in trust; failure to collect, account or deposit; personal liability

(a) The commission shall establish rules and regulations for accounting for sales of lottery tickets and materials and accounting for all funds from sales and dispensing of lottery tickets, materials and games. Such regulations shall require all licensed lottery sales agents and lottery retailers to deposit in the bank account of the state treasurer in banks regularly used by said agents or retailers and approved by the director all moneys received by such agents and retailers from the sale of lottery tickets, materials and games, within twenty-four hours of the receipt thereof, and in accordance with the provisions of section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, unless the director specifies a different time within which the deposit must be made. The state treasurer shall credit all funds so deposited to the credit of the state lottery fund. The director shall require such reports of lottery receipts and transactions in the sale of lottery tickets and materials in such form and containing such information as the director deems necessary.

(b) All funds from the sale of lottery tickets, materials and games are the funds of the state and until deposited in the accounts and in the manner specified by the director are held in trust by the person or entity receiving them for deposit. If a person or entity fails to collect, account for or deposit such funds to the accounts and in the manner specified by the director, such person and entity shall be personally liable for the full amount of such funds. If the person so failing is an association, corporation or other entity, the officers thereof shall be personally liable, jointly and severally, for any default on the part of the association, corporation or entity, and payment may be enforced against them as against the association, corporation or entity.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⟹10.
Westlaw Key Number Search: 247k10.

Encyclopedias
C.J.S. Lotteries § 4.

§ 29-22-18. State lottery fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; state lottery education fund; state lottery senior citizens fund; allocation and appropriation of net profits.

(a) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the "state lottery fund". The fund consists of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received from the sale of lottery tickets, materials and games shall be deposited with the state treasurer and placed into the "state lottery fund". The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the auditor and treasurer as part of the general revenue of the state.

(b) No appropriation, loan or other transfer of state funds may be made to the commission or lottery fund after the initial appropriation.

(c) A minimum annual average of forty-five percent of the gross amount received from each lottery shall be allocated and disbursed as prizes.

(d) Not more than fifteen percent of the gross amount received from each lottery may be allocated to and may be disbursed as necessary for fund operation and administration expenses: Provided, That for the period beginning the first day of January, two thousand two, through the thirtieth day of June, two thousand three, not more than seventeen percent of the gross amount received from each lottery shall be allocated to and may be disbursed as necessary for fund operation and administration expenses.

(e) The excess of the aggregate of the gross amount received from all lotteries over the sum of the amounts allocated by subsections (c) and (d) of this section shall be allocated as net profit. In the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed two hundred fifty thousand dollars. On a monthly basis, the director shall report to the joint committee on government and finance of the Legislature any surplus in excess of two hundred fifty thousand dollars and remit to the state treasurer the entire amount of those surplus funds in excess of two hundred fifty thousand dollars which shall be allocated as net profit.

(f) After first satisfying the requirements for funds dedicated to the school building debt service fund in subsection (h) of this section to retire the bonds authorized to be issued pursuant to section eight, article nine-d, chapter eighteen of this code, and then satisfying the requirements for funds dedicated to the education, arts, sciences and tourism debt service fund in subsection (i) of this section to retire the bonds authorized to be issued pursuant to section eleven-a, article six, chapter five of this code, any and all remaining funds in the state lottery fund shall be made available to pay debt service in connection

with any revenue bonds issued pursuant to section eighteen-a of this article, if and to the extent needed for such purpose from time to time. The Legislature shall annually appropriate all of the remaining amounts allocated as net profits in subsection (e) of this section, in such proportions as it considers beneficial to the citizens of this state, to: (1) The lottery education fund created in subsection (g) of this section; (2) the school construction fund created in section six, article nine-d, chapter eighteen of this code; (3) the lottery senior citizens fund created in subsection (j) of this section; and (4) the division of natural resources created in section three, article one, chapter twenty of this code and the West Virginia development office as created in section one, article two, chapter five-b of this code, in accordance with subsection (k) of this section. No transfer to any account other than the school building debt service account, the education, arts, sciences and tourism debt service fund, the economic development project fund created under section eighteen-a, article twenty-two, chapter twenty-nine of this code, or any fund from which debt service is paid under subsection (c), section eighteen-a of this article, may be made in any period of time in which a default exists in respect to debt service on bonds issued by the school building authority, the state building commission, the economic development authority or which are otherwise secured by lottery proceeds. No additional transfer may be made to any account other than the school building debt service account and the education, arts, sciences and tourism debt service fund when net profits for the preceding twelve months are not at least equal to one hundred fifty percent of debt service on bonds issued by the school building authority and the state building commission which are secured by net profits.

(g) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the "lottery education fund." The fund shall consist of the amounts allocated pursuant to subsection (f) of this section, which shall be deposited into the lottery education fund by the state treasurer. The lottery education fund shall also consist of all interest earned from investment of the lottery education fund and any other appropriations, gifts, grants, contributions or moneys received by the lottery education fund from any source. The revenues received or earned by the lottery education fund shall be disbursed in the manner provided below and may not be treated by the auditor and treasurer as part of the general revenue of the state. Annually, the Legislature shall appropriate the revenues received or earned by the lottery education fund to the state system of public and higher education for these educational programs it considers beneficial to the citizens of this state.

(h) On or before the twenty-eighth day of each month, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the school building debt service fund created pursuant to the provisions of section six, article nine-d, chapter eighteen of this code, as a first priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after the first day of April, one thousand nine hundred ninety-four, as certified to the lottery director in accordance with the provisions of section

six, article nine-d, chapter eighteen of this code. In no event shall the monthly amount allocated exceed one million eight hundred thousand dollars, nor may the total allocation of the net profits to be paid into the school building debt service fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or eighteen million dollars. In the event there are insufficient funds available in any month to transfer the amount required to be transferred pursuant to this subsection to the school debt service fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency. A lien on the proceeds of the state lottery fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed twenty-seven million dollars annually, may be granted by the school building authority in favor of the bonds it issues which are secured by the net lottery profits.

When the school improvement bonds, secured by profits from the lottery and deposited in the school debt service fund, mature, the profits shall become available for debt service on additional school improvement bonds as a first priority from the net profits of the lottery or may at the discretion of the authority be placed into the school construction fund created pursuant to the provisions of section six, article nine-d, chapter eighteen of this code.

(i) Beginning on or before the twenty-eighth day of July, one thousand nine hundred ninety-six, and continuing on or before the twenty-eighth day of each succeeding month thereafter, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the education, arts, sciences and tourism debt service fund created pursuant to the provisions of section eleven-a, article six, chapter five of this code, as a second priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after the first day of April, one thousand nine hundred ninety-six, as certified to the lottery director in accordance with the provisions of that section. In no event may the monthly amount allocated exceed one million dollars nor may the total allocation paid into the education, arts, sciences and tourism debt service fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or ten million dollars. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the education, arts, sciences and tourism debt service fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency. A second-in-priority lien on the proceeds of the state lottery fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed fifteen million dollars annually, may be granted by the state building commission in favor of the bonds it issues which are secured by the net lottery profits.

When the bonds, secured by profits from the lottery and deposited in the education, arts, sciences and tourism debt service fund, mature, the profits

shall become available for debt service on additional bonds as a second priority from the net profits of the lottery.

(j) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the "lottery senior citizens fund." The fund shall consist of the amounts allocated pursuant to subsection (f) of this section, which amounts shall be deposited into the lottery senior citizens fund by the state treasurer. The lottery senior citizens fund shall also consist of all interest earned from investment of the lottery senior citizens fund and any other appropriations, gifts, grants, contributions or moneys received by the lottery senior citizens fund from any source. The revenues received or earned by the lottery senior citizens fund shall be distributed in the manner provided below and may not be treated by the auditor or treasurer as part of the general revenue of the state. Annually, the Legislature shall appropriate the revenues received or earned by the lottery senior citizens fund to such senior citizens medical care and other programs as it considers beneficial to the citizens of this state.

(k) The division of natural resources and the West Virginia development office, as appropriated by the Legislature, may use the amounts allocated to them pursuant to subsection (f) of this section for one or more of the following purposes: (1) The payment of any or all of the costs incurred in the development, construction, reconstruction, maintenance or repair of any project or recreational facility, as these terms are defined in section four, article five, chapter twenty of this code, pursuant to the authority granted to it under article five, chapter twenty of this code; (2) the payment, funding or refunding of the principal of, interest on or redemption premiums on any bonds, security interests or notes issued by the parks and recreation section of the division of natural resources under article five, chapter twenty of this code; or (3) the payment of any advertising and marketing expenses for the promotion and development of tourism or any tourist facility or attraction in this state.

Acts 1985, c. 115; Acts 1989, c. 117; Acts 1990, c. 125; Acts 1994, 1st Ex. Sess., c. 25; Acts 1996, c. 78, eff. March 9, 1996; Acts 1998, c. 125, eff. July 1, 1998; Acts 2001, 1st Ex. Sess., c. 6, eff. April 21, 2001; Acts 2002, c. 104, eff. March 9, 2002.

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Key Numbers
Lotteries ⚷3.
Westlaw Key Number Search: 247k3.

Encyclopedias
C.J.S. Lotteries §§ 2 to 7, 11.

Notes of Decisions

Gross sales 3
Limitation of use of funds or credit 2
Power to incur indebtedness 1

1. Power to incur indebtedness

Use of school building debt service fund, statutorily defined as consisting of monies allocated from net profits of state lottery, to liquidate School Building Authority's (SBA) revenue bonds does not violate constitutional provision limiting creation of state debt, notwithstanding contention that general revenue would be affected as legislature simply shifted programs which were originally funded by lottery proceeds to other revenue sources, including general revenue; question was whether funding for bonds created unconstitutional debt, not how other project originally funded by lottery proceeds would continue to be funded. Code, 29-22-18; Const. Art. 10, § 4. State ex rel. Marockie v.

Wagoner, 1994, 446 S.E.2d 680, 191 W.Va. 458. States ⟹ 113

2. Limitation of use of funds or credit

Restrictions contained in the provision of the State Constitution generally precluding contraction of debt by the state deal with creation of long-term debt by state or its agencies by way of legislative enactments or through revenue bonds or other similar obligations, and the section is not designed to prohibit state or its agencies from issuing revenue bonds that are to be liquidated from contracts requiring rental payments from another state agency or from contracts for necessary services such as utilities, nor does it preclude issuance of revenue bonds which are to be redeemed from a special fund. Const. Art. 10, § 4. State ex rel. Lawrence v. Polan, 1994, 453 S.E.2d 612, 192 W.Va. 629. States ⟹ 119

Use of school building debt service fund, statutorily defined as consisting of monies allocated from net profits of state lottery, to liquidate School Building Authority's (SBA) revenue bonds does not violate constitutional provision limiting creation of state debt; monies allocated to fund are new revenue source, and legislature specifically provided that net profits from lottery are not to be treated as part of general revenue of state. Code, 29–22–18; Const. Art. 10, § 4. State ex rel. Marockie v. Wagoner, 1994, 446 S.E.2d 680, 191 W.Va. 458. States ⟹ 119

Use of school building debt service fund, statutorily defined as consisting of monies allocated from net profits of state lottery, to liquidate School Building Authority's (SBA) revenue bonds does not violate constitutional provision limiting creation of state debt, notwithstanding contention that, if revenue from lottery fell short of amount needed to fund debt service on bonds, legislature could be forced to appropriate funds from general revenue for debt service in violation of provision; legislature provided for possibility that lottery proceeds would be insufficient by providing for transfer of additional amounts from lottery proceeds as available to make up for deficiency and for lien on lottery proceeds. Code, 29–22–18; Const. Art. 10, § 4. State ex rel. Marockie v. Wagoner, 1994, 446 S.E.2d 680, 191 W.Va. 458. States ⟹ 119

Constitutional provision restricting state from granting credit to subordinate political subdivisions, such as municipalities and counties, did not apply to statute providing for use of lottery profits to service debt resulting from revenue bonds issued by School Building Authority (SBA). Code, 29–22–18; Const. Art. 10, § 6. State ex rel. Marockie v. Wagoner, 1994, 446 S.E.2d 680, 191 W.Va. 458. States ⟹ 119

3. Gross sales

'Gross sales,' as contained in W.Va. Code 29–22–10(a)(11) (1986), refers to the full face value of lottery tickets sold, and the 'gross amount received from each lottery,' as contained in W. Va. Code § 29–22–18(c), (d) and (e) (1989), refers to gross sales less the statutory five percent commission. Therefore, calculations of the statutory allocations under W. Va. Code § 29–22–18 should be based upon the amount actually received after the appropriate deduction for commissions. Gleason, Op.Atty. Gen., April 13, 1990.

§ 29–22–18a. State excess lottery revenue fund

(a) There is hereby created a special revenue fund within the state lottery fund in the state treasury which shall be designated and known as the "state excess lottery revenue fund". The fund shall consist of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received under the provisions of sections ten-b and ten-c, article twenty-two-a of this chapter and under article twenty-two-b of this chapter, except the amounts due the commission under section 29-22B-1408(a) (1) of this chapter, shall be deposited in the state treasury and placed into the "state excess lottery revenue fund". The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the auditor and the state treasurer as part of the general revenue of the state.

(b) For the fiscal year beginning the first day of July, two thousand one, the moneys of the fund established in this section shall be used for the purpose of subsidizing salary increases and associated employee benefits paid from the state general revenue fund as determined by the secretary of administration

effective the first day of July, two thousand one or thereafter, including, but not limited, to the salary increase for teachers provided in section two, article four, chapter eighteen-a of this code, by enactment of the Legislature in two thousand one; the salary increase for members of the state police provided in section five, article two, chapter fifteen of this code by enactment of the Legislature in two thousand one; and general salary increases for state employees: Provided, That effective the first day of October, two thousand one, the full year salary increases for state employees other than correctional officers and members of the state police equal seven hundred fifty-six dollars for each full-time employee: Provided, however, That effective the first day of July, two thousand one, the full year salary increases for uniformed correctional officers equal two thousand dollars for each full-time employee; and that the full year salary increases for non-uniformed correctional staff, whose core duties include contact with inmates or juvenile detainees on a regular and frequent basis, equal one thousand two hundred fifty dollars for each full-time employee; but that for all other division of correction and division of juvenile services employees, the full year salary increase equals seven hundred fifty-six dollars for each full-time employee. Until the thirtieth day of June, two thousand two, the lottery commission shall, upon direction from the governor, transfer the moneys of the account to the state general revenue fund in the amounts specified in the governor's official revenue estimates to subsidize the funding of the salary increases described in this subsection. Beginning the first day of July, two thousand two, and thereafter, the transfer authority granted by this subsection is terminated. After first satisfying the funding requirements directed by this subsection, the moneys remaining in the fund shall be disbursed in the manner provided by subsection (c) of this section.

(c) For the fiscal year beginning the first day of July, two thousand one, the commission shall deposit: (1) Five million five hundred thousand dollars into the account hereby created in the state treasury to be known as the "education improvement fund" for appropriation by the Legislature to the "promise scholarship fund" created in section seven, article seven, chapter eighteen-c of this code; (2) twenty-five million dollars to the school building debt service fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (3) twenty-five million dollars in the West Virginia infrastructure fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of that article; (4) ten million dollars into a separate account within the state lottery fund to be known as the higher education improvement fund for higher education; and (5) nine million dollars into a separate account within the state lottery fund to be known as the state park improvement fund for park improvements. For the fiscal year beginning the first day of July, two thousand two, the commission shall deposit: (1) Sixty-five million dollars into the subaccount of the state excess lottery revenue fund hereby created in the state treasury to be known as the "general purpose account" to be expended pursuant to appropriation of the Legislature; (2) ten million dollars into the education improvement fund for appropriation by the Legislature to the "promise scholarship fund" created in section seven, article seven, chapter eighteen-c of this code; (3) nineteen million dollars into

the economic development project fund created in subsection (d) of this section, for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) twenty million dollars to the school building debt service fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) forty million dollars in the West Virginia infrastructure fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of that article; (6) ten million dollars into the higher education improvement fund for higher education; and (7) five million dollars into the state park improvement fund for park improvements. For the fiscal year beginning the first day of July, two thousand three, the commission shall deposit: (1) Sixty-five million dollars into the general purpose account to be expended pursuant to appropriation of the Legislature; (2) seventeen million dollars into the education improvement fund for appropriation by the Legislature to the "promise scholarship fund" created in section seven, article seven, chapter eighteen-c of this code; (3) nineteen million dollars into the economic development project fund created in subsection (d) of this section, for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) twenty million dollars to the school building debt service fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) forty million dollars in the West Virginia infrastructure fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of that article; (6) ten million dollars into the higher education improvement fund for higher education; and (7) five million dollars into the state park improvement fund for park improvements. For the fiscal year beginning the first day of July, two thousand four, and subsequent fiscal years the commission shall deposit: (1) Sixty-five million dollars into the general purpose account to be expended pursuant to appropriation of the Legislature; (2) twenty-seven million dollars into the education improvement fund for appropriation by the Legislature to the "promise scholarship fund" created in section seven, article seven, chapter eighteen-c of this code; (3) nineteen million dollars into the economic development project fund created in subsection (d) of this section, for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) nineteen million dollars to the school building debt service fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) forty million dollars in the West Virginia infrastructure fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of that article; (6) ten million dollars into the higher education improvement fund for higher education; and (7) five million dollars into the state park improvement fund for park improvements. No portion of the distributions made as provided in subsection (c) of this section, except distributions made in connection with bonds issued under subsection (d) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds, through statutory enactment or the passage of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of

a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under subsection (c) of this section, except distributions made in connection with bonds issued under subsection (d) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

(d) The Legislature finds and declares that in order to attract new business, commerce and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the business prosperity of this state and the economic welfare of the citizens of this state, it is necessary to provide public financial support for constructing, equipping, improving and maintaining economic development projects, capital improvement projects and infrastructure which promote economic development in this state.

(1) The West Virginia economic development authority created and provided for in article fifteen, chapter thirty-one of this code, shall, by resolution, in accordance with the provisions of this article, and article fifteen, chapter thirty-one of this code, and upon direction of the governor, issue revenue bonds of the economic development authority in no more than two series to pay for all or a portion of the cost of constructing, equipping, improving or maintaining projects under this section or to refund the bonds, at the discretion of the authority. Any revenue bonds issued on or after the first day of July, two thousand two, which are secured by state excess lottery revenue proceeds shall mature at a time or times not exceeding thirty years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(2) There is hereby created in the state treasury a special revenue fund named the "economic development project fund" into which shall be deposited on and after the first day of July, two thousand two, the amounts to be deposited in said fund as specified in subsection (c), section eighteen-a of this article. The economic development project fund shall consist of all such moneys, all appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section, including any and all commercially customary and reasonable costs and expenses which may be incurred in connection with the issuance, refunding, redemption or defeasance thereof. The West Virginia economic development authority may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the economic development project 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 section. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of this article.

After the West Virginia economic development authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including any coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the economic development project fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(3) The West Virginia economic development authority shall expend the bond proceeds from the revenue bond issues authorized and directed by this section of this code for such projects as may be certified under the provision of this subsection: Provided, That the bond proceeds shall be expended in accordance with the requirements and provisions of article five-a, chapter twenty-one of this code and either twenty-two or article twenty-two-a, chapter five of this code, as the case may be: Provided, however, That if such bond proceeds are expended pursuant to article-twenty-two-a, chapter five of this code, and if the design-build board created under said article determines that the execution of a design-build contract in connection with a project is appropriate pursuant to the criteria set forth in said article, and that a competitive bidding process was used in selecting the design builder and awarding such contract, such determination shall be conclusive for all purposes and shall be deemed to satisfy all the requirements of said article. For the purpose of certifying the projects that will receive funds from the bond proceeds, a committee is hereby established and comprised of the governor, or his or her designee, the secretary of the department of tax and revenue, the executive director of the West Virginia development office, three persons appointed by the governor from a list of five names to be submitted to the governor by the president of the West Virginia senate, and three persons appointed by the governor from a list of five names to be submitted to the governor by the speaker of the West Virginia house of delegates. The committee shall meet as often as necessary and take recommendations from any source whatever regarding possible projects to be funded, in whole or in part, and make certifications, from bond proceeds in accordance with this subsection. The committee shall meet within thirty days of the effective date of this section. Prior to making each certification, the committee shall conduct at least one public hearing, which may be held outside of Kanawha County. Notice of the time, place, date and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least fourteen days prior to the date of the public hearing. Prior to the issuance of bonds under this subsection, the committee shall certify to the economic development authority a list of those projects that will receive funds from the proceeds of the bonds. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(e) If the commission receives revenues in an amount that is not sufficient to fully comply with the requirements of subsection (c) and (h) of this section, the

commission shall first make the distribution to the economic development project fund, second, make the distribution or distributions to the other funds from which debt service is to be paid, third, make the distribution to the education improvement fund for appropriation by the Legislature to the promise scholarship fund, and fourth, make the distribution to the general purpose account: Provided, That, subject to the foregoing, to the extent such revenues are not pledged in support of revenue bonds which are or may be issued from time to time under this section, the aforesaid revenues shall be distributed on a pro rata basis.

(f) For the fiscal year beginning on the first day of July, two thousand two, and each fiscal year thereafter, the commission shall, after meeting the requirements of subsections (c) and (h) of this section, and after transferring to the state lottery fund created under section eighteen of this article, an amount equal to any transfer from the state lottery fund to the excess lottery fund pursuant to subsection (f) of said section, deposit fifty percent of the amount by which annual gross revenue deposited in the state excess lottery revenue fund exceeds two hundred twenty-five million dollars in a fiscal year in a separate account in the state lottery fund to be available for appropriation by the Legislature.

(g) When bonds are issued for projects under subsection (d) of this section or for the school building authority, infrastructure, higher education or park improvement purposes described in this section that are secured by profits from lotteries deposited in the state excess lottery revenue fund, the lottery director shall allocate first, to the economic development project fund an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued, on or after the first day of July, two thousand two, as certified to the lottery director, and second, to the fund or funds from which debt service is paid on bonds issued under this section for the school building authority, infrastructure, higher education and park improvements an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued, on or after the first day of April, two thousand two, as certified to the lottery director. In the event there are insufficient funds available in any month to transfer the amounts required pursuant to this subsection, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(h) In fiscal year two thousand four, and thereafter, prior to the distributions provided in subsection (c) of this section, the lottery commission shall deposit into the general revenue fund amounts necessary to provide reimbursement for the refundable credit allowable under section twenty-one, article twenty-one, chapter eleven of this code.

(i) (1) The Legislature considers the following as priorities in the expenditure of any surplus revenue funds:

(A) Providing salary and/or increment increases for professional educators and public employees;

(B) Providing adequate funding for the public employees insurance agency; and

(C) Providing funding to help address the shortage of qualified teachers and substitutes in areas of need, both in number of teachers and in subject matters areas.

(2) The provisions of this subsection may not be construed by any court to require any appropriation or any specific appropriation or level of funding for the purposes set forth in this subsection.

(j) The Legislature further directs the Governor to focus resources on the creation of a prescription drug program for senior citizens by pursuing a medicaid waiver to offer prescription drug services to senior citizens; by investigating the establishment of purchasing agreements with other entities to reduce costs; by providing discount prices or rebate programs for seniors; by coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient and cost effective program possible for the senior citizens of this state; and by working closely with the state's congressional delegation to ensure that a national program is implemented. The Legislature further directs that the Governor report his progress back to the joint committee on government and finance on an annual basis beginning in November of the year two thousand one, until a comprehensive program has been fully implemented.

Acts 2001, 1st Ex.Sess., c. 6, eff. April 21, 2001; Acts 2002, c. 104, eff. March 9, 2002.

§ 29–22–18b. Definition of term "state employees"

As used in subsection (b), section eighteen-a of this article, the term "state employees" does not include those state employees who are employed within the higher education system of the state or within the judicial or legislative branches of the government of this state.

Acts 2001, 3rd Ex.Sess., c. 9, eff. June 10, 2001.

Library References

Key Numbers

Lotteries ⚷3.

Westlaw Key Number Search: 247k3.

Encyclopedias

C.J.S. Lotteries §§ 2 to 7, 11.

§ 29–22–19. Post audit of accounts and transactions of office

Before the first day of July, two thousand one and at least every two fiscal years thereafter, the legislative auditor shall conduct a post audit of all accounts and transactions of the state lottery office. The cost of the audit shall be paid out of the state lottery fund moneys designated for payment of operating expenses. The commission shall have an annual audit performed by an independent certified public accountant, and the audits may be accepted by the legislative auditor in lieu of performance of its post audit.

Acts 1985, c. 115; Acts 1990, c. 125; Acts 1999, c. 159, eff. 90 days after March 12, 1999.

§ 29-22-20. Monthly and annual reports

(a) The director shall, upon the twentieth day of each month, provide the joint committee on government and finance of the Legislature with a report reviewing the lottery operations, including, but not limited to, the amount of gross sales, the amount of net profit, the types of games being played, the number of licensed sales agents, the names and amounts of winners and any other information requested by the Legislature or by the joint committee on government and finance.

(b) The director shall, no later than the tenth day of each regular session of the Legislature, provide to the Legislature, legislative auditor, governor and state treasurer an annual report focused upon subjects of interest concerning lottery operations, including, but not limited to, an annual financial analysis of the lottery operations, a discussion of the types of games played and revenues generated, a statement of expenditures for the last fiscal year, a summary of the benefit programs and recommendations to the Legislature.

Acts 1985, c. 115; Acts 1990, c. 125.

§ 29-22-21. Officials who may appear at lottery drawing

No elected or appointed official, other than the members of the lottery commission, the director or deputy directors, may preside or appear at any lottery drawing.

Acts 1985, c. 115; Acts 1990, c. 125.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

§ 29-22-22. Exemption of lottery prizes from state and local taxation

No state or local taxes of any type whatsoever shall be imposed upon any prize awarded by the state lottery.

Acts 1985, c. 115.

§ 29-22-23. Procurement; disclosures by vendors and related persons and entities; authorizing background investigation; unenforceability of contracts in contravention of section

(a) The commission shall utilize the provisions of article three, chapter five-a of this code in the procurement of all commodities, printing, services and goods, materials, lottery tickets and other items necessary for the commission and lottery, subject to the provisions of subsection (b) of this section.

(b) For the printing of tickets used in any lottery game, any goods or services involving the receiving or recording of number selection of any lottery game, or any goods or services involving the determination of winners on any lottery game, which are hereby referred to as major procurements, the commission shall evaluate the competence, integrity, character, reputation and background

of the vendor. To allow for this evaluation, potential vendors shall supply the following information prior to the submission of an initial bid or proposal and on or before the first day of July of each year thereafter;

(1) If the vendor is a corporation, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own beneficially five percent or more of such securities need be disclosed; and

(2) If the vendor is a partnership or joint venture, all of the general and limited partners or joint venturers; if such general and limited partners or joint venturers are themselves a partnership, joint venture, trust, association, corporation, subsidiary or intermediary corporation, the same information required by this section shall be supplied for such entities also;

(3) If the vendor is a trust, the name of the trustee;

(4) If the vendor is an association, the members, officers and directors; and

(5) If the vendor intends to or does subcontract to another person or entity any integral or substantial portion of the work to be performed in supplying such materials or equipment, then the vendor shall supply the above-mentioned information for all such persons or entities.

(6) The following information shall also be submitted:

(A) Other jurisdictions in which the vendor has contracts to supply gaming materials or equipment and the types of gaming materials or equipment involved therewith;

(B) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by this section;

(C) The details of any disciplinary action of a judicial nature relating to gaming taken by any state or person against the vendor or any person whose name and address are required by this section;

(D) The number of years the vendor has been in the business of supplying gaming materials or equipment;

(E) A disclosure of each state and jurisdiction in which the vendor has been denied, or has had revoked a gaming license of any kind, and the disposition of such in each such state or jurisdiction. If any gaming license has been revoked or has not been renewed or any gaming license application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying such failure to receive such license must be disclosed;

(F) A disclosure of the details of any bankruptcy, insolvency, reorganization or any pending litigation relating to gaming of each vendor;

(G) A signed authorization by each vendor and officer thereof allowing the deputy director for security to conduct a background investigation of such person; and

(H) Such other information, accompanied by such documents, as the commission, by rule or contract procurement documents, may require as being necessary or appropriate in the public interest to accomplish the purposes of this section.

(c) No contract for the supply of gaming materials or equipment for use in the operation of the state lottery is enforceable against the state if the provisions of this section are not complied with.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

§ 29–22–24. Disclosures by vendors and related persons and entities of political contributions

(a) For purposes of this section:

"Vendor" means any person required to make any disclosure under the provisions of section twenty-three of this article.

"Major procurement" has the same meaning as set out in section twenty-three of this article.

(b) Prior to the submission of the initial bid or proposal, and on or before the first day of July of each year thereafter, a vendor who is submitting an initial bid or proposal to, or who has submitted such within the preceding twelve months to, or who has a current contract with, the state lottery commission or any state agency, board or commission or political subdivision, for any major procurement, shall file with the secretary of state a detailed itemized disclosure statement, subscribed and sworn to before an officer authorized to administer oaths, setting forth each contribution to any local, state or federal political candidate or political committee in this state, made in the preceding three years, or a statement that no such contributions have been made.

Acts 1985, c. 115.

Library References

Key Numbers
Lotteries ⚷1.
Westlaw Key Number Search: 247k1.

Encyclopedias
C.J.S. Lotteries § 8.

§ 29–22–25. Preemption of state laws or local regulation

(a) No state or local law or regulation providing any penalty, disability, restriction, regulation or prohibition for the manufacture, transportation, storage, distribution, advertising, possession or sale of any lottery tickets or materials or for the operation of any lottery shall apply to authorized operations by or for the state lottery or commission.

(b) The provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict herewith: Provided, That

nothing herein shall invalidate any zoning law, or Sunday closing law under article ten, chapter sixty-one of this code.

(c) Nothing in this article shall be deemed to permit the operation of any lottery otherwise prohibited by the laws of this state, not owned and operated by this state and permitted by this article.

Acts 1985, c. 115.

United States Code Annotated

Lotteries or schemes for obtaining property through the mail by false representations, see 39 U.S.C.A. § 3005.

§ 29-22-26. Continuation of state lottery commission

After having conducted a performance audit through its joint committee on government operations, pursuant to section nine, article ten, chapter four of this code, the Legislature hereby finds and declares that the state lottery commission should be continued and reestablished. Accordingly, notwithstanding the provisions of section four, article ten, chapter four of this code, the state lottery commission shall continue to exist until the first day of July, two thousand six.

Acts 1985, c. 115; Acts 1991, c. 157; Acts 1992, c. 122; Acts 1998, c. 279, eff. 90 days after Feb. 23, 1998; Acts 2001, c. 286, eff. July 1, 2001.

§ 29-22-27. Penalties for criminal violations

(a) Any person violating any of the provisions of this article, except sections eleven and twelve of this article, is guilty of a misdemeanor, and, upon conviction thereof, for the first offense, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

(b) Any person violating any of the provisions of this article, except sections eleven and twelve of this article, shall, for the second offense, be guilty of a felony, and, upon conviction thereof, shall be fined not more than one thousand dollars, or be imprisoned in the penitentiary for not less than one year, or both fined and imprisoned.

Acts 1985, c. 115.

Library References

Key Numbers

Lotteries ⚷20 to 30.

Westlaw Key Number Searches: 247k20 to 247k30.

Encyclopedias

C.J.S. Commerce § 131(4).

C.J.S. Lotteries §§ 22 to 28.

§ 29-22-27a. Payment of prizes to the bureau for child support enforcement

(a) Upon notification by the bureau for child support enforcement that a person who is entitled to all or part of a lottery prize is delinquent in the payment of child support or spousal support, the director shall forward to the

bureau for child support enforcement the prize or portion to be distributed directly from the state lottery office that is available to be applied to the delinquent support payment.

(b) The director shall enter into a written agreement with the bureau for child support enforcement for the purpose of establishing a procedure for the collection of prizes as set forth in subsection (a) of this section. The director shall include in the agreement a method by which the bureau for child support enforcement will receive the names of lottery winners as expeditiously as possible.

Acts 1992, c. 54; Acts 1995, c. 88, eff. 90 days after March 11, 1995; Acts 2001, c. 91, eff. March 22, 2001.

Library References

Key Numbers
Child Support ⇐98.
Lotteries ⇐10.
Westlaw Key Number Searches: 76Ek98; 247k10.

Encyclopedias
C.J.S. Lotteries § 4.

§ 29-22-28. Severability

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable.

Acts 1985, c. 115.

Library References

Key Numbers
Statutes ⇐64.
Westlaw Key Number Search: 361k64.

Encyclopedias
C.J.S. Statutes § 83.

Notes of Decisions

In general 1

1. In general

Legislature may not vest Lottery Commission with unbridled or uncontrolled authority in connection with administration of State Lottery Act. Code, 29-22-1 to 29-22-28. State ex rel. Mountaineer Park, Inc. v. Polan, 1993, 438 S.E.2d 308, 190 W.Va. 276. Lotteries ⇐ 1

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

Chapters 29 to 29C

2010 Cumulative Annual Pocket Part

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such circumstance shall return the voucher to the court or to the service provider for further review or correction.

(h) Vouchers submitted under this section after the first day of July, two thousand eight, shall be reimbursed within ninety days of receipt. Reimbursements after ninety days shall bear interest from the ninety-first day at the legal rate in effect for the calendar year in which payment is due.

(i) Vouchers submitted for fees and expenses involving child abuse and neglect cases shall be processed for payment before processing vouchers submitted for all other cases.

Acts 1990, c. 154; Acts 1996, c. 209, eff. March 15, 1996; Acts 1997, c. 65, eff. July 1, 1997; Acts 2008, c. 117, eff. July 1, 2008.

§ 29-21-20. Appointed counsel immune from liability

Notes of Decisions

Construction and application ½

½. **Construction and application**

Statute that provided immunity to appointed defense attorneys did not provide immunity from legal malpractice for attorneys appointed by federal courts to represent indigent defendants. Mooney v. Frazier, 2010, 2010 WL 1260164. Attorney and Client ⟹ 112

1. **Malpractice liability**

Attorney appointed by federal court to represent criminal defendant, in a federal criminal prosecution, had absolute immunity from purely state law claims of legal malpractice that derived from attorney's conduct in underlying criminal proceedings; federal law provided immunity from legal malpractice for lawyers appointed by Federal Public Defender Office. Legislature provided immunity to appointed defense attorneys, and if appointed attorneys were subject to unbridled legal malpractice claims, it would have negative impact on quality and number of attorneys who would agree to accept appointment by federal courts to represent indigents. Mooney v. Frazier, 2010, 2010 WL 1260164. Attorney and Client ⟹ 112; United States ⟹ 50.10(2)

ARTICLE 22

STATE LOTTERY ACT

Section	
29-22-9a.	Veterans instant lottery scratch-off game.
29-22-18.	State Lottery Fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; State Lottery Education Fund; State Lottery Senior Citizens Fund; allocation and appropriation of net profits.
29-22-18a.	State Excess Lottery Revenue Fund.
29-22-18c.	Increase in allocation to Higher education Improvement Fund from State Excess Lottery Revenue Fund.
29-22-22.	Repealed.
29-22-26.	Repealed.
29-22-29.	Moneys transferred or allocated to nongovernmental entities are state moneys and have been so in the past; right to audit state moneys transferred to nongovernmental entities.

§ 29-22-9a. Veterans instant lottery scratch-off game

(a) Beginning the first day of September, two thousand, the commission shall establish an instant lottery scratch-off game designated as the veterans benefit game, which is offered by the lottery.

(b) Notwithstanding the provisions of section eighteen of this article, all net profits received from the sale of veterans benefit game lottery tickets, materials and games are deposited with the State Treasurer into the Veterans Lottery Fund created under subsection (c) of this section. The Legislature may make appropriations from this fund for operational costs from moneys remaining in the Veterans Lottery Fund after the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service

on bonds issued to finance the foregoing, have been paid. Funds from the Veterans Lottery Fund for the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the construction of a veterans nursing home and/or veterans cemetery, shall be transferred to the Veterans Nursing Home Building Fund and the Veterans Cemetery Fund upon written request of the Director of the Division of Veterans Affairs to the investment management board and the State Treasurer in accordance with the provisions of this section. Once the payment of the principal and interest, any required operational costs and architectural and other project costs associated with construction are paid in full for the construction and operation of the initial veterans skilled nursing facility or veterans cemetery, the Legislature may appropriate from the fund created under this section moneys for the construction, including the architectural fees and other associated costs, equipping and operation of additional skilled nursing facilities and/or cemeteries for veterans of the armed forces of the United States military: *Provided*, That in addition to the payment of the above-mentioned items, funds may be deposited in the Veterans Cemetery Fund created in section eleven-a, article one, chapter nine-a of this code and, thereafter, the Legislature may appropriate any excess funds to the General Revenue Fund.

(c) There is hereby created in the State Treasury a special revenue fund designated and known as the Veterans Lottery Fund which shall consist of all revenues derived from the veterans benefit game and any appropriations to the fund by the Legislature and all interest or other returns earned from investment of the fund.

(d) There is hereby created in the State Treasury a special revenue fund designated and known as the Veterans Nursing Home Building Fund which shall consist of all funds for the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the foregoing. Following the selection of the architect, the director shall certify the estimated total cost of the architect and all construction and associated costs to the Joint Committee on Government and Finance prior to the transfer of funds for construction. If funds transferred exceed the estimated costs certified to the joint committee, the director shall certify the additional costs to the joint committee.

(e) There is hereby created in the State Treasury a special revenue fund designated and known as the Veterans Nursing Home Debt Service Fund to which the required funding from the Veterans Nursing Home Building Fund is transferred to refund revenue bonds to pay the principal, interest, redemption premium and coverage ratio requirement, if any, on the revenue bonds issued under the provisions of section seven, article twenty-nine-a, chapter sixteen of this code. The Veterans Nursing Home Debt Service Fund has first priority to all funds in the Veterans Nursing Home Building Fund established herein not otherwise designated or specified by the donor. Beginning on or before the twenty-eighth day of July, two thousand three, and continuing until the twenty-eighth day of June, two thousand thirty-five, the Treasurer shall allocate to the Veterans Nursing Home Debt Service Fund from the Veterans Nursing Home Building Fund, as a first priority, an amount equal to one tenth of the projected annual principal, interest, redemption premium and coverage ratio requirement on any and all revenue bonds and refunding bonds issued, or to be issued, on or after the first day of July, two thousand three, under the provisions of said section in connection with a veterans nursing home as certified to the Treasurer and the Investment Management Board by the Director of the Division of Veterans Affairs. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the Veterans Nursing Home Debt Service Fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(f) The commission shall change the design or theme of the veterans benefit game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the commission. The tickets for the instant lottery game created in this section shall clearly state that the profits derived from the game are being used to benefit veterans in this state.

Acts 2000, c. 276, eff. 90 days after March 11, 2000; Acts 2001, 1st Ex. Sess., c. 12, eff. 90 days after April 23, 2001; Acts 2002, c. 324, eff. March 4, 2002; Acts 2003, c. 249, eff. 90 days after March 8, 2003; Acts 2003, 2nd Ex. Sess., c. 26, eff. June 14, 2003; Acts 2008, c. 227, eff. March 4, 2008.

§ 29-22-18. State Lottery Fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; State Lottery Education Fund; State Lottery Senior Citizens Fund; allocation and appropriation of net profits.

(a) There is continued a Special Revenue Fund in the State Treasury which shall be designated and known as the State Lottery Fund. The fund consists of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received from the sale of lottery tickets, materials and games shall be deposited with the State Treasurer and placed into the State Lottery Fund. The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the Auditor and Treasurer as part of the general revenue of the state.

(b) No appropriation, loan or other transfer of state funds may be made to the commission or Lottery Fund after the initial appropriation.

(c) A minimum annual average of forty-five percent of the gross amount received from each lottery shall be allocated and disbursed as prizes.

(d) Not more than fifteen percent of the gross amount received from each lottery may be allocated to and may be disbursed as necessary for fund operation and administration expenses.

(e) The excess of the aggregate of the gross amount received from all lotteries over the sum of the amounts allocated by subsections (c) and (d) of this section shall be allocated as net profit. In the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed $250,000. On a monthly basis, the director shall report to the Joint Committee on Government and Finance of the Legislature any surplus in excess of $250,000 and remit to the State Treasurer the entire amount of those surplus funds in excess of $250,000 which shall be allocated as net profit.

(f) After first satisfying the requirements for funds dedicated to the School Building Debt Service Fund in subsection (h) of this section to retire the bonds authorized to be issued pursuant to section eight, article nine-d, chapter eighteen of this code, then satisfying the requirements for funds dedicated to the Education, Arts, Sciences and Tourism Debt Service Fund in subsection (i) of this section to retire the bonds authorized to be issued pursuant to section eleven-a, article six, chapter five of this code and section sixteen-a, article fifteen, chapter thirty-one of this code, and then satisfying the requirements for funds dedicated to the Community and Technical College Capital Improvement Fund in subsection (j) of this section to retire the bonds for community and technical college capital improvements authorized to be issued pursuant to section eight, article ten, chapter eighteen-b of this code, any and all remaining funds in the State Lottery Fund shall be made available to pay debt service in connection with any revenue bonds issued pursuant to section eighteen-a of this article, if and to the extent needed for such purpose from time to time. The Legislature shall annually appropriate all of the remaining amounts allocated as net profits in subsection (e) of this section, in such proportions as it considers beneficial to the citizens of this state, to: (1) The Lottery Education Fund created in subsection (g) of this section; (2) the School Construction Fund created in section six, article nine-d, chapter eighteen of this code; (3) the Lottery Senior Citizens Fund created in subsection (k) of this section; and (4) the Division of Natural Resources created in section three, article one, chapter twenty of this code and the West Virginia Development Office as created in section one, article two, chapter five-b of this code, in accordance with subsection (l) of this section. No transfer to any account other than the School Building Debt Service Fund, the Education, Arts, Sciences and Tourism Debt Service Fund, the Community and Technical College Capital Improvement Fund, the Economic Development Project Fund created under section eighteen-a, article twenty-two, chapter twenty-nine of this code, or any fund from which debt service is paid under subsection (c), section eighteen-a of this article may be made in any period of time in which a default exists in respect to debt service on bonds issued by the School Building Authority, the

State Building Commission, the Higher Education Policy Commission, the Economic Development Authority or which are otherwise secured by lottery proceeds. No additional transfer may be made to any account other than the School Building Debt Service Account and the Education, Arts, Sciences and Tourism Debt Service Fund, and the Community and Technical College Capital Improvement Fund, when net profits for the preceding twelve months are not at least equal to one hundred fifty percent of debt service on bonds issued by the School Building Authority, the State Building Commission, the Higher Education Policy Commission and the Economic Development Authority which are secured by net profits.

(g) There is continued a special revenue fund in the State Treasury which shall be designated and known as the Lottery Education Fund. The fund shall consist of the amounts allocated pursuant to subsection (f) of this section, which shall be deposited into the Lottery Education Fund by the State Treasurer. The Lottery Education Fund shall also consist of all interest earned from investment of the Lottery Education Fund and any other appropriations, gifts, grants, contributions or moneys received by the Lottery Education Fund from any source. The revenues received or earned by the Lottery Education Fund shall be disbursed in the manner provided below and may not be treated by the Auditor and Treasurer as part of the general revenue of the state. Annually, the Legislature shall appropriate the revenues received or earned by the Lottery Education Fund to the state system of public and higher education for these educational programs it considers beneficial to the citizens of this state.

(h) On or before the twenty-eighth day of each month, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the School Building Debt Service Fund created pursuant to the provisions of section six, article nine-d, chapter eighteen of this code, as a first priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after April 1, 1994, as certified to the lottery director in accordance with the provisions of section six, article nine-d, chapter eighteen of this code. In no event shall the monthly amount allocated exceed $1.8 million nor may the total allocation of the net profits to be paid into the School Building Debt Service Fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or $18 million. In the event there are insufficient funds available in any month to transfer the amount required to be transferred pursuant to this subsection to the School Debt Service Fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency. A lien on the proceeds of the State Lottery Fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed $27 million annually, may be granted by the School Building Authority in favor of the bonds it issues which are secured by the net lottery profits. When the school improvement bonds, secured by profits from the lottery and deposited in the School Debt Service Fund, mature, the profits shall become available for debt service on additional school improvement bonds as a first priority from the net profits of the lottery or may at the discretion of the authority be placed into the School Construction Fund created pursuant to the provisions of section six, article nine-d, chapter eighteen of this code.

(i) Beginning on or before July 28, 1996, and continuing on or before the twenty-eighth day of each succeeding month thereafter, as long as revenue bonds or refunding bonds issued in accordance with section eleven-a, article six, chapter five or section sixteen-a, article fifteen, chapter thirty-one of this code are outstanding, the lottery director shall allocate to the Education, Arts, Sciences and Tourism Debt Service Fund, created pursuant to the provisions of section eleven-a, article six, chapter five of this code, as a second priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after April 1, 1996, as certified to the lottery director in accordance with the provisions of section eleven-a, article six, chapter five or section sixteen-a, article fifteen, chapter thirty-one of this code. In no event may the monthly amount allocated exceed $1 million nor may the total allocation paid into the Education, Arts, Sciences and Tourism Debt Service Fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or

$10 million. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the Education, Arts, Sciences and Tourism Debt Service Fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency. A second in-priority lien on the proceeds of the State Lottery Fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed $15 million annually, may be granted by the State Building Commission or the Economic Development Authority in favor of the bonds issued in accordance with section eleven-a, article six, chapter five or section sixteen-a, article fifteen, chapter thirty-one of this code.

(j) Beginning on or before July 28, 2008, and continuing on or before the twenty-eighth day of each succeeding month thereafter, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the Community and Technical College Capital Improvement Fund, created pursuant to section eight, article ten, chapter eighteen-b of this code, as a third priority from net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued or to be issued, on or after April 1, 2008, as certified by the lottery director in accordance with the provisions of that section. In no event may the monthly amount allocated exceed $500,000 nor may the total allocation paid to the Community and Technical Capital Improvement Fund, as provided in this section, in any fiscal year exceed the lesser of the principal and interest requirements certified to the lottery director or $5 million. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the Community and Technical College Capital Improvement Fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(1) A third-in-priority lien on the proceeds of the State Lottery Fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not exceeding $7.5 million annually, may be granted by the Higher Education Policy Commission in favor of the bonds it issues which are secured by the net lottery profits.

(2) When the community and technical college capital improvement bonds secured by profits from the lottery, and deposited in the Community and Technical College Capital Improvement Fund mature, the profits shall become available for debt service on additional community and technical college capital improvement bonds as a third priority from the net profits of the lottery.

(3) The Council for Community and Technical College Education shall approve all community and technical college capital improvement projects prior to the distribution of bond proceeds.

(4) Prior to the issuance of community and technical college revenue bonds pursuant to this subsection, the lottery director shall transfer $5 million to the Community and Technical College Improvement Fund, less any amounts needed for initial debt service payments, to be used on a cash basis for community and technical college capital improvements and capital projects.

(k) There is continued a special revenue fund in the State Treasury which shall be designated and known as the Lottery Senior Citizens Fund. The fund shall consist of the amounts allocated pursuant to subsection (f) of this section, which amounts shall be deposited into the Lottery Senior Citizens Fund by the State Treasurer. The Lottery Senior Citizens Fund shall also consist of all interest earned from investment of the Lottery Senior Citizens Fund and any other appropriations, gifts, grants, contributions or moneys received by the Lottery Senior Citizens Fund from any source. The revenues received or earned by the Lottery Senior Citizens Fund shall be distributed in the manner provided below and may not be treated by the Auditor or Treasurer as part of the general revenue of the state. Annually, the Legislature shall appropriate the revenues received or earned by the Lottery Senior Citizens Fund to any senior citizens medical care and other programs it considers beneficial to the citizens of this state.

(l) The Division of Natural Resources and the West Virginia Development Office, as appropriated by the Legislature, may use the amounts allocated to them pursuant to

subsection (f) of this section for one or more of the following purposes: (1) The payment of any or all of the costs incurred in the development, construction, reconstruction, maintenance or repair of any project or recreational facility, as these terms are defined in section four, article five, chapter twenty of this code, pursuant to the authority granted to it under article five, chapter twenty of this code; (2) the payment, funding or refunding of the principal of, interest on or redemption premiums on any bonds, security interests or notes issued by the parks and recreation section of the Division of Natural Resources under article five, chapter twenty of this code; or (3) the payment of any advertising and marketing expenses for the promotion and development of tourism or any tourist facility or attraction in this state. Acts 1985, c. 115; Acts 1989, c. 117; Acts 1990, c. 125; Acts 1994, 1st Ex. Sess., c. 25; Acts 1996, c. 78, eff. March 9, 1996; Acts 1998, c. 125, eff. July 1, 1998; Acts 2001, 1st Ex. Sess., c. 6, eff. April 21, 2001; Acts 2002, c. 104, eff. March 9, 2002; Acts 2006, 1st Ex. Sess., c. 19, eff. June 14, 2006; Acts 2007, c. 226, eff. June 6, 2007; Acts 2008, c. 90, eff. March 8, 2008; Acts 2009, 1st Ex. Sess., c. 14, eff. June 2, 2009; Acts 2010, c. 96, eff. March 13, 2010.

§ 29-22-18a. State Excess Lottery Revenue Fund

(a) The State Lottery Fund in the State Treasury which is designated and known as the State Excess Lottery Revenue Fund is continued. The fund consists of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received under the provisions of sections ten-b and ten-c, article twenty-two-a of this chapter and under article twenty-two-b of this chapter, except the amounts due the commission under subdivision (1), subsection (a), section one thousand four hundred eight, article twenty-two-b of this chapter, shall be deposited in the State Treasury and placed into the State Excess Lottery Revenue Fund. The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the State Auditor and the State Treasurer as part of the general revenue of the state.

(b) For the fiscal year beginning July 1, 2002, the commission shall deposit: (1) $65 million into the subaccount of the state Excess Lottery Revenue Fund hereby created in the State Treasury to be known as the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $10 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $20 million into the School Building Debt Service Fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) $40 million into the West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $5 million into the State Park Improvement Fund for Park Improvements. For the fiscal year beginning July 1, 2003, the commission shall deposit: (1) $65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $17 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $20 million into the School Building Debt Service Fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) $40 million into the West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $7 million into the State Park Improvement Fund for Park Improvements.

(c) For the fiscal year beginning July 1, 2004, and subsequent fiscal years through the fiscal year ending June 30, 2009, the commission shall deposit: (1) $65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $27 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter eighteen-c of

this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $19 million into the School Building Debt Service Fund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds: *Provided*, That for the fiscal year beginning July 1, 2008, and subsequent fiscal years, no moneys shall be deposited in the School Building Debt Service Fund pursuant to this subsection and instead $19 million shall be deposited into the Excess Lottery School Building Debt Service Fund; (5) $40 million into the West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $5 million into the State Park Improvement Fund for Park Improvements. No portion of the distributions made as provided in this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds through statutory enactment or the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (d) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

(d) For the fiscal year beginning July 1, 2009, and subsequent fiscal years, the commission shall deposit: (1) $65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $29 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $19 million into the Excess Lottery School Building Debt Service Fund created in section six, article nine-d, chapter eighteen of this code; (5) $40 million into the West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $5 million into the State Park Improvement Fund for Park Improvements. No portion of the distributions made as provided in this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds through statutory enactment or the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

(e) The Legislature finds and declares that in order to attract new business, commerce and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the business prosperity of this state and the economic welfare of the citizens of this state, it is necessary to provide public financial support for constructing, equipping, improving and maintaining economic development projects, capital improvement projects and infrastructure which promote economic development in this state.

(1) The West Virginia Economic Development Authority created and provided for in article fifteen, chapter thirty-one of this code shall, by resolution, in accordance with the provisions of this article and article fifteen, chapter thirty-one of this code, and upon direction of the Governor, issue revenue bonds of the Economic Development Authority in no more than two series to pay for all or a portion of the cost of constructing, equipping, improving or maintaining projects under this section or to refund the bonds at the discretion of the

authority. Any revenue bonds issued on or after July 1, 2002, which are secured by state excess lottery revenue proceeds shall mature at a time or times not exceeding thirty years from their respective dates. The principal of and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(2) The special revenue fund named the Economic Development Project Fund into which shall be is deposited the amounts to be deposited in the fund as specified in subsections (b), (c) and (d) of this section is continued. The Economic Development Project Fund shall consist of all such moneys, all appropriations to the fund, all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section, including any and all commercially customary and reasonable costs and expenses which may be incurred in connection with the issuance, refunding, redemption or defeasance of the bonds. The West Virginia Economic Development Authority may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the Economic Development Project Fund that are necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this subsection shall be separate from all other bonds which may be or have been issued, from time to time, under the provisions of this article.

(3) After the West Virginia Economic Development Authority has issued bonds authorized by this section and after the requirements of all funds have been satisfied, including any coverage and reserve funds established in connection with the bonds issued pursuant to this subsection, any balance remaining in the Economic Development Project Fund may be used for the redemption of any of the outstanding bonds issued under this subsection which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(4) Bonds issued under this subsection shall state on their face that the bonds do not constitute a debt of the State of West Virginia; that payment of the bonds, interest and charges thereon cannot become an obligation of the State of West Virginia; and that the bondholders' remedies are limited in all respects to the Special Revenue Fund established in this subsection for the liquidation of the bonds.

(5) The West Virginia Economic Development Authority shall expend the bond proceeds from the revenue bond issues authorized and directed by this section for projects certified under the provision of this subsection: *Provided,* That the bond proceeds shall be expended in accordance with the requirements and provisions of article five-a, chapter twenty-one of this code and either article twenty-two or twenty-two-a, chapter five of this code, as the case may be: *Provided, however,* That if the bond proceeds are expended pursuant to article twenty-two-a, chapter five of this code and if the Design-Build Board created under said article determines that the execution of a design-build contract in connection with a project is appropriate pursuant to the criteria set forth in said article and that a competitive bidding process was used in selecting the design builder and awarding the contract, the determination shall be conclusive for all purposes and shall be considered to satisfy all the requirements of said article.

(6) For the purpose of certifying the projects that will receive funds from the bond proceeds, a committee is hereby established and comprised of the Governor, or his or her designee, the Secretary of the Department of Revenue, the Executive Director of the West Virginia Development Office and six persons appointed by the Governor: *Provided,* That at least one citizen member must be from each of the state's three congressional districts. The committee shall meet as often as necessary and make certifications from bond proceeds in accordance with this subsection. The committee shall meet within thirty days of the effective date of this section.

(7) Applications for grants submitted on or before July 1, 2002, shall be considered refiled with the committee. Within ten days from the effective date of this section as amended in the year 2003, the lead applicant shall file with the committee any amendments to the original

application that may be necessary to properly reflect changes in facts and circumstances since the application was originally filed with the committee.

(8) When determining whether or not to certify a project, the committee shall take into consideration the following:

(A) The ability of the project to leverage other sources of funding;

(B) Whether funding for the amount requested in the grant application is or reasonably should be available from commercial sources;

(C) The ability of the project to create or retain jobs, considering the number of jobs, the type of jobs, whether benefits are or will be paid, the type of benefits involved and the compensation reasonably anticipated to be paid persons filling new jobs or the compensation currently paid to persons whose jobs would be retained;

(D) Whether the project will promote economic development in the region and the type of economic development that will be promoted;

(E) The type of capital investments to be made with bond proceeds and the useful life of the capital investments; and

(F) Whether the project is in the best interest of the public.

(9) A grant may not be awarded to an individual or other private person or entity. Grants may be awarded only to an agency, instrumentality or political subdivision of this state or to an agency or instrumentality of a political subdivision of this state.

The project of an individual or private person or entity may be certified to receive a low-interest loan paid from bond proceeds. The terms and conditions of the loan, including, but not limited to, the rate of interest to be paid and the period of the repayment, shall be determined by the Economic Development Authority after considering all applicable facts and circumstances.

(10) Prior to making each certification, the committee shall conduct at least one public hearing, which may be held outside of Kanawha County. Notice of the time, place, date and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least fourteen days prior to the date of the public hearing.

(11) The committee may not certify a project unless the committee finds that the project is in the public interest and the grant will be used for a public purpose. For purposes of this subsection, projects in the public interest and for a public purpose include, but are not limited to:

(A) Sports arenas, fields, parks, stadiums and other sports and sports-related facilities;

(B) Health clinics and other health facilities;

(C) Traditional infrastructure, such as water and wastewater treatment facilities, pumping facilities and transmission lines;

(D) State-of-the-art telecommunications infrastructure;

(E) Biotechnical incubators, development centers and facilities;

(F) Industrial parks, including construction of roads, sewer, water, lighting and other facilities;

(G) Improvements at state parks, such as construction, expansion or extensive renovation of lodges, cabins, conference facilities and restaurants;

(H) Railroad bridges, switches and track extension or spurs on public or private land necessary to retain existing businesses or attract new businesses;

(I) Recreational facilities, such as amphitheaters, walking and hiking trails, bike trails, picnic facilities, restrooms, boat docking and fishing piers, basketball and tennis courts, and baseball, football and soccer fields;

(J) State-owned buildings that are registered on the National Register of Historic Places;

(K) Retail facilities, including related service, parking and transportation facilities, appropriate lighting, landscaping and security systems to revitalize decaying downtown areas; and

(L) Other facilities that promote or enhance economic development, educational opportunities or tourism opportunities thereby promoting the general welfare of this state and its residents.

(12) Prior to the issuance of bonds under this subsection, the committee shall certify to the Economic Development Authority a list of those certified projects that will receive funds from the proceeds of the bonds. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(13) If any proceeds from sale of bonds remain after paying costs and making grants and loans as provided in this subsection, the surplus may be deposited in an account in the State Treasury known as the Economic Development Project Bridge Loan Fund administered by the Economic Development Authority created in article fifteen, chapter thirty-one of this code. Expenditures from the fund are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-a of this code. Loan repayment amounts, including the portion attributable to interest, shall be paid into the fund created in this subdivision.

(f) If the commission receives revenues in an amount that is not sufficient to fully comply with the requirements of subsections (b), (c), (d) and (i) of this section, the commission shall first make the distribution to the Economic Development Project Fund; second, make the distribution or distributions to the other funds from which debt service is to be paid; third, make the distribution to the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund; and fourth, make the distribution to the General Purpose Account: *Provided*, That, subject to the provisions of this subsection, to the extent the revenues are not pledged in support of revenue bonds which are or may be issued, from time to time, under this section, the revenues shall be distributed on a pro rata basis.

(g) Each fiscal year, the commission shall, after meeting the requirements of subsections (b), (c), (d) and (i) of this section and after transferring to the State Lottery Fund created under section eighteen of this article an amount equal to any transfer from the State Lottery Fund to the Excess Lottery Fund pursuant to subsection (f), section eighteen of this article, deposit fifty percent of the amount by which annual gross revenue deposited in the State Excess Lottery Revenue Fund exceeds $225 million in a fiscal year in a separate account in the State Lottery Fund to be available for appropriation by the Legislature.

(h) When bonds are issued for projects under subsection (d) (e) of this section or for the School Building Authority, infrastructure, higher education or park improvement purposes described in this section that are secured by profits from lotteries deposited in the State Excess Lottery Revenue Fund, the Lottery Director shall allocate first to the Economic Development Project Fund an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director; and second, to the fund or funds from which debt service is paid on bonds issued under this section for the School Building Authority, infrastructure, higher education and park improvements an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director. In the event there are insufficient funds available in any month to transfer the amounts required pursuant to this subsection, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(i) Prior to the distributions provided in subsection (d) of this section, the Lottery Commission shall deposit into the General Revenue Fund amounts necessary to provide reimbursement for the refundable credit allowable under section twenty-one, article twenty-one, chapter eleven of this code.

(j)(1) The Legislature considers the following as priorities in the expenditure of any surplus revenue funds:

(A) Providing salary and/or increment increases for professional educators and public employees;

(B) Providing adequate funding for the Public Employees Insurance Agency; and

(C) Providing funding to help address the shortage of qualified teachers and substitutes in areas of need, both in number of teachers and in subject matter areas.

(2) The provisions of this subsection may not be construed by any court to require any appropriation or any specific appropriation or level of funding for the purposes set forth in this subsection.

(k) The Legislature further directs the Governor to focus resources on the creation of a prescription drug program for senior citizens by pursuing a Medicaid waiver to offer prescription drug services to senior citizens; by investigating the establishment of purchasing agreements with other entities to reduce costs; by providing discount prices or rebate programs for seniors; by coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient and cost-effective program possible for the senior citizens of this state; and by working closely with the state's congressional delegation to ensure that a national program is implemented. The Legislature further directs that the Governor report his or her progress back to the Joint Committee on Government and Finance on an annual basis until a comprehensive program has been fully implemented.

(l) After all of the expenditures in subsections (a) through (i) of this section have been satisfied in any fiscal year, the next $2 million shall be distributed as follows:

(1) On the last day of the fiscal year that begins on July 1, 2010 and for each fiscal year thereafter, forty-six percent shall be placed in the general purse fund of a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992 for payment of regular purses;

(2) Forty-three and one half percent shall be distributed to the racing commission special account—unredeemed pari-mutuel tickets established on behalf of a thoroughbred racetrack licensee that did participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992;

(3) Five and one half percent shall be distributed to the racing commission special account—unredeemed pari-mutuel tickets established on behalf of a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992; and

(4) Five percent shall be distributed to the West Virginia racing commission special account—greyhound breeding development fund.

Acts 2001, 1st Ex. Sess., c. 6, eff. April 21, 2001; Acts 2002, c. 104, eff. March 9, 2002; Acts 2003, 2nd Ex. Sess., c. 22, eff. July 1, 2003; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005; Acts 2008, c. 79, eff. March 7, 2008; Acts 2009, c. 84, eff. July 1, 2009; Acts 2010, c. 98, eff. June 11, 2010.

Notes of Decisions

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1. Validity

State excess lottery revenue fund statute, which provides for the executive appointment of the members of State economic development grant committee without use of a submitted list of nominees from the presiding officers of the two houses of the Legislature, does not violate the appointments provision of the State Constitution. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. States ⟹ 46

State excess lottery revenue fund statute, which provides for the executive appointment of the members of State economic development grant committee without use of a submitted list of nominees from the presiding officers of the two houses of the Legislature, does not violate the separation of powers provision of the State Constitution. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. Constitutional Law ⟹ 2391; States ⟹ 46

Statute allowing Economic Grant Committee to select and approve applications for grants to finance economic development projects through revenue bonds repaid from Lottery Fund's "state excess lottery revenue fund" provided insufficient statutory guidance, and thus, the statute was an unconstitutional delegation of legislative power; statute contained only the broadest statement of legislative intent and gave insufficient legislative guidance for execution of that legislative intent

State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 580 S.E.2d 869, 213 W.Va. 255. Constitutional Law ⟹ 2429. States ⟹ 148

Financing mechanism established for payment of revenue bonds for economic development projects selected by Economic Grant Committee to receive grants fell within special revenue fund doctrine, and thus, such financing mechanism did not involve "debt," within meaning of constitutional provision prohibiting the levying of a tax to satisfy debt undertaken by the State; bonds would be repaid solely from Lottery Fund's "state excess lottery revenue fund," legislature specifically designated the Economic Development Project Fund as a "special revenue" fund, and the statute provided that if funds for any month were insufficient to cover debt service, the deficiency would be added to the amount transferred from the fund in the next month. State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 580 S.E.2d 869, 213 W.Va. 255. States ⟹ 115

Financing mechanism established for payment of revenue bonds for economic development projects selected by Economic Grant Committee to receive grants did not implicate the credit of the state, and thus, such financing mechanism did not violate the constitutional provision prohibiting the state from extending public aid for the benefit of private interests; bonds would be repaid solely from Lottery Fund's "state excess lottery revenue fund," a special revenue fund which was not part of the general revenue of the state. State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 580 S.E.2d 869, 213 W.Va. 255. States ⟹ 119

Commercial economic development was a "public purpose," and thus, the financing of economic development projects through revenue bonds repaid from Lottery Fund's "state excess lottery revenue fund" did not violate the constitutional provision prohibiting the state from extending public aid for the benefit of private interests. State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 580 S.E.2d 869, 213 W.Va. 255. States ⟹ 119

2. In general

Development Authority did not have discretion, under State excess lottery revenue fund statute, to refuse to issue the revenue bonds once the Governor so directed. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. States ⟹ 148

Speculation that grants for projects certified by State economic development grant committee would result in creation of retail, service, and entertainment jobs, in which women would receive less pay than their male counterparts and would be systematically and disproportionately subjected to employment injustices, did not state a cause of action for mandamus relief under State excess lottery revenue fund statute. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. States ⟹ 193

Projects certified by State economic development grant committee did not fail to take into consideration the Legislature's objective of economic development as declared in the state excess lottery revenue fund statute. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. States ⟹ 123

State excess lottery revenue fund statute did not require that the financial equivalent of the economic benefit received by private entities from State monies had to be repaid, at a low rate of interest, to the State. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. States ⟹ 123

State excess lottery revenue fund statute did not require the State economic development grant committee to make formal written findings to show that projects certified by committee were for a public purpose and were consistent with the standards set forth in statute. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. States ⟹ 123

State excess lottery revenue fund statute sets forth sufficient criteria to guide the State economic development grant committee in its execution of the Legislature's intent in enacting the statute. State ex rel. Cities of Charleston, Huntington and its Counties of Ohio and Kanawha v. West Virginia Economic Development Authority, 2003, 588 S.E.2d 655, 214 W.Va. 277. Constitutional Law ⟹ 2429. States ⟹ 123

3. Attorney fees

An hourly attorney fee rate of $195 was appropriate in mandamus action given the experience of counsel and the nature of case challenging constitutionality of statutory method by which members of the Economic Grant Committee were appointed and the process by which the Committee selected and approved applicants for grants to finance economic development projects through revenue bonds repaid from excess lottery revenue fund. State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 617 S.E.2d 143, 217 W.Va. 102. Mandamus ⟹ 190

A success rate of slightly less than 50% entitled association of citizens and taxpayers to attorney fees for 148.6 hours of work out of a total of 321.4 hours in mandamus challenge to constitutionality of statutory method by which members of the Economic Grant Committee were appointed and the process by which the Committee selected and approved applicants for grants to finance economic development projects through revenue bonds re-

paid from excess lottery revenue fund; the association prevailed on two of its constitutional challenges to the statute and was unsuccessful on three other claims; but it prevailed before the circuit court on its challenge to a project. State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 617 S.E.2d 143, 217 W.Va. 102. Mandamus ⇐ 190

Incorporated association of state citizens and taxpayers was entitled to attorney fees after prevailing on petition for writ of mandamus to challenge constitutionality of statutory provision governing the selection of citizen members of the Economic Grant Committee; the association had sparse resources which consisted mostly of public and private contributions, and it sought to protect vast public interests. State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee, 2003, 617 S.E.2d 143, 217 W.Va. 102. Mandamus ⇐ 190

§ 29-22-18c. Increase in allocation to Higher education Improvement Fund from State Excess Lottery Revenue Fund

Notwithstanding any provision of subsection (d), section eighteen-a of this article to the contrary, the deposit of $10 million into the Higher Education Improvement Fund for Higher Education set forth above is for the fiscal year beginning July 1, 2009, only. For the fiscal year beginning July 1, 2010, and subsequent fiscal years, the commission shall deposit $15 million into the Higher Education Improvement Fund for Higher Education.

Acts 2010, c. 96, eff. March 13, 2010.

§ 29-22-22. Repealed by Acts 2004, c. 59, eff. March 12, 2004

Historical and Statutory Notes

The repealed section, which related to the exemption of lottery prizes from taxation, was derived from Acts 1985, c. 115.

§ 29-22-26. Repealed by Acts 2010, c. 32, eff. June 11, 2010

Historical and Statutory Notes

The repealed section, which related to continuation of the state lottery commission, was derived from:

Acts 1985, c. 115.
Acts 1991, c. 157.
Acts 1992, c. 122.
Acts 1998, c. 279.
Acts 2001, c. 286.

§ 29-22-29. Moneys transferred or allocated to nongovernmental entities are state moneys and have been so in the past; right to audit state moneys transferred to nongovernmental entities

(a) Moneys transferred by the commission under provisions of this article and articles twenty-two-a, twenty-two-b, twenty-two-c and twenty-five of this chapter to nongovernmental recipients, are state moneys and have been state moneys in prior fiscal periods.

(b) All nongovernmental entities that have received state moneys as described in subsection (a) of this section are subject to audit by the commission. An audit provided for by this section may be conducted by employees or agents of the commission. An audit provided for by this section may also be conducted by the Legislative Auditor.

Acts 2009, c. 106, eff. April 10, 2009.

ARTICLE 22A

RACETRACK VIDEO LOTTERY

Section
29-22A-3. Definitions.
29-22A-10. Accounting and reporting; commission to provide communications protocol data; distribution of net terminal income; remittance through electronic transfer of funds; establishment of accounts and nonpayment penalties; commission control of accounting for

State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 13, ARTICLE 4 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

December 22, 2010

Secretary of State

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

Chapters 12 to 15

2010
Cumulative Annual Pocket Part

Replacing 2009 Pocket Part supplementing 2002 Main Volume

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requiring an election by the voters of a county, municipality or board of education prior to the issuance of bonds hereunder by a county, municipality or board of education and may not be construed as requiring any proceeding under any law or laws, other than that which is required by this article.

Acts 2010, c. 129, eff. March 13, 2010.

ARTICLE 4

FEDERAL SUBSIDY BONDS

Section		Section	
13-4-1.	Definitions.		of federal subsidy payments; exemption from taxation.
13-4-2.	Authority to issue federal subsidy bonds; election of credit payments; treatment		

§ 13-4-1. Definitions

Unless the context clearly indicates otherwise, as used in this article:

(1) "Federal subsidy bonds" means any state or local government bonds authorized for sale under the Internal Revenue Code of 1986, as amended, for which a credit payment is available to the issuer or its designee. Certain Build America Bonds authorized under Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009), codified at Section 54AA(g) of the Internal Revenue Code of 1986, as amended, are federal subsidy bonds.

(2) "Credit payment" means any payment to an issuer of federal subsidy bonds or its designee authorized under the provisions of the Internal Revenue Code to offset a portion of the interest paid on the bonds. Periodic credit payments received from the United States Secretary of the Treasury, as described in Section 6431(b) of the Internal Revenue Code, are credit payments.

(3) "Government entity" means the State of West Virginia, including any department, division, agency, bureau, board, commission, office or authority thereof, any political subdivision of the State of West Virginia including, but not limited to, any county, municipality or school district, and any other entity authorized by the provisions of this code to issue bonds, notes or other debt obligations.

(4) "General revenue bond" means a bond, note or other debt obligation issued by a government entity for which the government entity has pledged the full faith and credit, including a limited pledge, of such government entity to the repayment of the obligation.

(5) "Special revenue bond" means a bond, note or other debt obligation issued by a government entity for which the government entity pledges a dedicated revenue stream or other security interest to secure the repayment of the obligation.

Acts 2010, c. 17, eff. Feb. 25, 2010.

§ 13-4-2. Authority to issue federal subsidy bonds; election of credit payments; treatment of federal subsidy payments; exemption from taxation

(a) A government entity authorized to issue bonds, notes or other debt obligations under the provisions of this code may issue federal subsidy bonds in the manner, and subject to the requirements, limitations and conditions, set forth in the provisions of the code that authorize the government entity to issue such bonds, notes or other debt obligations. This section may not be construed to grant bonding authority to any government entity or to expand the bonding authority of any government entity.

(b) A government entity that issues federal subsidy bonds may elect to receive credit payments.

(c) Credit payments shall be treated as special revenue in the case of special revenue bonds issued by a government entity or as general revenue in the case of general revenue bonds

issued by a government entity. A government entity may use credit payments to pay future debt service on the federal subsidy bonds or for any other purpose allowable by law.

(d) Federal subsidy bonds issued by a government entity under this section shall be exempt from tax in the manner, and subject to the requirements, limitations and conditions, set forth in the provisions of this code that authorize the government entity to issue bonds, notes or other debt obligations.

Acts 2010, c. 17, eff. Feb. 25, 2010.

CHAPTER 14

CLAIMS DUE AND AGAINST THE STATE

Article		Section
1.	CLAIMS DUE THE STATE.	14-1-37
2.	CLAIMS AGAINST THE STATE.	14-2-2a
2A.	COMPENSATION AWARDS TO VICTIMS OF CRIMES.	14-2A-3

ARTICLE 1.

CLAIMS DUE THE STATE

Section

14-1-37. United States Treasury offset program authorized; setoff of federal debts.

§ 14-1-18. Settlement or dismissal of claims

Notes of Decisions

Write off 2

2. Write off

Department of Natural Resources may not write off balance due for lost or unsold hunting and fishing licenses unless such account has been standing upon its books for more than five years and then only with the advice of the Attorney General. 55 W.Va. Op.Atty.Gen. 153 (September 12, 1973) 1973 WL 159163.

§ 14-1-37. United States Treasury offset program authorized; setoff of federal debts

(a) The auditor is authorized to enter into an agreement with the Secretary of the Treasury to participate in the Treasury Offset Program pursuant to 31 U.S.C. § 3716 for the collection of any debts owed to the state or to state agencies from federal payments to vendors, contractors and taxpayers. The agreement may provide for the United States to submit nontax debts owed to federal agencies for offset against state payments otherwise due and owing to taxpayers, vendors and contractors providing goods or services to the state, its departments, agencies or institutions.

(b) For purposes of this section the following words have the meanings indicated.

(1) "Federal official" means a unit or official of the federal government charged with the collection of nontax liabilities payable to the federal government and with the authority to enter into the offset agreement.

(2) "Offset agreement" is the agreement authorized by this section.

(3) "Person" means an individual, vendor, contractor, partnership, society, association, joint stock company, limited liability company, corporation, estate, receiver, trustee, assignee, and any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise, or any combination of the foregoing.

(4) "State payments" shall include tax refunds pursuant to the Tax Procedure and Administration Act, article ten, chapter eleven of this code, and vendor or contractor

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Certificate

I, Natalie E. Tennant, 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:

John Leon - January 23, 2009 to June 30, 2013

Bruce L Berry - January 23, 2009 to June 30, 2013

John Estep - November 4, 2009 to June 30, 2013

Jenny Allen - August 16, 2010 to June 30, 2011

David K. Hendrickson - August 17, 2010 to June 30, 2014

Kathy Eddy - May 8, 2008 to June 30, 2011

David Tyson - November 4, 2009 to June 30, 2013

Given under my hand and the Great Seal of the State of West Virginia on
December 22, 2010

Natalie E Tennant

Secretary of State

BOND PURCHASE AGREEMENT

December 17, 2010

West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, East, Suite 700
Charleston, West Virginia 25301

Re: $16,520,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt),
$50,265,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds), and
$10,080,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable)

Ladies and Gentleman:

The undersigned, Citigroup Global Markets Inc. (the "Representative"), acting on its behalf and on behalf of the other underwriters, Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters"), offers to enter into this Bond Purchase Agreement (the "Agreement") with the West Virginia Higher Education Policy Commission (the "Commission") which, upon your acceptance of this offer, will be binding upon you and upon the Underwriters. This offer is made subject to your acceptance of this Agreement on or before 11:59 pm, New York, New York time on December 17, 2010.

1. Upon the terms and conditions and in reliance upon the respective representations, warranties and covenants herein, the Underwriters hereby agree to purchase from the Commission, and the Commission hereby agrees to sell to the Underwriters all (but not less than all) of the $16,520,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt) (the "2010 Series A Bonds"), $50,265,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) (the "2010 Series B Bonds"), and $10,080,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (the "2010 Series C Bonds", together with the 2010 Series A Bonds and the 2010 Series B Bonds, collectively, the "2010 Series Bonds") at an aggregate purchase price (the "Purchase Price") of $76,274,581.79 (par, less original issue discount of $200,113.95, less Underwriters' discount of $390,304.26).

2. The net proceeds of the sale of the 2010 Series Bonds shall initially be deposited as follows: (i) a sum equal to the costs of issuance of the 2010 Series Bonds shall be for deposit

into the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; (ii) a sum equal to the Interest Subsidy Reserve Requirement shall be deposited into the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund; and (iii) the balance of the proceeds of the 2010 Series Bonds shall be deposited into the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund.

3. The capitalized terms used in this Agreement shall have the meanings assigned to them herein or, if not defined herein, shall have the meanings set forth in the General Resolution, as hereinafter defined, and the Preliminary Official Statement dated December 10, 2010 (the "Preliminary Official Statement") . This Agreement, the Final Official Statement, the Preliminary Official Statement, the Continuing Disclosure Agreement, the Prior General Resolution, the 2010 Series Resolution, the Certificate of Determinations, the Tax Agreement, and other documents incidental to the issuance of the 2010 Series Bonds are sometimes herein collectively referred to as the "Bond Documents."

4. The 2010 Series Bonds are being issued pursuant to the General Resolution, Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution,"), Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended (the "Build America Bonds Act", and collectively with the Higher Education Policy Commission Act, the State Lottery Act and the Concurrent Resolution, the "Act"). The 2010 Series Bonds are being issued to: (i) pay a portion of the costs of acquiring, constructing, equipping and improving the Projects, as defined in the General Resolution, (ii) fund an interest subsidy reserve fund; and (iii) pay the costs associated with the issuance of the 2010 Series Bonds. The 2010 Series Bonds are special, limited obligations of the Commission payable solely from the Revenues pledged under the General Resolution. The 2010 Series Bonds shall not constitute a debt or a pledge of the faith and credit or taxing power of the State or of any county, municipality or any other political subdivision thereof, nor shall any of the obligations or the debts of the Commission created under the General Resolution be deemed to be obligations of the State or any county, municipality or any other political subdivision thereof. The Owners of the 2010 Series Bonds shall have no right to have taxes levied by the State Legislature or the taxing authority of any county, municipality or any other political subdivision of the State for the payment of the principal thereof or interest thereon, but the principal of and interest on the 2010 Series Bonds, together with the principal of and interest on the Commission's University System Revenue Bonds (West Virginia University Projects) 1998 Series A, University System Revenue Bonds (West Virginia University Projects) 2000 Series A, Revenue Refunding Bonds (University Facilities) 2003 University Bonds, Revenue Refunding Bonds (State College Facilities) 2003 College Bonds, and Revenue Refunding Bonds (Higher Education Facilities), Series 2007 A and the principal of the Series 2004 B Revenue Bonds and any Additional Bonds, as applicable, shall be payable equally and ratably and solely from the Revenues pledged under the General Resolution. The Commission has no taxing power. The 2010 Series Bonds shall mature on April 1, 2040, and otherwise contain the terms set forth in Exhibit A attached hereto.

5. The Underwriters agree to make a bona fide public offering of all of the 2010 Series Bonds at the offering prices set forth in the hereinafter described Official Statement.

6. (a) The Commission agrees to deliver to the Underwriters at such address as the Underwriters shall specify, as many copies of the final Official Statement dated the date hereof relating to the 2010 Series Bonds (the "Final Official Statement") as the Underwriters shall reasonably request as necessary to comply with paragraph (b)(4) of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the "Rule") and with Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board ("MSRB") (including, but not limited to, revised Rule G-32 (effective June 1, 2009). The Commission shall deliver, or shall cause to be delivered, to the Underwriters within seven (7) business days from the date hereof and in sufficient time to accompany any confirmation requesting payment from any customer of the Underwriters a sufficient number of copies of the Final Official Statement, dated the date hereof, substantially in the form of the Preliminary Official Statement with only such changes and insertions therein from the Preliminary Official Statement as shall have been approved by the Representative to enable the Underwriters to comply with Rule 15c2-12, in final, printed and electronic form and any amendment or supplement thereto in such quantities as the Underwriters may reasonably request to comply with the obligations of the Underwriters pursuant to the rules of the MSRB requiring submissions of official statements to the MSRB, including Rule G-32, through the EMMA primary market disclosure service), Rule 15c2-12 and other applicable securities laws, rules or regulations. The Commission agrees to provide an electronic copy of the Final Official Statement to the Underwriters in order that the Underwriters may satisfy their obligations pursuant to MSRB Rule G-32. The Commission agrees to notify the Underwriters of any material changes that might affect the accuracy and completeness of the Official Statement for a period for twenty-five (25) days from the end of the underwriting period. Unless the Commission is otherwise notified by the Underwriters in writing, the "end of the underwriting period" for purposes of the preceding sentence and within the meaning of Rule 15c2-12 shall be deemed to be the date of the Closing. As soon as possible following receipt of the Official Statement from the Commission, the Representative shall deliver the Official Statement, and any supplement and amendment thereto, to the MSRB through the EMMA primary market disclosure service. The Commission hereby authorizes the distribution and use of the Official Statement in connection with the public offering and the sale of the 2010 Series Bonds by the Underwriters. The Commission hereby ratifies and confirms its authorization and consent of the distribution and use by the Underwriters prior to and after the date hereof of the Preliminary Official Statement in connection with the public offering and sale of the 2010 Series Bonds.

(b) The Commission hereby authorizes and approves the Preliminary Official Statement and the Final Official Statement (the Final Official Statement, the Preliminary Official Statement and any amendments or supplements that may be authorized for use with respect to the 2010 Series Bonds are herein collectively referred to as the "Official Statement"), consents to their use by the Underwriters and authorizes the execution of the Final Official Statement by a duly authorized officer of the Commission. The Commission represents that it deems the Preliminary Official Statement "final as of its date" within the meaning of Rule 15c2-12.

(c) The Underwriters represent to the Commission that each "participating underwriter" shall deliver Official Statements in the manner and at the times required by paragraph (b)(4) of the Rule. The Commission shall be entitled to treat the date of Closing as the "end of the underwriting period" for the 2010 Series Bonds under the Rule (the "End of the Underwriting Period"), unless the Underwriters notify the Commission otherwise.

7. The Commission represents and warrants to the Underwriters that:

(a) The Commission adopted its Fifth Consolidated Supplemental Resolution on December 3, 2010, which authorized the issuance of the 2010 Series Bonds (the "2010 Series Resolution"). The 2010 Series Resolution supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Prior General Resolution, as supplemented by the 2010 Series Resolution, is collectively referred to herein as the "General Resolution." The 2010 Series Bonds shall be issued pursuant to the General Resolution, the Act, as applicable, and other applicable provisions of law. The Commission is authorized to secure the 2010 Series Bonds in the manner contemplated by the General Resolution and the Act.

(b) The Commission has the full legal right, power and authority (i) to adopt the General Resolution, (ii) to enter into this Agreement, the Bond Documents and other documents incidental to the issuance of the 2010 Series Bonds, (iii) to issue, sell and deliver the 2010 Series Bonds to the Underwriters as provided herein, and (iv) to carry out and consummate all other transactions contemplated by each of the aforesaid documents, and the Commission has complied with all provisions of applicable law, including the Act, in all matters relating to such transactions.

(c) The Commission has duly authorized (i) the execution and delivery of the 2010 Series Bonds and the execution, delivery and due performance of the General Resolution, (ii) the execution, delivery and distribution of the Official Statement, (iii) the execution and delivery of the Bond Documents and the performance of the obligations of the Commission set forth therein, and (iv) the taking of any and all such action as may be required on the part of the Commission to carry out, give effect to and consummate the transactions contemplated by the General Resolution and other Bond Documents. All consents or approvals necessary to be obtained by the Commission in connection with the foregoing have been received, and the consents or approvals so received are still in full force and effect.

(d) The General Resolution has not been rescinded, amended or modified, is in full force and effect and constitutes the legal, valid and binding act of the Commission, and the Bond Documents, when executed and delivered, will constitute, and this Agreement does constitute, the legal, valid and binding obligations of the Commission in accordance with their respective terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally.

(e) When delivered to and paid for by the Underwriters at the Closing in accordance with the provisions of this Agreement, the 2010 Series Bonds will have been duly authorized, executed, authenticated, issued and delivered and will constitute legal, valid and binding limited obligations of the Commission in conformity with the laws governing the Commission, including the Act, and will be entitled to the benefit and security of the General Resolution and the Act.

(f) The information contained in the Official Statement, including the Appendices thereto, is, and as of the date of Closing will be, true and correct in all material respects, and does not and will not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(g) If, at any time prior to the expiration of ninety (90) days following the Closing, the Commission becomes aware of any event as a result of which the Preliminary Official Statement or the Final Official Statement as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Commission shall promptly notify (or cause to be notified) the Underwriters of such event.

(h) Neither the adoption of the General Resolution, the execution and delivery of this Agreement, the 2010 Series Bonds, the Bond Documents nor the consummation of the transactions contemplated therein or the compliance with the provisions thereof will conflict with, or constitute on the part of the Commission a violation of, or a breach of or default under, (i) any statute, indenture, mortgage, commitment, note or other agreement or instrument to which the Commission is a party or by which it is bound, (ii) the West Virginia constitution or (iii) any existing law, rule, regulation, ordinance, judgment, order or decree to which the Commission (or any of its officers in their respective capacities as such) is subject.

(i) Since July 3, 1995, the Commission has not been in default at any time, as to principal of or interest on any obligation that it has issued.

(j) Except as may be disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending or, to the best knowledge of the undersigned, threatened, which in any way questions the powers of the Commission referred to in paragraph (b) above or the validity of any proceeding taken in connection with the issuance of the 2010 Series Bonds, or wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated by this Agreement, or of any other document or instrument required or contemplated thereby, or which, in any way, could adversely affect the validity or enforceability of the General Resolution, the Bond Documents, the 2010 Series Bonds or this Agreement or, to the best knowledge of the undersigned, which in any way questions the exclusion from gross income of the recipients thereof of the interest on the 2010 Series Bonds for federal income tax

purposes or in any other way questions the status of the 2010 Series Bonds under federal or State tax laws or regulations.

(k) The Commission will cooperate with the Underwriters in qualifying the 2010 Series Bonds for offer and sale under the securities or Blue Sky laws of such jurisdictions of the United States as the Underwriters may request; provided, however, that the Commission shall not be required with respect to the offering or sale of the 2010 Series Bonds to file written consent to suit or to file written consent to service of process in any jurisdiction. The undersigned consents to the use by the Underwriters of the documents relating to the 2010 Series Bonds necessary to obtain such qualification, subject to the right of the Commission to withdraw such consent for cause by written notice to the Underwriters.

(l) The Commission has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

(m) 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.

(n) When the 2010 Series Bonds are issued, sold and delivered to the Underwriters, the representations and certifications of the Commission herein and in the other Bond Documents will be true, accurate and complete.

(o) Any certificate signed by any official of the Commission and delivered to the Underwriters shall be deemed a representation and warranty by the Commission to the Underwriters as to the truth of the statements therein contained.

(p) The Commission has never failed to comply with its continuing disclosure obligations with respect to any issue of bonds of the Commission.

8. On or before noon Eastern Time on December 23, 2010 (the "Closing Date"), or at such other time as shall have been mutually agreed upon by the Commission and the Underwriters, the Commission will deliver, or cause to be delivered, to the Underwriters the 2010 Series Bonds in definitive form duly executed and authenticated by the Registrar. The Underwriters will accept such delivery and pay in immediately available funds payable to the Registrar and Paying Agent an amount equal to the Purchase Price for the 2010 Series Bonds. Such payment and delivery is herein called the "Closing." Upon payment as aforesaid, the 2010 Series Bonds will be delivered to The Depository Trust Company in New York, New York, using the DTC FAST closing procedure. The 2010 Series Bonds will be delivered as fully-registered bonds, one for each stated maturity of the 2010 Series Bonds in the aggregate principal amount of such maturity, bearing proper, duly assigned CUSIP numbers, and registered in the name of The Depository Trust Company's nominee, Cede & Co., and, if the Underwriters shall so request, will

be made available to the Underwriters at least twenty-four (24) hours before the Closing for inspection and packaging.

9. The obligations of the Underwriters hereunder shall be subject (a) to the performance by the Commission of its obligations to be performed hereunder at and prior to the Closing, (b) to the accuracy of the representations and warranties of the Commission herein as of the date hereof and as of the time of the Closing, and (c) to the following conditions, including the delivery by the Commission of such documents as are enumerated herein in form and substance reasonably satisfactory to Goodwin & Goodwin, LLP, Charleston, West Virginia ("Counsel to the Underwriters").

The obligations of the Underwriters hereunder shall also be subject to the following additional conditions:

(a) At the time of Closing, (i) the Official Statement, this Agreement and the Bond Documents shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriters, (ii) the proceeds of the sale of the 2010 Series Bonds shall be deposited and applied as described in the Official Statement, and (iii) the Commission shall have duly adopted and there shall be in full force and effect such resolutions or orders as, in the opinion of Spilman Thomas & Battle, PLLC, Charleston, West Virginia, bond counsel ("Bond Counsel"), shall be necessary in connection with the transactions contemplated hereby.

(b) Receipt of the 2010 Series Bonds and executed copies of the Bond Documents at or prior to the Closing.

(c) At or prior to the Closing, the Underwriters shall receive the following documents in such number of counterparts as shall be mutually agreeable to the Underwriters and the Commission:

(i) A final approving opinion of Bond Counsel dated the date of Closing, in substantially the form set forth in the Preliminary Official Statement.

(ii) A Letter of Bond Counsel addressed to the Underwriters and dated the date of Closing, to the effect that Bond Counsel's final approving opinion referred to in Section 9(c)(i) hereof may be relied upon by the Underwriters to the same extent as if such opinion were addressed to the Underwriters.

(iii) A supplemental opinion of Bond Counsel dated the date of the Closing and addressed to the Underwriters, in form and substance satisfactory to Counsel to the Underwriters to the effect that (1) this Agreement has been duly authorized, executed and delivered by, 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 of, the Commission; (2) the Official Statement has been duly approved, signed and delivered by the Commission; (3) 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); (4) the statements contained in the Official Statement under the captions "Summary and Introduction," "The 2010 Series Bonds," "Security for the 2010 Series Bonds," "Tax Matters," "Appendix G – Summary of Certain Provisions of the Principal Documents," and "Appendix H – Proposed Form of Opinions 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; and (5) the 2010 Series Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the General Resolution is exempt from qualification as an indenture pursuant to the Trust Indenture Act of 1939, as amended.

(iv) Intentionally Omitted.

(v) Letters from Counsel to the Underwriters addressed to the Underwriters indicating the jurisdictions in which the 2010 Series Bonds have been qualified or exempted under the securities or "Blue Sky" laws.

(vi) An opinion of Counsel to the Underwriters in substantially the form set forth in Exhibit B hereto.

(vii) Opinion of Bruce Walker, Esq, Charleston, West Virginia, counsel to the Commission, addressed to, among others, Bond Counsel, Counsel to the Underwriters and the Underwriters, in form and substance satisfactory to Bond Counsel, Counsel to the Underwriters and the Underwriters, dated the Closing Date, to the effect that: (1) no litigation is pending or, to its knowledge, threatened (a) to restrain or enjoin the issuance or delivery of any of the 2010 Series Bonds or the collection of the Revenues and other funds pledged under the General Resolution and other Bond Documents, (b) in any way contesting the power or the Commission of the Commission for the issuance of the 2010 Series Bonds or the validity of the General Resolution, the 2010 Series Bonds, this Agreement or the Bond Documents, (c) in any way contesting the existence or powers of the Commission relating to the issuance of the 2010 Series Bonds, (2) to the best of its knowledge, no event affecting the Commission has occurred since the date of the Preliminary Official Statement or the Official Statement, as applicable, 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, (3) the Commission is validly 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, (4) the Commission has complied with or caused the State Department of Administration on its behalf to comply with all continuing disclosure obligations applicable to it under 17 CFR §240.15c2-12, (5) the Preliminary Official Statement and the Official Statement have been duly approved, executed and delivered by the Commission, and (6) the statements contained in the Official Statement under the captions "Summary and Introduction," "The Commission," "West Virginia Higher Education," "Security For The 2010 Series Bonds," "Plan of Finance," "Revenues, Debt Service Coverage And Select Financial Information" (as such information pertains to the Commission), "Litigation," "Continuing Disclosure", "Appendix A – State Institutions of Higher Education", "Appendix B – Project List," and "Appendix D – Information Concerning the Commission and the General Resolution" 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.

(viii) The Final Official Statement executed on behalf of the Commission by a duly authorized officer.

(ix) Certified copies of the General Resolution.

(x) Specimen 2010 Series Bonds.

(xi) Intentionally Omitted.

(xii) A letter from each of Standard & Poor's Rating Services and Moody's Investors Service to the effect that the 2010 Series Bonds have been assigned a rating of "A+" and "Aa3", respectively.

(xiii) A certificate, in form and substance satisfactory to the Underwriters and Counsel to the Underwriters, of the Commission or any duly authorized officer or official of the Commission or combinations thereof, dated as of the date of Closing, to the effect that: (1) each of the Commission's representations, warranties and covenants contained herein are true and correct as of the date of the Closing; (2) the Commission has authorized, by all action necessary under the Act and the laws governing the Commission, the adoption of

the General Resolution, and the execution, delivery and due performance of the 2010 Series Bonds, this Agreement and the Bond Documents; (3) the 2010 Series Bonds and the Bond Documents, as executed by the Commission, are in the form or in substantially the form approved for such execution by appropriate proceedings of the Commission; (4) the Commission has performed and complied with all agreements and conditions required by this Agreement to be complied with by it at or prior to the Closing Date; (5) 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; and (6) the Commission has complied and will, at the Closing, be in compliance, in all respects with Section 54AA of the American Recovery and Reinvestment Act of 2009 and Section 6431 of the Internal Revenue Code of 1986, as amended (the "Code").

(xiv) A certificate, satisfactory in form and substance to the Underwriters and Counsel to the Underwriters, of the Commission or any duly authorized officer or official of the Commission or combinations thereof satisfactory to the Underwriters and Counsel to the Underwriters, dated as of the date of Closing, to the effect that (1) there are not pending or, to their knowledge, threatened, legal or administrative proceedings to which the Commission is a party or to which property of the Commission is subject, which are material as to the Commission and not disclosed in the Official Statement or which will materially and adversely affect the transactions contemplated hereby or by the Official Statement or which will materially and adversely affect the validity or enforceability of the 2010 Series Bonds or this Agreement; (2) the information contained in the Official Statement is true and correct in all material respects and does not contain any untrue or incorrect statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; and (3) if, at any time prior to the expiration of ninety (90) days following the Closing, the Commission becomes aware of any event (including events of which such officer has received notice by any means) as a result of which the Preliminary Official Statement or the Final Official Statement as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in any material respect, such officer shall promptly notify the Underwriters thereof and, upon request of the Underwriters, shall assist in the preparation of an amendment or supplement which will correct such statement or omission at the expense of the Commission.

(xv) A certificate, satisfactory in form and substance to the Underwriters and Counsel to the Underwriters, of the Director of the West Virginia Lottery ("Lottery") or any duly authorized officer or official of the Lottery or combinations thereof satisfactory to the Underwriters and Counsel to

the Underwriters, dated as of the date of Closing, to the effect that (1) the Lottery has no reason to believe that the audited annual and unaudited interim financial statements relating to the Lottery included as Appendix F in the Official Statement do not fairly present the respective financial positions and results of operations of the Lottery as of the dates and for the periods therein set forth, 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; (2) since June 30, 2010, there has not been any material adverse change in the properties, financial position or results of operations of the Lottery, whether or not arising from transactions in the ordinary course of business, other than as set forth in the Official Statement, and since such date the Lottery has not entered into any transaction or incurred any liability material as to the Lottery, except as set forth in the Official Statement; (3) there are not pending or, to their knowledge, threatened, legal or administrative proceedings to which the Lottery or the State Lottery Commission is a party or to which property of the Lottery or the State Lottery Commission is subject, which are material as to the Lottery or the State Lottery Commission and not disclosed in the Official Statement or which will materially and adversely affect the transactions contemplated hereby or by the Official Statement or which will materially and adversely affect the validity or enforceability of the 2010 Series Bonds or this Agreement; (4) the information contained in the Official Statement relating to the Lottery, the Lottery Act, and the State Lottery Commission, including but not limited to the statements and financial information contained in the Official Statement under the caption "Revenues, Debt Service Coverage And Select Financial Information," "Investment Considerations" (excluding only the portion of that caption appearing immediately beneath the subcaption "No Mortgage or Other Interest in Projects"), "Financial Statements," "Appendix E" and "Appendix F" ("Lottery Official Statement Information") is true and correct in all material respects and does not contain any untrue or incorrect statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; (5) the Lottery has complied, or has caused the West Virginia Department of Administration on its behalf to comply with all continuing disclosure obligations applicable to it, and (6) if, at any time prior to the expiration of ninety (90) days following the Closing, any event occurs (including events of which such officer has received notice by any means) as a result of which the Lottery Official Statement Information, as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in any material respect, such officer shall promptly notify the Underwriters thereof and, upon request of the Underwriters, shall assist in the preparation of an amendment or supplement which will correct such statement or omission at the expense of the Commission.

(xvi) A certificate, satisfactory in form and substance to the Underwriters and Counsel to the Underwriters, 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 Underwriters that the 2010 Series 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.

(xvii) Evidence that Treasury Forms 8038 and 8038-B have been executed by the Commission and are to be filed with the Internal Revenue Service.

(xviii) Intentionally omitted.

(xix) Intentionally omitted.

(xx) A Continuing Disclosure Agreement satisfactory in form and substance to the Underwriters and Counsel to the Underwriters executed by the Secretary of the Department of Administration, acting on behalf of the Lottery.

(xxi) Intentionally omitted.

(xxii) Such additional legal opinions, certificates, proceedings, instruments and other documents as Counsel to the Underwriters, Bond Counsel or counsel to the Commission may reasonably request to evidence compliance by the Commission with legal requirements, the truth and accuracy, as of the time of Closing, of the respective representations of the Commission herein contained and the due performance or 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 the Commission.

If the Commission shall be unable to satisfy the conditions to the obligations of the Underwriters contained in this Agreement, or if the obligations of the Underwriters to purchase and accept delivery of the 2010 Series Bonds shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Underwriters nor the Commission shall be under further obligation hereunder, except that the respective obligations to pay expenses, as provided in Section 12 hereof, shall continue in full force and effect.

10. The Underwriters shall have the right to cancel their obligations to purchase the 2010 Series Bonds if between the date hereof and the date of Closing:

(a) legislation shall be introduced in, enacted by, reported out of committee, or recommended for passage by the State of West Virginia, either House of the Congress, or recommended to the Congress or otherwise endorsed for passage (by press release, other form of

notice or otherwise) by the President of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or legislation is proposed for consideration by either such committee by any member thereof or presented as an option for consideration by either such committee by the staff of such committee or by the staff of the Joint Committee on Taxation of the Congress of the United States, or a bill to amend the Code (which, if enacted, would be effective as of a date prior to the Closing) shall be filed in either House, or a decision by a court of competent jurisdiction shall be rendered, or a regulation or filing shall be issued or proposed by or on behalf of the Department of the Treasury or the Internal Revenue Service of the United States or other agency of the federal government, or a release or official statement shall be issued by the President, the Department of the Treasury or the Internal Revenue Service of the United States, or any other action or event shall have occurred, in any such case with respect to or affecting, directly or indirectly, the taxation of interest received on obligations of the general character of the 2010 Series Bonds, which, in the judgment of the Representative, materially and adversely affects the market price of or market for the 2010 Series Bonds at the contemplated offering prices by the Underwriters of the 2010 Series Bonds; or

(b) legislation shall be introduced in or enacted (or resolution passed) by the Congress or an order, decree, or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the 2010 Series Bonds, including any or all underlying arrangements, are not exempt from registration under or other requirements of the Securities Act of 1933, as amended (the "Securities Act"), or that the General Resolution is not exempt from qualification under or other requirements of the Trust indenture Act of 1939, as amended, or that the issuance, offering, or sale of obligations of the general character of the 2010 Series Bonds, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise, is or would be in violation of the federal securities laws as amended and then in effect; or

(c) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission or any other government agency having jurisdiction of the subject matter shall have been issued or made, the effect of which is that the issuance, offering, sale or distribution of the 2010 Series Bonds or the execution and delivery of the General Resolution as contemplated hereby or by the Official Statement, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect, or of the Securities Exchange Act of 1934, as amended and as then in effect, or of the Trust Indenture Act of 1939, as amended and as then in effect; or

(d) there shall exist any event which in the judgment of the Underwriters either (i) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement or (ii) is not reflected in the Official Statement but should be reflected therein in order to make the statements and information contained therein not

misleading in any material respect and, in either such event, (1) the Commission refuses to permit the Official Statement to be amended or supplemented to correct or supply such statement or information, or (2) the statement or information as amended or supplemented in the Official Statement, in the judgment of the Underwriters, would materially adversely affect the market for the 2010 Series Bonds or the sale, at the contemplated offering prices, by the Underwriters of the 2010 Series Bonds; or

(e) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national or international emergency or war or other calamity or crisis, the effect of which on the financial markets is such as to make it impractical or inadvisable to proceed with the offering of the 2010 Series Bonds as contemplated in the Official Statement; or

(f) there shall have occurred a general suspension of trading, minimum or maximum prices for trading shall have been fixed and be in force or maximum ranges or prices for securities shall have been required on the New York Stock Exchange or other national stock exchange whether by virtue of a determination by that Exchange or by order of the Securities and Exchange Commission or any other governmental agency having jurisdiction or any national securities exchange shall have: (i) imposed additional material restrictions not in force as of the date hereof with respect to trading in securities generally, or to the 2010 Series Bonds or similar obligations, or (ii) materially increased restrictions now in force with respect to the extension of credit by or the charge to the net capital requirements of underwriters or broker-dealers such as to make it, in the judgment of the Underwriters, impractical or inadvisable to proceed with the offering of the 2010 Series Bonds as contemplated in the Official Statement; or

(g) a general banking moratorium shall have been declared by federal, New York or West Virginia authorities or a major financial crisis or material disruption in commercial banking or securities settlement or clearance services shall have occurred such as to make it, in the judgment of the Underwriters, impractical or inadvisable to proceed with the offering of the 2010 Series Bonds as contemplated in the Official Statement; or

(h) any proceeding shall be pending or threatened by the Securities and Exchange Commission against the Commission;

(i) additional material restrictions not in force as of the date hereof shall have been imposed in the Code, in regulations promulgated thereunder, or by other official action of the United States Treasury or the Internal Revenue Service which materially and adversely affect, in the judgment of the Underwriters, (a) the ability of the recipients thereof to exclude from gross income the interest on the 2010 Series Bonds for federal income tax purposes, or (b) the marketability of the 2010 Series Bonds; or

(j) a downgrading or suspension of any rating (without regard to credit enhancement) by Standard & Poor's Rating Services ("S&P") or Moody's Investors Service ("Moody's") of any debt securities issued by the Commission or payable from revenues of the State Excess Lottery Revenue Fund, as defined in the Official Statement, or (ii) there shall have

been any official statement as to a possible downgrading (such as being placed on "credit watch" or "negative outlook" or any similar qualification) of any rating by S&P or Moody's of any debt securities issued by the Commission or payable from revenues of the State Excess Lottery Revenue Fund, including the 2010 Series Bonds.

11. All representations, warranties and agreements of the Commission shall remain operative and in full force and effect and shall survive the Closing, regardless of any investigations made by or on behalf of the Underwriters.

12. The Commission will pay or cause to be paid solely from the proceeds of the 2010 Series Bonds all reasonable expenses incident to the performance of its obligations under this Agreement, including, but not limited to, mailing or delivery of the 2010 Series Bonds, costs of printing the 2010 Series Bonds, the Official Statement, any amendment or supplement to the Official Statement and this Agreement, including the mailing the delivery thereof by the printer, fees and disbursements of Bond Counsel, fees and disbursements of Counsel to the Underwriters, fees and disbursements of Counsel to the Commission, fees and disbursements of Public Resources Advisory Group, the Commission's financial advisor, any fees charged by rating agencies for the rating of the 2010 Series Bonds, all fees and disbursements in connection with the qualification of the 2010 Series Bonds for sale under the securities or "Blue Sky" laws of the various jurisdictions and fees of the Authentication Agent, and accountant's expenses. The Commission shall pay for expenses (included in the expense component of the spread) incurred that are incidental to implementing this Agreement, including, but not limited to, meals, transportation, lodging and entertainment or, conversely, shall reimburse the Underwriters for such expenses of the Commission paid for by the Underwriters. The Underwriters shall pay all other expenses incurred by them in connection with their public offering and distribution of the 2010 Series Bonds.

13. Any notice or other communication to be given to the Commission under this Agreement may be given by delivering the same in writing at their addresses set forth above, and any notice or other communication to be given to the Underwriters under this Agreement may be given by delivering the same in writing to Citigroup Global Markets Inc., Public Finance Department, 390 Greenwich Street, 2nd Floor, New York, NY 10013, Attention: Paul T. Creedon, Managing Director.

14. This Agreement is made solely for the benefit of the Commission and the Underwriters (including the successors or assigns of the Underwriters) and no other person, including any purchaser of the 2010 Series Bonds, shall acquire or have any right hereunder or by virtue hereof.

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

16. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

17. The Commission acknowledges and agrees that the Underwriters are acting as principals and not agents or fiduciaries, and that the Underwriters' engagement is as an independent contractor and not in any other capacity. The Commission acknowledges and agrees that it is solely responsible for making its own judgments in connection with the offering of the 2010 Series Bonds, notwithstanding that the Underwriters have or are currently advising the Commission on related or other matters.

18. This Agreement shall become effective upon your acceptance hereof.

Very truly yours,

CITIGROUP GLOBAL MARKETS INC.,
CREWS & ASSOCIATES, INC. and RAYMOND
JAMES & ASSOCIATES, INC.

By: CITIGROUP GLOBAL MARKETS INC.

By: _____
Paul T. Creedon, Managing Director

Accepted and agreed to as of
the date first above written:

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Its: Chancellor

Approved as to matters set forth in Section 9(c)(xv) of this Bond Purchase Agreement.

WEST VIRGINIA LOTTERY

By: _____
John A. Myers, Assistant Director

Very truly yours,

CITIGROUP GLOBAL MARKETS INC.,
CREWS & ASSOCIATES, INC. and
RAYMOND JAMES & ASSOCIATES,
INC.

By: CITIGROUP GLOBAL MARKETS
INC.

By: _____
Paul T. Creedon, Managing Director

Accepted and agreed to as of
the date first above written:

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Its: Chancellor

Approved as to matters set forth in Section 9(c)(xv) of this Bond Purchase Agreement.

WEST VIRGINIA LOTTERY

By: _____
John A. Myers, Assistant Director

Very truly yours,

CITIGROUP GLOBAL MARKETS INC.,
CREWS & ASSOCIATES, INC. and RAYMOND
JAMES & ASSOCIATES, INC.

By: CITIGROUP GLOBAL MARKETS INC.

By: _____
Paul T. Creedon, Managing Director

Accepted and agreed to as of
the date first above written:

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Its: Chancellor

Approved as to matters set forth in Section 9(c)(xv) of this Bond Purchase Agreement.

WEST VIRGINIA LOTTERY

By: John A. Myers
John A. Myers, Assistant Director

EXHIBIT A

MATURITIES, AMOUNTS, INTEREST RATES AND PRICE OR YIELDS*

$16,520,000 Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax-Exempt)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield
2018	$235,000	3.500%	3.680%
2019	1,735,000	3.750%	3.980%
2020	1,800,000	4.000%	4.250%

$12,750,000 5.000% 2010 Series A Term Bond due April 1, 2026 at a yield of 5.100%

$50,265,000 Revenue Bonds (Higher Education Facilities)
2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds)

$10,800,000 7.450% 2010 Series B Term Bond due April 1, 2030 at a price of 100%
$39,465,000 7.650% 2010 Series B Term Bond due April 1, 2040 at a price of 100%

$10,080,000 Revenue Bonds (Higher Education Facilities)
2010 Series C (Taxable)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield
2012	$1,340,000	2.140%	100%
2013	1,370,000	2.740%	100%
2014	1,405,000	3.330%	100%
2015	1,455,000	3.930%	100%
2016	1,510,000	4.390%	100%
2017	1,580,000	4.840%	100%
2018	1,420,000	5.280%	100%

Redemption

Optional Redemption of the 2010 Series Bonds. The 2010 Series A Bonds maturing on April 1, 2026 are subject to redemption at the option of the Commission, prior to maturity, in whole or in part on or after April 1, 2020 from amounts deposited with the West Virginia Municipal Bond Commission ("the Municipal Bond Commission") as Paying Agent by the Commission and from other funds available

therefor at a redemption price of par, plus accrued interest to the date fixed for redemption. The 2010 Series B Bonds are subject to an Optional Make-Whole Redemption (as provided below) and an Extraordinary Make-Whole Redemption as provided in the Official Statement. The 2010 Series C Bonds are not subject to redemption prior to maturity.

Optional Make-Whole Redemption. The 2010 Series B Bonds shall be subject to optional redemption prior to maturity, at the option of the Commission, in whole or in part, on any Business Day, at the Make-Whole Redemption Price, which is equal to the greater of (i) 100% of the principal amount of the 2010 Series B Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2010 Series B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 Series B Bonds are to be redeemed, discounted to the date on which the 2010 Series B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (hereinafter defined) plus 0.50%, plus accrued and unpaid interest on the 2010 Series B Bonds to be redeemed on the Redemption Date.

Extraordinary Optional Redemption. The 2010 Series B Bonds are subject to redemption prior to their maturity at the option of the Commission, in whole or in part (in $5,000 increments), upon the occurrence of the Extraordinary Event at a redemption price equal to the greater of:

1) 100% of the principal amount of the 2010 Series B Bonds to be redeemed; and
2) The sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2010 Series B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 Series B Bonds are to be redeemed, discounted to the date on which the 2010 Series B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate, plus 1.00%;

plus, in each case, accrued interest on the 2010 Series B Bonds to be redeemed to the redemption date.

An "Extraordinary Event" will have occurred if a material adverse change has occurred to Section 54AA or 6431 of the Code (as such Sections were added by Section 1531 of the Recovery Act, pertaining to "Build America Bonds") pursuant to which the Commission's 35% cash subsidy payment from the Treasury is reduced or eliminated with respect to the 2010 Series B Bonds.

"Treasury Rate" means, with respect to any redemption date for a particular 2010 Series B Bond, the yield to maturity as of such redemption date of Treasury securities with a constant maturity excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the 2010 Series B Bond to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded Treasury securities adjusted to a constant maturity of one year will be used.

At the request of the Trustee, the redemption price of the 2010 Series B Bonds to be redeemed at the option of the Commission will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the Commission at the Commission's expense to calculate such redemption price. The Trustee and the Commission may conclusively rely on the determination of such

redemption price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

Mandatory Sinking Fund Redemption of the 2010 Series A Bonds. The 2010 Series A Bonds maturing April 1, 2026 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2021	$1,875,000
2022	$1,970,000
2023	$2,065,000
2024	$2,170,000
2025	$2,280,000
2026	$2,390,000

Mandatory Sinking Fund Redemption of the 2010 Series B Bonds. The 2010 Series B Bonds maturing April 1, 2030 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2027	$2,510,000
2028	$2,635,000
2029	$2,760,000
2030	$2,895,000

The 2010 Series B Bonds maturing April 1, 2040 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2031	$3,035,000
2032	$3,185,000
2033	$3,345,000
2034	$3,510,000
2035	$3,685,000
2036	$3,870,000
2037	$4,060,000
2038	$4,265,000
2039	$4,475,000
2040	$6,035,000

Notice of Redemption. Notice of redemption of the 2010 Series Bonds will be given by the Registrar by mailing a copy of such notice to DTC, as the registered owner of the 2010 Series Bonds, not less than thirty (30) days and not more than sixty (60) days prior to the redemption date. See "Summary" herein.

EXHIBIT B

UNDERWRITERS' COUNSEL OPINION

[Letterhead of Goodwin & Goodwin, LLP]

December 23, 2010

Citigroup Global Markets Inc.
New York, New York

Crews & Associates, Inc.
Charleston, West Virginia

Raymond James & Associates, Inc.
Charleston, West Virginia

Re: $16,520,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt),
$50,265,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds), and
$10,080,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (collectively, the "Bonds")

Ladies and Gentlemen:

This letter is being delivered to you pursuant to the Bond Purchase Agreement dated December 17, 2010 (the "Agreement"), between Citigroup Global Markets Inc., as the representative acting on behalf of itself, Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters"), and the West Virginia Higher Education Policy Commission (the "Commission") relating to the sale of the above-referenced Bonds. The terms defined in the Agreement are used in this opinion with the meanings assigned to them in the Agreement.

We have acted as your counsel in connection with the issuance and sale of the Bonds to you, and in that capacity have examined an executed counterpart of the Agreement and the Certificate of Governor Approving Issuance of Bonds, dated December 9, 2010. We have also

examined the originals or copies, certified or otherwise identified to our satisfaction, of such other documents, corporate records and other instruments, as we have deemed necessary or advisable for purposes of this opinion.

In connection with the preparation of the Preliminary Official Statement, dated December 10, 2010, and the Final Official Statement dated December 17, 2010 (collectively, the "Official Statement"), we have generally reviewed information furnished to us by, and have participated in conferences with, representatives and officials of the Commission, its counsel, your representatives and Spilman Thomas & Battle, PLLC, Bond Counsel. We have also reviewed other records relating to the authorization, issuance and sale of the Bonds and have relied upon certificates of officials of the Commission and upon written opinions and letters received from the Commission and independent certified public accountants.

We have considered the information contained in the Official Statement and, based upon our review and discussions and in reliance upon the accuracy of the information contained in the aforementioned certificates, written opinions and letters, nothing has come to our attention which leads us to believe that the Official Statement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. We express no opinion as to the financial statements included in the Official Statement, and we express no opinion as to any other financial or statistical data included in the Official Statement or the Appendices thereto.

The Agreement has been validly authorized, executed and delivered by and on behalf of the Underwriters and, assuming due authorization, execution and delivery by the Commission, constitutes a valid and binding agreement, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws affecting the respective parties, the exercise of judicial discretion or the availability of equitable remedies.

In addition, we are of the opinion that the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Fifth Consolidated Supplemental Resolution dated December 3, 2010, approved by the Commission is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

We are further of the opinion that the Continuing Disclosure Agreement satisfies the requirements of Securities and Exchange Commission Rule 15c2-12(b)(5) (the "Rule"), which provides for an undertaking for the benefit of the holders, including beneficial owners, of the Bonds to provide certain annual financial information and event notices to various repositories at the times and in the manner required by the Rule.

Respectfully submitted,

Goodwin & Goodwin, LLP

This Preliminary Official Statement and the information contained herein are subject to completion and amendment. 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 sale of these securities, in any jurisdiction in which such offer, solicitation or sale would be unlawful, prior to registration or qualification under the securities laws of such jurisdiction.

PRELIMINARY OFFICIAL STATEMENT DATED DECEMBER 10, 2010

NEW ISSUE – Book-Entry-Only

(See "RATINGS" herein)

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 2010 Series A Bonds is excludable 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 2010 Series A 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 of certain corporations for purposes of calculating the federal corporate alternative minimum taken into account in determining the taxable income. In the further opinion of Bond Counsel, interest on the 2010 Series B and 2010 Series C Bonds will be included in gross income of the owners thereof for purposes of federal income taxation. In addition, under the Act, the 2010 Series Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof. See "TAX MATTERS" herein for a description of certain provisions of the Code which may affect the tax treatment of interest on the 2010 Bonds for certain bondholders.

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

$16,040,000*
Revenue Bonds
(Higher Education Facilities)
2010 Series A
(Tax-Exempt)

$50,160,000*
Revenue Bonds
(Higher Education Facilities)
2010 Series B
(Federally Taxable - Issuer Subsidy - Build America Bonds)

$10,090,000*
Revenue Bonds
(Higher Education Facilities)
2010 Series C
(Taxable)

Dated: Date of Delivery

Due: April 1, as shown on the inside cover

The State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt) (the "2010 Series A Bonds"), Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) (the "2010 Series B Bonds"), and Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (the "2010 Series C Bonds" and, together with the 2010 Series A Bonds and the 2010 Series B Bonds, the "2010 Series Bonds") are issued to provide funds to acquire, construct, improve and equip certain higher education facilities. The 2010 Series Bonds are being issued by the West Virginia Higher Education Policy Commission (the "Commission") pursuant to the Prior General Resolution, the Fifth Consolidated Supplemental Resolution, the provisions of Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), Senate Concurrent Resolution 41 adopted on March 13, 2010, Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended (the "Lottery Act") and Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended, as applicable.

The Commission has elected to designate the 2010 Series B Bonds as "Build America Bonds" for purposes of the American Recovery and Reinvestment Act of 2009 and to receive a cash subsidy from the United States Treasury equal to 35% of the interest payable on the 2010 Series B Bonds. See "THE 2010 SERIES BONDS - Build America Bonds." The Commission expects to receive cash subsidy payments from the United States Treasury equal to 35% of the interest payable on the 2010 Series B Bonds. Bondholders will not be eligible to receive tax credits with respect to the 2010 Series B Bonds. The 2010 Series B Bonds are additionally payable from and secured by the cash subsidy payments to be received by the Commission with respect to such 2010 Series B Bonds, as applicable, from the United States Treasury pursuant to the Internal Revenue Code of 1986, as amended.

The 2010 Series Bonds will be issued as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the 2010 Series Bonds. Purchases of the 2010 Series 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 2010 Series Bonds will be made to purchasers. Unless otherwise provided herein, payments of the principal, interest and premium, if any, will be made to purchasers by DTC through its participants. See "The 2010 Series Bonds - Book-Entry Only System." The West Virginia Municipal Bond Commission, Charleston, West Virginia, will act as the Paying Agent, and _____, will act as the Registrar.

The maturities, interest rates and yields of the 2010 Series Bonds are shown on the inside cover hereof. Interest on the 2010 Series Bonds will be payable on each April 1 and October 1, commencing April 1, 2011. **The 2010 Series Bonds are subject to redemption prior to maturity in the manner set forth herein and are subject to adjustment and reallocation within each series.**

The 2010 Series Bonds Debt Service is payable solely from the Revenues (as described herein). The 2010 Series Bonds are secured ratably by a first lien on all Revenues, which is on parity as to lien and source of payment with the Prior Bonds and Additional Bonds issued under the General Resolution. The 2010 Series B Bonds are also secured by the Interest Subsidy Reserve Fund (as hereinafter defined). See "Security for the 2010 Series Bonds."

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED TO SECURE THE 2010 SERIES BONDS. THE COMMISSION HAS NO TAXING POWER.

This cover page contains certain summary information regarding the 2010 Series Bonds and is not a complete summary of the 2010 Series Bonds or the security pledged therefor. Investors should read the entire Official Statement, particularly "Investment Considerations" (including the Appendices), to obtain information necessary to make an informed decision. The capitalized terms not otherwise defined in this cover page have the same meaning as that meaning assigned to them elsewhere in this Official Statement.

The 2010 Series Bonds will be 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 Bruce R. Walker, Esq., Charleston, West Virginia, general counsel to the Commission and by Goodwin & Goodwin, LLP, Charleston, West Virginia, counsel to the Underwriters. It is expected that the 2010 Series Bonds will be available for delivery to The Depository Trust Company in New York, New York, on or about _____, 201__.

Citi **Crews & Associates, Inc.** **Raymond James & Associates, Inc.**

Dated: December ___, 2010

*Preliminary, subject to change.

$76,290,000*
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

MATURITIES, AMOUNTS, INTEREST RATES AND PRICE OR YIELDS*

$16,040,000* Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt)

Maturity Year (April 1)	Principal Amount*	Interest Rate	Price or Yield	CUSIP No.**
2019	$1,580,000			
2020	1,775,000			

$12,685,000 ___% 2010 Series A Term Bond due April 1, 2026 at a yield of ___% CUSIP No. _____**.

$50,160,000* Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds)

$10,755,000* ___% 2010 Series B Term Bond due April 1, 2030 at a yield of ___% CUSIP No. _____**.
$39,405,000* ___% 2010 Series B Term Bond due April 1, 2040 at a yield of ___% CUSIP No. _____**.

$10,090,000* Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable)

Maturity Year (April 1)	Principal Amount*	Interest Rate	Price or Yield	CUSIP No.**
2012	$1,285,000			
2013	1,320,000			
2014	1,360,000			
2015	1,410,000			
2016	1,465,000			
2017	1,530,000			
2018	1,610,000			
2019	110,000			

* Preliminary, subject to change.

** CUSIP numbers have been assigned by an independent company not affiliated with the Commission and are included on this cover page solely for the convenience of the Owners of the 2010 Series Bonds only at the time of issuance of the 2010 Series Bonds. Neither the Underwriters nor the Commission makes any representation with respect to the accuracy of such CUSIP numbers as indicated in the above table or undertakes any responsibility for the selection of the CUSIP numbers or their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the 2010 Series Bonds.

REGARDING THE USE OF THIS OFFICIAL STATEMENT

THE UNDERWRITERS HAVE PROVIDED THE FOLLOWING SENTENCE FOR INCLUSION IN THIS OFFICIAL STATEMENT: THE UNDERWRITERS HAVE REVIEWED THE INFORMATION IN THIS OFFICIAL STATEMENT IN ACCORDANCE WITH, AND AS PART OF, THEIR RESPONSIBILITIES TO INVESTORS UNDER THE FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITERS DO NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

CERTAIN STATEMENTS CONTAINED IN THIS OFFICIAL STATEMENT DO NOT REFLECT HISTORICAL FACTS, BUT REFLECT FORECASTS AND "FORWARD-LOOKING STATEMENTS" WITHIN THE MEANING OF THE UNITED STATES PRIVATE SECURITIES LITIGATION ACT OF 1995, THE UNITED STATES SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. IN THIS RESPECT, THE WORDS "ESTIMATE," "PROJECT," "ANTICIPATE," "EXPECT," "INTEND," "BELIEVE" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. ALL PROJECTIONS, FORECASTS, ASSUMPTIONS, EXPRESSIONS OF OPINIONS, ESTIMATES AND OTHER FORWARD-LOOKING STATEMENTS ARE EXPRESSLY QUALIFIED IN THEIR ENTIRETY BY THE CAUTIONARY STATEMENTS SET FORTH IN THIS OFFICIAL STATEMENT.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE COMMISSION DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS CHANGE, OR UNFORSEEN EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

THE INFORMATION UNDER THE HEADINGS "THE COMMISSION" AND "WEST VIRGINIA HIGHER EDUCATION" HAS BEEN OBTAINED FROM THE COMMISSION. OTHER INFORMATION SET FORTH HEREIN HAS BEEN OBTAINED FROM THE STATE LOTTERY COMMISSION ("LOTTERY COMMISSION"), PUBLIC DOCUMENTS, RECORDS AND OTHER SOURCES THAT ARE DEEMED TO BE RELIABLE, BUT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS BY, AND IS NOT TO BE CONSTRUED AS A REPRESENTATION BY THE COMMISSION OR THE UNDERWRITERS. THE INFORMATION AND EXPRESSIONS OF OPINIONS HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE, AND NEITHER DELIVERY OF THIS OFFICIAL STATEMENT NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMMISSION, THE WEST VIRGINIA

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WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

MEMBERS OF THE WEST VIRGINIA EDUCATION POLICY COMMISSION

DAVID K. HENDRICKSON, ESQ. –Chairman

DR. BRUCE BERRY – Vice Chairman

KATHY G. EDDY – Secretary

JENNY ALLEN

BOB BROWN, Ex-Officio, Chair, West Virginia Council for Community and Technical College Education

JOHN ESTEP

KAY H. GOODWIN, Ex-Officio, Secretary of Education and the Arts

DR. JOHN LEON

DR. STEVEN L. PAINE, Ex-Officio, State Superintendent of Schools

DAVID RICHARD TYSON, ESQ.

ADMINISTRATIVE OFFICERS

DR. BRIAN NOLAND, Chancellor of Higher Education for West Virginia

DR. KEVIN WALTHERS, Vice Chancellor for Administration

RICHARD B. DONOVAN, Director of Finance & Facilities

TERRY L. HESS, Assistant Director of Finance & Facilities

BRUCE RAY WALKER, General Counsel

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SUMMARY

The Summary is only intended to provide a brief summary of certain information contained in the Official Statement. It does not purport to be a complete description or explanation of the information contained in the Official Statement. Investors should read the entire Official Statement (including the cover page and Appendices) to obtain information necessary to make an informed decision. The capitalized terms not otherwise defined in this Summary have the same meaning as that meaning assigned to them elsewhere in this Official Statement.

The Issuer

West Virginia Higher Education Policy Commission (the "Commission"). See "The Commission."

The Offering

The Commission is offering its (i) State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), in an aggregate principal amount of $16,040,000* (the "2010 Series A Bonds"), (ii) Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds), in an aggregate principal amount of $50,160,000* (the "2010 Series B Bonds"), and (iii) Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable), in an aggregate principal amount of $10,090,000* (the "2010 Series C Bonds" and, together with the 2010 Series A Bonds and the 2010 Series B Bonds, the "2010 Series Bonds"). See "THE 2010 SERIES BONDS."

Authority

The Commission adopted its Fifth Consolidated Supplemental Resolution on December 3, 2010, which authorized the issuance of the 2010 Series Bonds (the "2010 Series Resolution"). The 2010 Series Resolution supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Prior General Resolution, as supplemented by the 2010 Series Resolution, is collectively referred to herein as the "General Resolution." The 2010 Series Bonds are being issued pursuant to the General Resolution and under Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), Chapter 29, Article 22 of the Code of West Virginia, as amended (the "Lottery Act"), Senate Concurrent Resolution 41, Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended, as applicable, and other applicable provisions of law. A list of the various resolutions that comprise the General Resolution, as well as a list of the bonds that were respectively issued

*Preliminary, subject to change.

thereunder, is included in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION."

Ratings

Moody's: "Aa3"
Standard & Poor's: "A+"

Plan of Finance

The 2010 Series Bonds are being issued to provide funds to (i) fund the 2010 Projects, as more fully described in Appendix B hereto, (ii) fund an interest subsidy reserve fund for the benefit of the 2010 Series B Bonds, and (iii) pay the costs associated with the issuance of the 2010 Series Bonds.

Security and Source of Payment

The principal of, premium, if any, and interest on the 2010 Series Bonds (the "2010 Series Bonds Debt Service") is payable solely from the Revenues. The 2010 Series Bonds are secured ratably by a first lien on Revenues, which is on parity as to lien and source of payment with the 1998 University Bonds, the 2000A University Bonds, the 2003 University Bonds, the 2003 College Bonds, the 2004 B Bonds and the 2007 Series A Bonds (collectively, the "Prior Bonds"), as such Prior Bonds are individually defined in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION," and any Additional Bonds issued under the General Resolution. See "PLAN OF FINANCE" and "SECURITY FOR THE 2010 SERIES BONDS."

Pursuant to Senate Bill 612, effective March 13, 2010, the legislature increased the amount deposited annually in the Higher Education Improvement Fund, created under the Lottery Act, as hereinafter defined, from $10 million to $15 million, and the Commission will pledge the entire $15 million amount toward the payment of the 2010 Bonds and the Prior Bonds.

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED TO SECURE THE 2010 SERIES BONDS. THE COMMISSION HAS NO TAXING POWER.

Additional Bonds

Under the terms of the General Resolution, the Commission may issue Additional Bonds on parity as to lien and source of payment

with the 2010 Series Bonds and the Prior Bonds, collectively referred to as the "Bonds," assuming certain conditions are met. See APPENDIX G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS." The Commission may also issue other obligations subordinate as to lien and source of payment with the Bonds.

Revenue Covenant

The Commission has covenanted to fix and otherwise provide for the collection of Revenues, including Subsidy Receipts for the 2010 Series B Bonds, in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period, as those terms are defined in the General Resolution and the 2010 Series Resolution. See APPENDIX G - "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS."

Redemption of Bonds:

The 2010 Series Bonds are subject to optional and mandatory redemption prior to their stated maturities as set forth in "THE 2010 Series Bonds – Redemption."

Tax Matters

In the opinion of Bond Counsel, under existing law and assuming compliance with certain covenants, interest on the 2010 Series A Bonds is excluded from gross income for federal income tax purposes, is not treated as an item of tax preference for purposes of the alternative minimum income tax imposed on individuals and corporations under the Code and shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof. Interest on the 2010 Series B and 2010 Series C Bonds is <u>not</u> excluded from gross income for federal income tax purposes, but shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof.

Continuing Disclosure

Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended, generally prohibits an underwriter from purchasing or selling municipal securities in an initial offering unless it has determined that the issuer of such securities has committed to provide, annually, certain information, including audited financial information, and notice of various events, if material. To enable the Underwriters to comply with the provisions of Rule 15c2-12, the Commission will enter into a Continuing Disclosure Agreement to provide continuing disclosure regarding the 2010 Series Bonds. See "CONTINUING DISCLOSURE."

General

This Official Statement speaks only as of its date, and the information contained herein is subject to change. All summaries of documents and agreements in this Official Statement are qualified in their entirety by reference to such documents and agreements, copies of which are available from the Commission.

The offering of the 2010 Series Bonds is made only by the entire Official Statement, including all of its Appendices. No person is authorized to make offers to sell, or solicit offers to buy, the 2010 Series Bonds unless the entire Official Statement is delivered in connection therewith.

Information

Information regarding the 2010 Series Bonds is available by contacting the West Virginia Higher Education Policy Commission, 1018 Kanawha Blvd., East, Suite 700, Charleston, WV 25301, (304) 558-2101, or the Representative of the Underwriters, Citigroup Global Markets Inc., 390 Greenwich Street, 2nd Floor, New York, NY 10013, (212) 723-7093, Attention: Municipal Syndicate.

OFFICIAL STATEMENT

Relating to

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

$16,040,000*	$50,160,000*	$10,090,000*
Revenue Bonds	**Revenue Bonds**	**Revenue Bonds**
(Higher Education Facilities)	**(Higher Education Facilities)**	**(Higher Education Facilities)**
2010 Series A	**2010 Series B**	**2010 Series C**
(Tax-Exempt)	**(Federally Taxable - Issuer Subsidy - Build America Bonds)**	**(Taxable)**

INTRODUCTION

The Introduction is furnished solely to provide limited introductory information about the 2010 Series Bonds. It is not a summary of the Official Statement. Terms used in this Introduction and not otherwise defined shall have the respective meanings assigned to them elsewhere in this Official Statement.

This Official Statement of the Commission, including the cover page and appendices, is provided for the purpose of furnishing information concerning the Commission and 2010 Series Bonds.

The Commission adopted the 2010 Series Resolution on December 3, 2010. The 2010 Series Resolution supplemented the Prior General Resolution.

The 2010 Series Bonds are being issued pursuant to the General Resolution, the Act, the Lottery Act and other applicable provisions of law. A list of the various resolutions that comprise the General Resolution, as well as a list of the bonds that were respectively issued thereunder, is included in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION."

The proceeds of the 2010 Series Bonds will be used, together with other available funds, to: (i) fund the 2010 Projects, (ii) fund an interest subsidy reserve fund, and (iii) pay the costs associated with the issuance of the 2010 Series Bonds.

The principal of, premium, if any, and interest on the 2010 Series Bonds ("the 2010 Series Bonds Debt Service") is payable solely from the Revenues and, for the 2010 Series B Bonds only, the Interest Subsidy Reserve Fund.

*Preliminary, subject to change.

The Revenues are comprised of: (i) 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; (ii) the component part of the required educational and general capital fees of the Institutions, as listed in Appendix A, that constituted registration and tuition fees in effect as of March 21, 2004 (the "Pledged Educational and General Capital Fees"); (iii) excess lottery revenues deposited into the higher education improvement fund as provided for in the Lottery Act, as hereafter defined (the "Pledged Excess Lottery Revenues"); and (iv) Subsidy Receipts received from the United States Treasury contemporaneously with each interest payment date for the 2010 Series B Bonds ("Subsidy Receipts"). See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION." Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended is referred to herein as the "Lottery Act."

Following revisions to the Act that reclassified the fees that Institutions could charge to their students, the registration and tuition fees included in clause (i) of the description of Revenues above are no longer separately collected, but are now designated and imposed as Pledged Educational and General Capital Fees. Nevertheless, these registration and tuition fees remain pledged as security for the Bonds. The Commission is unaware of any plans by any West Virginia Institutions of Higher Education (each an "Institution" and collectively, the "Institutions") to impose any registration and tuition fees in the future. The current practice of not imposing registration and tuition fees does not, however, affect the legal validity of the pledge of such fees as security for the Bonds. Accordingly, if registration and tuition fees are imposed in the future, they will constitute a source of funds available for payment of debt service on the Bonds in addition to the fees currently being imposed. Nevertheless, the Pledged Educational and General Capital Fees, the Pledged Excess Lottery Revenues and, for the 2010 Series B Bonds only, the Subsidy Receipts, are presently the sole sources of funds available for payment of debt service on the Bonds.

The 2010 Series Bonds are secured ratably by a first lien on Revenues, which is on parity as to lien and source of payment with the Prior Bonds, as previously defined, and with the 2010 Series Bonds and any Additional Bonds, the "Bonds") as such Prior Bonds are individually defined in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION." See also "PLAN OF FINANCE", "SECURITY FOR THE 2010 SERIES BONDS" and "THE COMMISSION – History and Experience of Commission in the Issuance of Bonds."

The Commission is the successor to the University of West Virginia Board of Trustees (the "Board of Trustees") and the Board of Directors of the State College System (the "Board of Directors"). The Commission is responsible for developing, overseeing and implementing a higher education public policy agenda and other duties as specifically set forth in the Act. The Commission has the authority to assess each State Institution of Higher Education for payment of the debt service on the Bonds, including the 2010 Series Bonds. See "THE COMMISSION."

Pursuant to Senate Bill 448, effective March 13, 2004, the Legislature separated the State's community and technical college institutions from the baccalaureate and graduate institutions, created independent, accredited community and technical colleges in every region of the State, and

directed the universities, colleges and community and technical colleges to have focused missions, individual points of distinction and quality and strong links with the educational, economic and social revitalization of their regions and provide greater access and capacity to deliver technical education, workforce development and other higher education services to place-bound adults to improve the general levels of post-secondary educational attainment and literacy.

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED TO SECURE THE 2010 SERIES BONDS. THE COMMISSION HAS NO TAXING POWER.

All capitalized terms used in this Official Statement that are defined in the General Resolution shall have the respective meanings set forth therein. See APPENDIX G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS" herein. The references to and summaries and descriptions of the Act, The Lottery Act, the General Resolution, the 2010 Series Bonds, and the other statutes, instruments and documents which are included in this Official Statement do not purport to be comprehensive or definitive, and such summaries, references and descriptions are qualified in their entireties by references to the appropriate statute, instrument or document.

THE 2010 SERIES BONDS

General

The 2010 Series Bonds will be dated the date of delivery and will bear interest from such date. Ownership interests in the 2010 Series Bonds will be in denominations of $5,000 or any integral multiple thereof. Interest with respect to the 2010 Series Bonds will be computed using a year of 360 days comprised of twelve 30-day months and is payable on April 1 and October 1 of each year, commencing April 1, 2011. The 2010 Series 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.

Build America Bonds

The Commission has elected to designate the 2010 Series B Bonds as "Build America Bonds" for purposes of the American Recovery and Reinvestment Act of 2009 ("ARRA") and to receive payments ("Subsidy Receipts") from the United States Treasury in connection therewith.

In February 2009, as part of ARRA, Congress added provisions to the Internal Revenue Code of 1986, as amended (the "Code"), which permit state or local governments to obtain certain tax advantages when issuing taxable obligations that meet certain requirements of the Code and the related Treasury Regulations. Section 54AA authorized the issuance of "Build America Bonds". Build America Bonds are qualified bonds for purposes of Section 6431 of the

Code if they meet certain requirements of the Code and the related Treasury Regulations and the Commission has made an irrevocable election to have the special rule for qualified bonds apply.

The Series 2010 Series B Bonds are designated as "Build America Bonds". The Commission expects to receive a cash subsidy payment from the United States Treasury equal to 35% of the interest payable on the 2010 Series B Bonds on or about each interest payment date (a "Direct Payment"). The Direct Payments to the Commission do not constitute full faith and credit guarantees of the 2010 Series B Bonds by the United States. The Direct Payments, if received by the Commission, will be applied to the payment of debt service on the 2010 Series B Bonds in accordance with the terms of the 2010 Series Resolution. The Commission is obligated to make all payments of principal and interest on the 2010 Series B Bonds whether or not it receives the Direct Payments. To receive each Direct Payment, the Commission must file Form 8038-CP with the Internal Revenue Service. No assurances can be given that the Commission will receive the Direct Payments. The amount and receipt of any Direct Payment is subject to future changes in legislation or Treasury regulations, the Commission's filings of Form 8038-CP and any offset against certain amounts that may, for unrelated reasons, be owed by the Commission to the federal government.

If the Commission fails to timely file Form 8038-CP to receive a Direct Payment, it is possible that the Commission will receive a Direct Payment after the related interest payment date. It is for this reason that the Commission has established the Interest Subsidy Reserve Fund. Direct Payments will only be paid with respect to the 2010 Series B Bonds if the Commission complies with certain covenants and establishes certain facts and expectations with respect to the 2010 Series B Bonds regarding the use and investment of proceeds thereof and the use of property financed thereby.

Holders of the 2010 Series B Bonds will not be eligible to receive tax credits with respect to such bonds. Interest on the 2010 Series B Bonds will not be excluded from the gross income of the beneficial owners thereof for purposes of the federal income tax. Beneficial owners of the 2010 Series B Bonds should consult their tax advisors with respect to the inclusion of interest on such bonds in gross income for federal income tax purposes.

So long as the 2010 Series B Bonds are outstanding, the Commission shall maintain the Interest Subsidy Reserve Fund with the Municipal Bond Commission or a corporate trustee. On the date of issuance of 2010 Series B Bonds, there shall be deposited to the credit of the Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not received by the Commission in connection with the 2010 Series B Bonds on or before any interest payment date, the Municipal Bond Commission or a corporate trustee shall apply an amount on deposit in the Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date as claimed by the Commission on Form 8038-CP. Any amounts paid from the Interest Subsidy Reserve Fund shall be repaid by the Commission to the Interest Subsidy Reserve Fund immediately upon receipt of any Subsidy Receipt.

The Subsidy Receipts do not constitute a full faith and credit guarantee of the United States of America but are required to be paid by the United States Treasury under ARRA. If the

Subsidy Receipts from the United States Treasury are reduced or eliminated, the 2010 Series B Bonds are subject to extraordinary optional redemption. See "THE 2010 SERIES BONDS – Redemption" herein.

Book-Entry Only System

The 2010 Series Bonds will be issued as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company, ("DTC"), New York, New York. DTC will act as securities depository for the 2010 Series Bonds. Purchases of the 2010 Series 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 2010 Series Bonds will be made to purchasers. Unless otherwise provided herein, payments of the principal, interest and premium, if any, will be made to purchasers by DTC through its participants.

Except as otherwise provided herein or APPENDIX J – "BOOK-ENTRY ONLY SYSTEM", each actual purchaser of each 2010 Series Bonds ("Beneficial Owner") will not be or be considered to be, and will not have any rights as, owners or holders of the 2010 Series Bonds under the General Resolution. For additional information about DTC and the book-entry-only system see APPENDIX J – "BOOK-ENTRY ONLY SYSTEM."

Redemption*

Optional Redemption of the 2010 Series Bonds. The 2010 Series Bonds maturing on or after April 1, 202_ are subject to redemption at the option of the Commission, prior to maturity, on and after April 1, 202_, in whole or in part at any time from amounts deposited with the West Virginia Municipal Bond Commission ("the Municipal Bond Commission") as Paying Agent by the Commission and from other funds available therefor at a redemption price of par, plus accrued interest to the date fixed for redemption.

Extraordinary Optional Redemption. The 2010 Series B Bonds are subject to redemption prior to their maturity at the option of the Commission, in whole or in part (in $5,000 increments), upon the occurrence of the Extraordinary Event at a redemption price equal to the greater of:

1) 100% of the principal amount of the 2010 Series B Bonds to be redeemed; and
2) The sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2010 Series B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 Series B Bonds are to be redeemed, discounted to the date on which the 2010 Series B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate, plus ___ basis points;

plus, in each case, accrued interest on the 2010 Series B Bonds to be redeemed to the redemption date.

*Preliminary, subject to change.

An "Extraordinary Event" will have occurred if a material adverse change has occurred to Section 54AA or 6431 of the Code (as such Sections were added by Section 1531 of the Recovery Act, pertaining to "Build America Bonds") pursuant to which the Commission's 35% cash subsidy payment from the Treasury is reduced or eliminated with respect to the 2010 Series B Bonds.

"Treasury Rate" means, with respect to any redemption date for a particular 2010 Series B Bond, the yield to maturity as of such redemption date of Treasury securities with a constant maturity excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the 2010 Series B Bond to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded Treasury securities adjusted to a constant maturity of one year will be used.

At the request of the Trustee, the redemption price of the 2010 Series B Bonds to be redeemed at the option of the Commission will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the Commission at the Commission's expense to calculate such redemption price. The Trustee and the Commission may conclusively rely on the determination of such redemption price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

Mandatory Sinking Fund Redemption of the 2010 Series Bonds. The 2010 Series Bonds maturing April 1, 201_ through April 1, 201_ shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	**Principal**
201_	$_,___,000
201_	$_,___,000
201_	$_,___,000

Notice of Redemption. Notice of redemption of the 2010 Series Bonds will be given by the Registrar by mailing a copy of such notice to DTC, as the registered owner of the 2010 Series Bonds, not less than thirty (30) days and not more than sixty (60) days prior to the redemption date. See "Summary" herein.

Negotiable Instruments

The Act provides that the 2010 Series Bonds shall constitute negotiable instruments under the West Virginia Uniform Commercial Code.

ESTIMATED SOURCES AND USES OF FUNDS

The following table sets forth the estimated sources and uses of funds:

Sources

Principal amount of the 2010 Series A Bonds	$ __,___,000.00*
Principal amount of the 2010 Series B Bonds	__,___,000.00*
Principal amount of the 2010 Series C Bonds	__,___,000.00*
Net Original Issue Premium	__,___,___.__
Total	$ __,___,___.__

Uses

Deposit to Bond Proceeds Fund	$ __,___,___.__
Deposit to Interest Subsidy Reserve Fund	___,___.__
Underwriters' Discount	___,___.__
Costs of Issuance Fund[1]	__,___,___.__
Total	$ __,___,___.__

[1] Includes legal fees, printing and miscellaneous costs relating to the issuance of the 2010 Series Bonds.

*Preliminary, subject to change.

PLAN OF FINANCE

Proceeds of the 2010 Series Bonds will be applied to provide funds to (i) fund the 2010 Projects, (ii) fund an interest subsidy reserve fund for the benefit of the 2010 Series B Bonds and (iii) pay the costs associated with the issuance of the 2010 Series Bonds.

All Bonds issued under the General Resolution shall be payable from and equally and ratably secured by the Revenues in the manner set forth in General Resolution. See "SECURITY FOR THE 2010 SERIES BONDS."

The 2010 Projects consist of the new construction and facility improvements and renovations described more fully in Appendix B hereto. The 2010 Projects will be constructed with monies deposited in the Bond Proceeds Fund, along with amounts contributed by the Institutions for their specific projects. Funds on deposit in the Bond Proceeds Fund will be expended before any other monies or funds available for construction of the 2010 Projects.

DEBT SERVICE REQUIREMENTS

The following table sets forth, for each year as indicated, the amounts required annually for the payment of existing debt service on the Prior Bonds and the payment of principal and interest for the 2010 Series Bonds.

Year Ending	2010 Series Bonds			Existing	
(June 30)	Principal	Interest	Debt Service	Debt Service	Total
2011				28,235,813	28,235,813
2012				26,667,563	26,667,563
2013				23,909,038	23,909,038
2014				23,911,888	23,911,888
2015				23,911,788	23,911,788
2016				23,907,888	23,907,888
2017				22,724,488	22,724,488
2018				22,719,663	22,719,663
2019				22,721,263	22,721,263
2020				22,718,138	22,718,138
2021				22,719,438	22,719,438
2022				22,723,263	22,723,263
2023				22,722,538	22,722,538
2024				22,723,238	22,723,238
2025				22,719,138	22,719,138
2026				22,055,113	22,055,113
2027				22,055,675	22,055,675
2028				20,612,813	20,612,813
2029				16,797,250	16,797,250
2030				16,799,250	16,799,250
2031				16,797,500	16,797,500
2032				9,996,250	9,996,250
2033				9,999,500	9,999,500
2034				9,996,000	9,996,000
2035				-	-
2036				-	-
2037				-	-
2038				-	-
2039				-	-
2040				-	-
Total	-	-	-	**500,144,488**	**500,144,488**

[1] *Represents Debt Service on all Prior Bonds that are on parity with the 2010 Series Bonds. Amounts do not include debt service associated with the Commission's 2009 Series A Community and Technical Colleges Capital Improvement Revenue Bonds which are not secured by the Revenues pledged herein.*

SECURITY FOR THE 2010 SERIES BONDS

Pledge of Revenues

The debt service on the Bonds is payable solely from the Revenues. The 2010 Series Bonds are secured ratably by a first lien on the Revenues, which is on parity as to lien and source of payment with the Prior Bonds and any Additional Bonds. See "PLAN OF FINANCE."

The Revenues are comprised of: (i) 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; (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004; (iii) the Pledged Excess Lottery Revenues, as increased pursuant to Senate Bill 612; and (iv) Subsidy Receipts, only available for the 2010 Series B Bonds. See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION."

Following revisions to the Act that reclassified the fees that Institutions could charge to their students, the registration and tuition fees included in clause (i) of the description of Revenues above are no longer separately collected. Nevertheless, these registration and tuition fees remain pledged as security for the Bonds. The Commission is unaware of any plans by any Institution to impose any registration and tuition fees in the future. The current practice of not imposing registration and tuition fees does not, however, affect the legal validity of the pledge of such fees as security for the Bonds. Accordingly, if registration and tuition fees are imposed in the future, they will constitute a source of funds available for payment of debt service on the Bonds in addition to the fees currently being imposed. Nevertheless, the Pledged Educational and General Capital Fees, the Pledged Excess Lottery Revenues and, only for the 2010 Series B Bonds, the Subsidy Receipts, are presently the sole sources of funds available for payment of debt service on the Bonds.

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION PAYABLE SOLELY FROM THE REVENUES. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED THEREFOR. THE COMMISSION HAS NO TAXING POWER.

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 available for the payment of debt service on Bonds issued by the Commission and its predecessors pursuant to the General Resolution shall be deposited in the respective capital

improvement funds and the debt service on the Bonds will be transferred semiannually to the Municipal Bond Commission or a corporate trustee and is pledged for the payment of the Bonds.

Under the Lottery Act, a special revenue fund named the State Excess Lottery Revenue Fund has been created in the State Treasury (the "Excess Lottery Revenue Fund.") The Excess Lottery Revenue Fund receives its revenues, primarily from two sources: (1) the Racetrack Video Lottery; and (2) the Limited Video Lottery. The Lottery Act provides that funds on deposit in the Excess Lottery Revenue Fund be disbursed by the Lottery Commission to certain funds, including the Higher Education Improvement Fund ("Higher Education Improvement Fund"), in the order of priority specified therein. See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION – Pledged Excess Lottery Revenues" herein. Specifically, the Lottery Act directs the Lottery Commission to transfer $15,000,000 to the Higher Education Improvement Fund annually, subject to available funds, for the benefit of higher education. Funds on deposit in the Higher Education Improvement Fund are then required to be deposited into the special capital improvement fund, pursuant to the terms of Section 18a of the Lottery Act and Senate Concurrent Resolution No. 41, and used to pay debt service on the Bonds in accordance with the General Resolution.

Pursuant to the Tenth University Supplemental Resolution and a Memorandum of Understanding, as amended (the "MOU") among the Commission, the Director of the West Virginia Lottery 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, 2004, 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 G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS."

Revenue Covenant

The Commission has covenanted to fix and otherwise provide for the collection of Revenues, which include Subsidy Receipts for the benefit of the 2010 Series B Bonds, in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period, as those terms are defined in the General Resolution and the 2010 Series Resolution. See APPENDIX G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS."

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 parity with the lien of the Bonds issued from time to time pursuant to the General Resolution. The 2010 Series Bonds are authorized to be issued under the 2010 Series Resolution. The issuance of the 2010 Series Bonds meets the test for the issuance of a Series of Additional Bonds set forth in 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 constituted solely of Pledged Educational and General Capital Fees 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 paragraph (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.

Interest Subsidy Reserve Fund

Revenues shall include Subsidy Receipts from the United States Treasury paid contemporaneously with each interest payment date for the 2010 Series B Bonds, equal to 35% of the interest payable on the 2010 Series B Bonds on such date. This amount shall be for credit to the holders of the 2010 Series B Bonds.

On the date of issuance of 2010 Series B Bonds, there shall be deposited into the Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not received by the Commission in connection with the 2010 Series B Bonds on or before any interest payment date, the Municipal Bond Commission or a corporate trustee shall apply an amount on deposit in the Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date, as claimed by the Commission on its Form 8038-CP, for credit to the holders of the 2010 Series B Bonds.

REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION

Pledged Educational and General Capital Fees

As previously discussed, the Pledged Educational and General Capital Fees are part of the Revenues pledged to secure the Bonds and consist of the portion of the required educational and general capital fees that constituted registration and tuition fees in effect as of March 21, 2004. The required educational and general capital fees are only a portion of the overall student fees charged to students enrolled in Institutions.

In general, the student fees that are regularly charged to and collected from students enrolled at Institutions are comprised of three distinct components: (1) tuition and required educational and general fees; (2) auxiliary and auxiliary capital fees; and (3) required educational and general capital fees (the "Educational and General Capital Fees").

Pursuant to Senate Bill 448, effective March 13, 2004, the Legislature separated the State's community and technical college institutions from the baccalaureate and graduate institutions. The Institutions included in each category can be seen in Appendix A hereto.

The Pledged Educational and General Capital Fees do not constitute all of the Educational and General Capital Fees collected by the Institutions, but only those Educational and General Capital Fees that constituted registration and tuition fees in effect on March 21, 2004. Furthermore, the following fees are not part of the Revenues pledged for the payment of the Bonds: (i) fees constituting tuition fees collected at West Virginia University Health Sciences Center; (ii) fees constituting tuition and registration fees collected from students enrolled in West Virginia University graduate level extension and graduate level off-campus courses for credit taught off the campus of West Virginia University; (iii) fees constituting tuition fees collected at Blue Ridge Community and Technical College; Bridgemont Community and Technical College; Eastern West Virginia Community and Technical College; Kanawha Valley Community and Technical College; Mountwest Community and Technical College; New River Community and Technical College; Pierpont Community and Technical College; Southern West Virginia Community and Technical College; West Virginia Northern Community and Technical College; and West Virginia University at Parkersburg.

Collection of Educational and General Capital Fees

Pursuant to the Act, each Board of Governors is required to collect the Educational and General Capital Fees from students enrolled at their respective Institutions and deposit those fees into separate "capital improvement funds" maintained in the State Treasury.

Full-time students enrolled at each Institution are required by the Act to pay Education and General Capital Fees. 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. However, no additional Educational and General Capital Fees are collected from students taking more than 12 credit hours or from graduate students taking more than 9 hours.

The Commission has covenanted to diligently enforce and collect the Pledged Educational and General Capital Fees from all students enrolled for credit at any of the Institutions.

Each Board of Governors is empowered to fix the Educational and General Capital Fees to be imposed upon students at their respective Institutions. The Board of Governors of each Institution may increase the registration fee and tuition fee component of the Educational and General Capital Fees now or hereafter in effect pursuant to the Act. The increase in fees is subject to the approval of the Commission, or, in the case of community and technical college education offered by the public higher education institutions, subject to the approval of the Council for Community and Technical College Education ("the Council"); provided, however, that West Virginia University and Marshall University are not required to obtain the Commission's approval of such fee increases at their respective Institutions. Though the Council is now responsible for approving tuition and fees for institutions under its jurisdiction, the Commission remains responsible for debt repayment and capital project initiatives and all previous revenues pledged remain under the Commission's control.

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 Bonds in the ensuing fiscal year.

Student Enrollment Statistics

Data in the following table illustrates the historical pattern of both end of term Fall head-count and FTE enrollment for all Institutions over the past five years, as well as projections through end of term, Fall 2010. Both resident and non-resident enrollment data are provided, since student fees for non-residents are substantially higher than for in-state students. Nevertheless, various factors may contribute to material fluctuations in head-counts and FTE enrollment statistics in the future, which may materially impact the Commission's ability to pay debt service on the Bonds. See "WEST VIRGINIA HIGHER EDUCATION – Student Enrollment."

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Higher Education Policy Commission							
Council for Community and Technical College Education							
Summary of All Institutions							
Combined-Headcount							
Fall Semester (End of Term)		Resident		Non Resident		Total	
2005		65,974		19,660		85,634	
2006		66,086		20,886		86,972	
2007		66,280		21,996		88,276	
2008		66,070		23,210		89,280	
2009		71,068		23,884		94,952	
2010 Projected		72,135		24,242		96,377	(1)
Combined-FTE							
Fall Semester (End of Term)		Resident		Non Resident		Total	
2005		52,170		18,067		70,237	
2006		52,009		19,388		71,397	
2007		51,657		20,473		72,130	
2008		51,578		21,652		73,230	
2009		54,687		22,240		76,927	
2010 Projected		56,264		22,882		79,146	(1)
(1) To project the Fall 2010 end of term Headcount and FTE enrollments, the Fall 2010 census date enrollments were divided by the Fall 2009 census date enrollments. The results were multiplied by the Fall 2009 end of term enrollments							

Source: West Virginia Higher Education Policy Commission

Pledged Excess Lottery Revenues

As previously discussed, the Pledged Excess Lottery Revenues are part of the Revenues pledged to secure the Bonds. The Pledged Excess Lottery Revenues consist of funds from the State Excess Lottery Revenue Fund that are required to be deposited into the Higher Education Improvement Fund, subject to availability, as provided in the Lottery Act.

This explanation of the Pledged Excess Lottery Revenues, the State Excess Lottery Revenue Fund and the Lottery contained in this section does not purport to be a complete description or explanation of the information contained in the Official Statement. Investors should read APPENDIX E – "WEST VIRGINIA LOTTERY" and APPENDIX F – "WEST VIRGINIA LOTTERY FINANCIAL STATEMENTS" to obtain the necessary information to make an informed evaluation of the Pledged Excess Lottery Revenues.

The West Virginia Lottery was constitutionally authorized on November 6, 1984. The

Lottery Act was enacted during the 1985 legislative session of the West Virginia Legislature. The Lottery Act created the Lottery Commission, which sets policy and direction for the Lottery.

Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended (the "Lottery Act"), Chapter 29, Article 22A of the Code of West Virginia, 1931, as amended, and Chapter 29, Article 22B, Code of West Virginia, 1931, as amended, together provide a system by which a portion of profits from Racetrack Video Lottery and from Limited Video Lottery as well as Limited Video Lottery licensing, permit and other fees are transferred to the State Excess Lottery Revenue Fund. The Lottery Act requires the Lottery Commissioner to disburse the remaining funds from the State Excess Lottery Revenue Fund to certain other funds, including the Higher Education Improvement Fund, in the order of priority set forth in the Lottery Act.

Under the General Resolution, the Commission has included the Higher Education Improvement Fund as security for the payment of the Bonds. Revenues include all amounts contained in the Higher Education Improvement Fund and the Pledged Educational and General Capital Fees. Revenues do not include, however, moneys on deposit in the State Excess Lottery Revenue Fund or the State Lottery Fund that have not been transferred by the Lottery Director into the Higher Education Improvement Fund.

Under the Lottery Act, a special revenue fund named the State Excess Lottery Revenue Fund has been created in the State Treasury (the "State Excess Lottery Revenue Fund"). The State Excess Lottery Revenue Fund receives its revenues from two sources, the Limited Video Lottery and the Racetrack Video Lottery, as described herein. The Lottery Act also creates a special revenue fund in the State Treasury named the State Lottery Fund (the "State Lottery Fund"). The State Lottery Fund receives the State's share of net profits from lottery tickets, materials and games (except the Veterans' Instant Lottery) and a portion of the net terminal income from the Racetrack Video Lottery. The Lottery Act requires that revenues on deposit in the State Excess Lottery Revenue Fund serve as the principal source of funding for the Higher Education Improvement Fund, while revenues on deposit in the State Lottery Fund, if available, serve as a backup source of funding for the Higher Education Improvement Fund in years where revenues on deposit in the State Excess Lottery Revenue Fund are insufficient to pay the debt service on bonds payable from the revenues thereof, but only to the extent such revenues of the State Lottery Fund are not otherwise needed to pay debt service on bonds secured thereby.

The Lottery Act provides that funds on deposit in the State Excess Lottery Revenue Fund shall be transferred to certain funds, including the Higher Education Improvement Fund, in the order of priority specified therein. On March 13, 2010, the West Virginia Legislature enacted Senate Bill 612, which increased the amount deposited annually in the Higher Education Improvement Fund from $10 million to $15 million. The Commission will pledge those funds toward the payment of the Bonds. The Lottery Act and the transfers of funds from the State Excess Lottery Revenue Fund required therein are subject to amendment by the State Legislature. Upon the issuance of the 2010 Series Bonds, the maximum annual amount of $15,000,000 presently earmarked for transfer from the State Excess Lottery Revenue Fund into the Higher Education Improvement Fund will be required to satisfy the annual principal and interest on the Bonds.

In the fiscal years, 2008 through 2010, the revenues of the State Excess Lottery Revenue

Fund have been approximately $1,523,455,539; $1,493,035,765; and $1,358,094,455, respectively. See APPENDIX F – "WEST VIRGINIA LOTTERY FINANCIAL STATEMENTS."

Future funding for the State Excess Lottery Revenue Fund is subject to the following risks, among others: (i) competition from lotteries and other gaming facilities in West Virginia and the surrounding states; (ii) changes in legislation affecting the funding of or allocation or distribution of funds from the State Excess Lottery Revenue Fund; and (iii) the dissolution of the West Virginia Lottery. See APPENDIX E – "WEST VIRGINIA LOTTERY."

State Excess Lottery Revenue Fund

The Lottery Act creates the "State Excess Lottery Revenue Fund" as a special revenue fund in the State Treasury. The State Excess Lottery Revenue Fund receives the State's share of net profits from two sources: (1) Racetrack Video Lottery, and (2) Limited Video Lottery, as well as certain fees related to Limited Video Lottery.

The Racetrack Video Lottery Act, as set forth in Chapter 29, Article 22A of the Code of West Virginia, 1931, as amended, and the Limited Video Lottery Act, as set forth in Chapter 29, Article 22B of the Code of West Virginia, 1931, as amended, together provide a system through which a portion of the net profits from Racetrack Video Lottery and from Limited Video Lottery, as well as Limited Video Lottery licensing, permit and other fees, are transferred to the State Excess Lottery Revenue Fund.

The Racetrack Video Lottery Act establishes two permanent benchmarks for each racetrack based on fiscal year ended June 30, 2001 results. The first of these two benchmarks is based on a track's gross terminal income, net of prizes (the "Gross Benchmark"). The aggregate Gross Benchmark for all tracks equals $438.1 million. The Racetrack Video Lottery Act also establishes a benchmark based on a track's net terminal income (the "Net Benchmark"). No deposit to the State Excess Lottery Revenue Fund occurs until the benchmarks for a given racetrack is exceeded during the respective fiscal year.

Transfers from the State Excess Lottery Revenue Fund are prescribed by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the State Excess Lottery Revenue Fund is transferred to West Virginia Department of Revenue for the purpose of providing funding for a senior citizen tax credit for real estate taxes paid on the first $20,000 of assessed value of the taxpayer's owner-occupied dwelling (the "Refundable Credit"). The Refundable Credit totaled $7,371,723 for the year ended June 30, 2009 and $8,370,988 for the year ended June 30, 2010. The Lottery Commission projects that the annual Refundable Credit will be $10,000,000 during each of the next three fiscal years.

Second Priority Transfers: Second, a portion of the State Excess Lottery Revenue Fund is then transferred to the following eight funds:[1]

General Purpose Account	$65 million
Education Improvement Fund (Promise Scholarship Fund)	$29 million
Economic Development Project Fund	$19 million
Excess Lottery School Building Debt Service Fund	$19 million
West Virginia Infrastructure Fund	$40 million
Higher Education Improvement Fund	$15 million
State Park Improvement Fund	$ 5 million
Thoroughbred Development Fund	$ 2 million

If, after funding the Refundable Credit, the remaining funds in the State Excess Lottery Revenue Fund are insufficient to fund all of the forgoing seven transfers, the remaining funds on deposit in the State Excess Lottery Revenue Fund, will be transferred in the following priority:

(1) First, a transfer of approximately $19 million to the Economic Development Project Fund to pay debt service on the $249,895,000 West Virginia Economic Development Authority State of West Virginia Excess Lottery Revenue Bonds (Federally Taxable), Series 2004 (the "EDA - Excess Lottery Grant Bonds") coming due in a particular year, as certified to the Lottery Director, which shall be transferred by the Lottery Director to the Economic Development Project Fund in one-tenth increments on a monthly basis.

[1] Prior to the issuance of bonds payable from revenues of the State Excess Lottery Revenue Fund, the Lottery Act does not prescribe the timing or manner in which the Lottery Director must make the transfers to these seven funds in years when the revenues of the State Excess Lottery Revenue Fund are sufficient to make all such transfers. Following the issuance of bonds, however, the Lottery Act provides that the Lottery Director shall, on a monthly basis, first transfer to the Economic Development Project Fund one-tenth of the projected annual principal, interest and coverage requirements coming due on the EDA Excess Lottery Grant Bonds in a particular year, as certified to the Lottery Director, and second transfer to the fund or funds from which debt service is paid on bonds issued for the School Building Authority, infrastructure, Commission and park improvements in an amount equal to one-tenth of the projected annual principal, interest and coverage requirements coming due on those respective bonds in a particular year, as certified to the Lottery Director. Presently, this second required transfer is only made to the Higher Education Improvement Fund and the Excess Lottery School Building Debt Service Fund to pay such amounts coming due in a particular year. In years when revenues of the State Excess Lottery Revenue Fund are sufficient to make all of the transfers to these seven funds, the Lottery Act does not prohibit the Lottery Director from making transfers to funds from which debt service is not payable in the manner he deems appropriate following the one-tenth transfers referred to above. For a discussion of the priority in which transfers must be made from the State Excess Lottery Revenue Fund in years where revenues are insufficient to make all transfers required by the Lottery Act, see discussion in (2) of this section, below.

(2) Second, transfers to such of the other six funds from which debt service is payable in amounts necessary to pay the respective debt service on such bonds coming due in a particular year, as certified to the Lottery Director, which shall be transferred to such funds in one-tenth increments on a monthly basis; provided that, to the extent that sufficient State Excess Lottery Revenues are not available to pay debt service on all such revenue bonds, transfers will be made on a pro rata, parity basis. Presently, the second-priority, parity transfers include a $15 million transfer to the Higher Education Improvement Fund to pay debt service on bonds issued by the Commission and a transfer to the Excess Lottery School Building Debt Service Fund of $19 million to pay debt service on bonds issued by the School Building Authority of West Virginia. Additional second-priority, parity transfers may be required in the future as a result of the issuance of revenue bonds the debt service on which is payable out of the West Virginia Infrastructure Fund or the State Park Improvement Fund.

(3) Third, transfers to the Education Improvement Fund.

(4) Fourth, transfers to the General Purpose Account.

(5) Last, transfers to the remaining Funds.

Third Priority Transfers: Last, the remaining funds on deposit in the State Excess Lottery Revenue Fund are required to be transferred to the State Lottery Fund in amount equal to those amounts that were transferred from the State Lottery Fund to the State Excess Lottery Revenue Fund to pay debt service on bonds payable from revenues of the State Excess Lottery Revenue Fund.

NO PORTION OF THE STATE EXCESS LOTTERY REVENUE FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. ONLY AMOUNTS ON DEPOSIT IN THE EXCESS LOTTERY HIGHER EDUCATION IMPROVEMENT FUND CONSTITUTE PLEDGED REVENUES.

State Lottery Fund

The Lottery Act creates the "State Lottery Fund" as a special revenue fund in the State Treasury. The State Lottery Fund receives the State's share of net profits from lottery tickets, materials and games (except the Veterans' Instant Lottery) and a portion of the net terminal income from the Racetrack Video Lottery.

A minimum annual average of forty-five percent of the gross amount received from each lottery is allocated and disbursed as prizes, and not more than fifteen percent of the gross amount received from each lottery can be allocated to and disbursed, as necessary, for fund operation and administrative expenses. The excess of the gross amount received from the lotteries described above over the sum of the amount distributed for prizes and administrative expenses shall be allocated as net profit. Thirty percent of net terminal income up to the Gross Benchmark from the Racetrack Video Lottery is also transferred to the State Lottery Fund each fiscal year.

Transfers from the State Lottery Fund are required by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the net profits of the State Lottery Fund is transferred monthly to the School Building Debt Service Fund established under the Lottery Act to pay the annual principal, interest and coverage requirement on all revenue bonds and refunding bonds issued, or to be issued after April 1, 1994, payable from revenues of the State Lottery Fund (the "SBA Lottery Bonds").

Second Priority Transfers: Second, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Education, Arts, Sciences and Tourism Debt Service Fund established under the Lottery Act as necessary to pay debt service on revenue bonds issued and payable from such source pursuant to the Lottery Act (the "EAST Lottery Bonds"). The maximum monthly amount cannot exceed $1,000,000 and the total allocation of net profits cannot exceed the lesser of the principal and interest required to be annually paid or $10,000,000. The EAST Lottery Bonds matured by their terms on July 1, 2010. Pursuant to HB 113 enacted by the State Legislature in the First Special Session of 2009 ("HB 113"), the authority to issue revenue bonds payable from funds deposited into the Education, Arts, Sciences and Tourism Debt Service Fund (the "EAST Fund") from the State Lottery Fund was transferred from the State Building Commission to the West Virginia Economic Development Authority. The West Virginia Economic Development Authority issued bonds payable from funds on deposit in the EAST Fund in August 2010 (the "New EAST Lottery Bonds"). The New EAST Lottery Bonds were issued in an amount that will fully leverage the $10,000,000 allocation of revenues deposited into the EAST Fund from the State Lottery Fund.

Third Priority Transfers: Third, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Community and Technical College Capital Improvement Fund to pay the annual principal, interest and coverage ratio requirements on all revenue bonds payable from the Community and Technical College Capital Improvement Fund pursuant to the Lottery Act (the "CTC Lottery Bonds"). The maximum monthly amount cannot exceed $500,000 and the total allocation cannot exceed the lesser of the principal and interest required to be annually paid or $5,000,000. The current annual principal and interest on the CTC Lottery Bonds is approximately $5,000,000 and these bonds mature by their terms in 2039. Upon the maturity of the CTC Lottery Bonds, the $5,000,000 allocated annually to the Community and Technical College Capital Improvement Fund shall become available for debt service on additional CTC Lottery Bonds ("Additional CTC Lottery Bonds"). The priority of the transfer of $5,000,000 from the State Lottery Fund to the Community and Technical College Capital Improvement Fund to pay debt service on Additional CTC Lottery Bonds, if issued, vis-à-vis the priority of the transfer of up to $10,000,000 from the State Lottery Fund to the Education, Arts, Sciences and Tourism Debt Service Fund to pay debt service on any bonds payable therefrom shall be determined as provided in the Lottery Act at the time of issuance of the Additional CTC Lottery Bonds.

Fourth Priority Transfers: Fourth, after first satisfying the requirements for funds dedicated to retire the SBA Lottery Bonds, the EAST Lottery Bonds and the CTC Lottery Bonds or Additional CTC Lottery Bonds, as the case may be, the remaining net profits of the State

Lottery Fund are then made available to pay debt service in connection with any bonds issued pursuant to Section 18a of the Lottery Act (that is bonds payable from revenues of the State Excess Lottery Revenue Fund) if and to the extent needed for such purpose from time to time.

Fifth Priority Transfers: Last, subject to certain limitations described in this paragraph, the remaining net profits of the State Lottery Fund may be appropriated by the West Virginia Legislature annually, in such proportions as it deems beneficial, to (i) the Lottery Education Fund; (ii) the School Construction Fund; (iii) the Lottery Senior Citizens Fund; and (iv) the Division of Natural Resources and West Virginia Development Office; provided, however, these fifth priority payments may only be made if: (i) a default does not exist with respect to the debt service on the bonds issued by the School Building Authority, the State Building Commission, the Higher Education Policy Commission, the Economic Development Authority, or bonds that are otherwise secured by lottery proceeds; and (ii) the net profits of the State Lottery Fund for the preceding twelve months is equal to at least 150% of the debt service on bonds issued by the School Building Authority, the State Building Commission or the Higher Education Policy Commission, which are secured by the net profits of the lottery.

NO PORTION OF THE STATE LOTTERY FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. AS DESCRIBED ABOVE, HOWEVER, REVENUES OF THE STATE LOTTERY FUND IN EXCESS OF THE AMOUNT OF REQUIRED TRANSFERS TO THE SCHOOL BUILDING DEBT SERVICE FUND, THE EDUCATION, ARTS, SCIENCES AND TOURISM DEBT SERVICE FUND AND THE COMMUNITY AND TECHNICAL COLLEGE CAPITAL IMPROVEMENT FUND TO PAY DEBT SERVICE ON BONDS SECURED THEREBY SHALL BE MADE AVAILABLE FOR TRANSFER TO THE STATE EXCESS LOTTERY REVENUE FUND TO PAY DEBT SERVICE ON BONDS REFERRED TO IN SECTION 18A OF THE LOTTERY ACT TO THE EXTENT THAT REVENUES IN THE STATE EXCESS LOTTERY REVENUE FUND ARE INSUFFICIENT TO PAY ALL SUCH DEBT SERVICE.

Debt Service Coverage

The following Table, prepared by the Commission, shows: (i) the historical coverage of Annual Debt Service resulting from a historical comparison of the Revenues to the Annual Debt Service for the three prior fiscal years; and (ii) the projected Coverage of Annual Debt Service resulting from a comparison of forecasted Revenues and forecasted Annual Debt Service for the 2011 fiscal year. The forecasted Annual Debt Service for 2011 includes Debt Service on Outstanding Bonds.

The West Virginia Higher Education Fund (the "Fund"), through the Commission, does not as a matter of course make public projections as to future revenues, increase in net assets, or other results. However, the Commission has prepared the prospective financial information set forth below to present projected Annual Debt Service Coverage information. The accompanying prospective financial information was prepared for internal management purposes and was not prepared with a view toward complying with the guidelines established by the American Institute of Certified Public Accountants with respect to prospective financial information, but, in the view of the Commission, was

prepared on a reasonable basis, reflects the best currently available estimates and judgments, and presents, to the best of the Commission's knowledge and belief, the expected course of action and the expected future financial performance of the Fund. However, this information is not fact and should not be relied upon as being necessarily indicative of future results, and readers of this Official Statement are cautioned not to place undue reliance on the prospective financial information.

Neither the Fund's independent auditors, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the prospective financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the prospective financial information.

Higher Education Policy Commission
Summary of Actual/Forecasted Pledged Revenues and Expenditures
Higher Education Facilities Bonds – Pledged Revenues

				Forecasted	
	Period Ending June 30, 2008	Period Ending June 30, 2009	Period Ending June 30, 2010	Period Ending June 30, 2011	
Pledged Educational and General Capital Fees	$42,167,939	$44,427,487	$45,495,567	$47,769,638	(1)
Investment Earnings	$847,952	$318,446	$67,443	$40,661	(2)
Pledged Excess Lottery Revenues	$10,000,000	$10,000,000	$10,000,000	$15,000,000	(3)
Total Revenues	$53,015,891	$54,745,933	$55,563,010	$62,810,299	
Annual Debt Service	$28,329,310	$28,292,562	$28,252,313	$30,751,462	(4)
Coverage of Annual Debt Service	1.87	1.93	1.97	2.04	

(1) To project the fiscal year 2011 pledged educational and general capital fees, the collections through November 2010 were divided by the collections through November 2009. The result was multiplied by the total collections for Fiscal Year 2010.

(2) This estimate is based on the assumption that invested balances will not change significantly from the previous year. To project the fiscal year 2011 pledged investment earnings on pleadged capital fees, the amounts received through November 2010 were divided by the amounts received through November 2009. The result was multiplied by the total collections for Fiscal Year 2010.

(3) The increase in pledeged Lottery revenues is due to the additional $5 million appropriated by the Legislature for new debt service.

(4) Debt service for Fiscal year 2011 is net of the 35% Federal Subsidy on the 2010 Series B Bonds.

INVESTMENT CONSIDERATIONS

The purchase of the 2010 Series Bonds involves certain investment risks that are discussed throughout this Official Statement. Certain of these risks are described below. Accordingly, each prospective bond purchaser should make an independent evaluation of all of the information presented in this Official Statement, including the risk factors described below, in order to make an informed investment decision.

Competition

The West Virginia Lottery faces potential competition from gaming within West Virginia and increasing competition from states surrounding West Virginia that may introduce new lottery games or gaming facilities or otherwise enhance existing lottery games or gaming facilities comparable to those in West Virginia. While there is no way of currently assessing the effect of the introduction of games and/or gaming facilities by such states upon the amount of Pledged Revenues received, the introduction of such games and/or gaming facilities by such states could have a material adverse effect upon the amount of Pledged Revenues received. See "Competition from Surrounding States" herein.

Competition within West Virginia

During the 1999 Legislative Session, a new law was enacted to permit casino gaming at a historic resort hotel such as the Greenbrier Resort in White Sulphur Springs, West Virginia. This gaming was to be regulated by the West Virginia Lottery. The law requires that the residents of the resort hotel's host county must approve casino gaming by referendum before the casino may open. An unsuccessful vote occurred in Greenbrier County on November 7, 2000. A subsequent successful vote occurred in Greenbrier County on November 4, 2008, at which time Greenbrier County voters approved casino gaming at the Greenbrier Resort. The State Legislature enacted Senate Bill 575 during the 2009 Regular Session of the Legislature that established more uniformity among casinos operated by the State's pari-mutuel racetracks and the casino authorized to be operated at the Greenbrier Resort. The Greenbrier Resort began limited casino gaming operations on October 1, 2009, and full casino gaming operations in a permanent casino on July 2, 2010.

Management of the West Virginia Lottery believes that casino gaming at the Greenbrier Resort, will not compete with other West Virginia Lottery products because it is limited to hotel overnight guests, non-hotel guests registered for hotel conventions and events, and residents of surrounding properties on the hotel grounds and their guests.

On March 8, 2007, the West Virginia Legislature enacted the West Virginia Lottery Racetrack Table Games Act (the "Table Games Act"), which became effective as of June 6, 2007. The Table Games Act authorizes the West Virginia Lottery Commission to issue up to four racetrack table games licenses to racetracks located in West Virginia that hold racetrack video lottery licenses and licenses to conduct horse or dog racing after the citizens of the respective counties in which the racetracks are located approve racetrack table games by referendum. Referenda for approving racetrack table games were conducted in Jefferson, Hancock, Ohio and Kanawha Counties in West Virginia in 2007. In 2007, voters in Jefferson County rejected the referendum, while voters in Hancock, Ohio and Kanawha Counties approved the referenda. In December 2009, however, voters in Jefferson County approved a second referendum authorizing racetrack table games in Jefferson County. Accordingly, racetrack table games are now authorized under the Table Games Act at Mountaineer Casino Racetrack & Resort in Chester, West Virginia, Wheeling Island Hotel-Casino-Racetrack in Wheeling, West Virginia, Mardi Gras Casino & Resort in Nitro, West Virginia, and Hollywood Casino at Charles Town Races (formerly Charles Town Races & Slots) in Charles Town, West Virginia. The Lottery Commission has issued racetrack table games licenses to Mountaineer Casino Racetrack

& Resort, Wheeling Island Hotel-Casino-Racetrack, Mardi Gras Casino & Resort and Charles Town Races & Slots. Mountaineer Casino Racetrack & Resort and Wheeling Island Hotel-Casino-Racetrack began operating table games in October 2007, Mardi Gras Casino & Resort (formerly Tri-State Casino & Resort) began operating table games in October 2008, and Hollywood Casino at Charles Town Races began operating table games on July 1, 2010. The tax rate for each racetrack participating in this new form of legal gaming is thirty five percent of adjusted gross receipts. Eighteen and 24/100% of a total rate of thirty-five percent is earmarked by statute for the reduction of state debt and unfunded liabilities.

NO REVENUES GENERATED FROM CASINO GAMING AT THE GREENBRIER RESORT OR FROM RACETRACK TABLE GAMES ARE DEPOSITED INTO THE STATE EXCESS LOTTERY REVENUE FUND OR THE STATE LOTTERY FUND. NO PORTION OF REVENUES GENERATED BY CASINO GAMING AT THE GREENBRIER RESORT OR BY RACETRACK TABLE GAMES WILL BE DEPOSITED INTO THE EXCESS LOTTERY SCHOOL BUILDING DEBT SERVICE FUND AND, THERFORE, ARE NOT PART OF THE PLEDGED REVENUES THAT SECURE THE 2010 SERIES BONDS.

There exists no constitutional or legislative mandate that future revenues generated from new lottery games of other gaming enterprises, e.g., riverboats, non-racetrack based casinos, etc., be included in the calculation of net profits or be otherwise available for deposit into the State Excess Lottery Revenue Fund or the State Lottery Fund.

Competition from Surrounding States

In early July 2004, Governor Ed Rendell signed the Pennsylvania Race Horse Development and Gaming Act (HB2330) providing for up to seven slot machine licenses for existing and planned horseracing facilities (Category 1), up to five slot machine licenses for non-racing venues (Category 2) and up to two slot machine licenses for existing resort hotels with at least 275 rooms each (Category 3). When fully exercised, fourteen licensees could operate as many as 61,000 slot machines. As of October 31, 2010, the ten licensees operated 26,916 machines.

At the end of calendar year 2007, the Pennsylvania Gaming Control Board ("PGCB") approved permanent licenses for six Category 1 racetrack slot machine applicants which may operate a maximum of 5,000 slot machines each at existing horse racing facilities:

- Chester Downs and Marina, LLC (*Harrah's Chester Downs*, Delaware County). The racino in Chester, Pa., opened in January 2007. As of October 31, 2010, it operated 2,933 slot machines with authority to operate 3,000 machines.
- Downs Racing, LP (*Mohegan Sun*, Luzerne County). The casino at Pocono Downs near Wilkes-Barre was the first to begin operations in Pennsylvania, opening on November 14, 2006, with 1,099 slot machines. As of October 31, 2010, it operated 2,466 machines.
- Greenwood Gaming and Entertainment Inc. (*Parx*, Bucks County). The racino opened December 19, 2006. As of October 31, 2010, it operated 3,460 machines.

- Mountainview Thoroughbred Racing Association (*Penn National*, Dauphin County). The racino near Harrisburg opened in February 2008. As of October 31, 2010, it operated 2,489 machines.
- Presque Isle Downs, Inc. (*Presque Isle*, Erie County). The racino located outside of Erie opened with 1,600 slot machines in operation in February 2007. As of October 31, 2010, it operated 2,025 machines.
- Washington Trotting Association, Inc. (*The Meadows*, Washington County). The racino opened in June 2007. As of October 31, 2010, it operated 3,504 slot machines.

The PGCB also approved five Category 2 licenses for stand-alone slots facilities, which may operate a maximum of 5,000 slot machines each:

- HSP Gaming, LP. HSP's *SugarHouse Casino* is located along the Delaware River near the Girard Avenue exit of Interstate 95 in Philadelphia. As of October 31, 2010, it operated 1,602 slot machines.
- Philadelphia Entertainment & Development Partners, LP. Philadelphia Entertainment's *Foxwoods Casino Philadelphia* may be located in South Philadelphia along the Delaware River or in Center City Philadelphia. It will be operated by Foxwoods Development and may include approximately 3,000 slot machines. Following numerous delays, construction of the *Foxwoods Casino Philadelphia* has not yet commenced. An opening date cannot be projected.
- PITG Gaming, LLC. *The Rivers Casino* is operated in Pittsburgh by owner Majestic Star. It is located on the North Shore west of Heinz Field and the Carnegie Science Center. As of October 31, 2010, it operated 2,953 slot machines.
- Mount Airy #1, LLC (*Mount Airy Casino,* Monroe County). Based at the Mount Airy resort in Paradise Township in the Poconos, the *Mount Airy Casino* opened in October 2007. As of October 31, 2010, it operated 2,450 slot machines.
- Sands Bethworks Gaming, LLC (*Sands Bethlehem*, Northampton/Lehigh Counties). The *Sands Bethlehem Casino* is located at the former Bethlehem Steel Co. plant in the City of Bethlehem. It opened in May 2009. As of October 31, 2010, it operated 3,033 slot machines.

The PGCB has approved one Category 3 license and is evaluating four applications that it received for the issuance of a second Category 3 license. The Category 3 license was previously approved but has not been placed into operation as a result of pending litigation. Pennsylvania's Category 3 license is similar to the license granted by the West Virginia Lottery to the Greenbrier Resort.

In January 2010, the Pennsylvania Legislature enacted legislation authorizing the operation of table games in Pennsylvania's 14 planned slot machine locations. The PGCB has issued table games certificates to the ten Category 1 and 2 licensees to operate up to 250 table games for the initial six months of operation, after which they may petition the PGCB to increase the number of table games. On a smaller scale, the Pennsylvania legislation permits the Category 3 facilities to seek a table games certificate to operate up to 50 table games. The Pennsylvania legislation permits an increase in the number of slot machines operated at Category 3 facilities to 600 after a table games certificate is obtained, and authorized the addition of a third

Category 3 license after July 20, 2017. Expanded gaming operations in Pennsylvania will continue to impact the revenues of the West Virginia Lottery, including the State Excess Lottery Revenue Fund, and could potentially impact such revenues more significantly than projected by the Lottery. See "PLEDGED REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION – Historical, Estimated West Virginia Lottery Revenues" and "APPENDIX F."

In 2008, Maryland voters approved a statewide referendum authorizing up to 15,000 slot machines in the city of Baltimore and the counties of Allegany, Anne Arundel, Cecil and Worcester. There is no requirement that any of the slot venues be racetracks. Currently, there is one operating casino (slots only) at Perryville in Cecil County that opened in late September 2010. A second casino is expected to open at Ocean Downs in Worcester County late in 2010. In November, voters in Anne Arundel County approved a zoning change for a casino at the Arundel Mills Mall. To date, there has been little interest from casino operators in developing a casino at the designated location in Allegany County.

On July 13, 2009, the Ohio Legislature passed a budget bill implicitly recognizing Governor Ted Strickland's authority to expand Ohio's Lottery to include electronic slot machines at Ohio's seven horse-racing tracks. Governor Strickland issued a directive to the Ohio Lottery Commission to begin the process of adding up to 2,500 electronic slot machines at each track. The recent election of Ohio Governor-Elect John Kasich, who defeated Governor Strickland, has cast doubt on the future of electronic slot machines at Ohio's seven horse-racing tracks.

On November 3, 2009, Ohio voters considered and approved Issue 3 that authorized one casino facility to be operated at a designated location within each of the cities of Cincinnati, Cleveland, Columbus and Toledo, Ohio. The election of a new Governor, and its impact upon the composition and operation of the Ohio Casino Control Commission, has left the future of the new casinos in the hands of the new administration. Expanded gaming operations in Ohio will impact the revenues of the West Virginia Lottery, including the State Excess Lottery Revenue Fund, and could potentially impact such revenues more significantly than projected by the Lottery. See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION – Pledged Excess Lottery Revenues" and "APPENDIX F."

Legislation was recently introduced in Kentucky that would have authorized casino-style gaming at Kentucky racetracks. That legislation was not enacted. It is unknown whether similar legislation will be introduced in the future and, if so, whether such legislation will receive sufficient legislative support to be enacted.

West Virginia currently has no Native American reservations or treaty lands. In order for land to be converted to Indian lands upon which a tribal council could decide to construct a casino, land would need to be offered to the United States Secretary of the Interior, and the Secretary has the option to accept it for the purpose of conversion to a reservation. If the Secretary accepted the conveyance, the State's Governor would also have the option to accept. Management of the Lottery Commission believes that such an occurrence is improbable in West Virginia.

In 2010, the State Legislature enacted SB 577, which made it a felony for charitable raffle licensees and others to offer electronic versions of raffle games. Targeted versions of such games look and play like video lottery terminals, and have flourished in other states.

New Local Option Elections

The Racetrack Video Lottery Act and Table Games Act provides that in the event voters of a county approve Racetrack Video Lottery and/or Table Games, another local option election on the issue may be held, provided that such new local option election occur no sooner than at least five years after the date upon which voters of a county approved Racetrack Video Lottery and/or Table Games, and, further provided, that at least five percent of the number of qualified voters residing within the county who were registered to vote in the next preceding general election file a written petition with the county commission of such county to hold such new local option election. To date, although all local option elections in the State for which voters approved Racetrack Video Lottery occurred more than five (5) years ago, there has been no attempt within any county in which Racetrack Video Lottery has previously been approved to hold a new local option election. A successful recall election in any one or more of the counties in which there is Racetrack Video Lottery could have a material adverse effect on the availability of revenues available for debt service on the 2010 Series Bonds. If Racetrack Video Lottery gaming is ever successfully voted out in a county, supporters of Racetrack Video Lottery must wait 104 weeks to hold another election on whether Racetrack Video Lottery can be operated.

Effect of Changes in Allocation or Dissolution of West Virginia Lottery

The Lottery Act provides that the Lottery Commission allocate, as a second priority allocation, up to $15,000,000 from the State Excess Lottery Revenue Fund each fiscal year for deposit into the Higher Education Improvement Fund until all outstanding Bonds of the Commission secured by funds on deposit in the Higher Education Improvement Fund are paid. Although the annual allocation of moneys to the State Excess Lottery Revenue Fund could be increased, decreased or otherwise altered by future action of the West Virginia Legislature amending the Lottery Act, the Lottery Commission believes and legislative leaders have indicated that the importance and essentiality of the program makes an increase, decrease or change of priority in the allocation unlikely. Any such change would require statutory amendment.

Dissolution of the West Virginia Lottery would leave the State Excess Lottery Revenue Fund and the State Lottery Fund without a source of funding, unless the West Virginia Legislature acted to provide an alternative source of funding. The Lottery Commission, an agency within the West Virginia Department of Revenue, is subject to periodic legislative review under the West Virginia Performance Review Act. All state agencies except for constitutional officers are subject to review under the West Virginia Performance Review Act. The West Virginia Department of Revenue is scheduled to make presentations to the Joint Standing Committee on Government Organization and the Joint Committee on Government Organization (collectively the "Committees") during the 2010 legislative interim period. Following the 2010 review, the Committees shall make a recommendation to the Legislature as to whether the Department of Revenue, including the Lottery Commission, should be continued, consolidated or

terminated. While there can be no assurance that the Legislature will continue the Lottery Commission after 2010, the Lottery Commission is not aware of any matters which would cause the Legislature to terminate the Lottery Commission. Legislation was introduced during the 2009 Regular Session of the State Legislature that proposed the combination of Charitable Gaming, Alcohol Beverage Control Administration and the Racing Commission with the Lottery Commission to form what would have been known as the Gaming Commission. However, such legislation was not enacted. There can be no assurance that similar legislation will not be introduced and enacted in the future.

Effect of Reduction in Number of Limited Video Lottery Permits

Chapter 29, Article 22B of the Code of West Virginia, 1931, as amended (the "Limited Video Lottery Act"), authorized the Lottery Commission to issue permits ("LVL Permits") for the operation of up to 9,000 video lottery terminals in restricted access adult-only facilities throughout the State. As of June 30, 2010, there were 7,940 limited video lottery machines operating in 1,613 locations. Existing LVL Permits expire on June 30, 2011. Bids are being solicited for the LVL Permits that will become effective on July 1, 2011.

The Limited Video Lottery Act provides that, during the fiscal year ending June 30, 2011, the Lottery Commission shall seek bids for the issuance of LVL Permits for the ten-year period beginning July 1, 2011, and ending June 30, 2021. The Governor of the State appointed a select panel to receive public comments at regional meetings throughout the State regarding the issuance of LVL Permits for the ten-year period beginning July 1, 2011, and ending June 30, 2021. The panel has concluded its public hearings and issued its report to the Governor. There can be no assurance that the State Legislature will not amend the Limited Video Lottery Act to reduce the maximum number of LVL Permits that may be issued by the Lottery Commission for ten-year period beginning July 1, 2011, and ending June 30, 2021. Under the Lottery Act, the Lottery Commission could seek bids for the issuance of less LVL Permits for the ten-year period beginning July 1, 2011, and ending June 30, 2021, than (i) the maximum number of LVL Permits authorized by the Lottery Act (9,000) and (ii) the number of LVL machines currently operating in the State. Any significant reduction in the number of LVL Permits issued by the Lottery Commission for the ten-year period beginning July 1, 2011, and ending June 30, 2021, below the number currently operated throughout the State could have a material adverse affect on the revenues of the State Excess Lottery Revenue Fund, a portion of which are transferred into the Higher Education Improvement Fund under the Lottery Act.

In 2009, one of the largest owners of limited video lottery machines in the State, Southern Amusement Co., Inc. ("Southern Amusement"), was indicted on multiple counts in a federal indictment unsealed on June 8, 2009. The indictment sought, among other things, forfeiture of every limited video lottery machine owned by Southern Amusement. Southern Amusement leases its limited video lottery machines to licensed limited video lottery retailers for operation in various locations throughout the State. As a result of a federal protective order related to assets covered by the indictment, the Lottery Commission refrained from taking any action on Southern Amusement's limited video lottery license. Southern Amusement's license to operate limited video lottery machines is currently in good standing with the Lottery Commission. Any prolonged interruption in the operation of 675 limited video lottery machines owned by Southern Amusement could have a material adverse affect on the revenues of the State

Excess Lottery Revenue Fund, a portion of which are transferred into the Higher Education Improvement Fund under the Lottery Act. The extent of the impact of any suspension or revocation of Southern Amusement's limited video lottery license by the Lottery Commission on the overall revenues of the State Excess Lottery Revenue Funds cannot be estimated with specificity, but could nevertheless be material to the overall revenues of the State Excess Lottery Revenue Fund. On October 7, 2010, a hearing on a plea agreement and Order accepting guilty plea involving Southern Amusement's owner were presented to a Federal Judge and ordered filed in which all charges against Southern Amusement were dismissed and the restraining order against the company was released. The plea agreement also requires that Southern Amusement's owner divest himself of his interest in the company.

No Mortgage or Other Interest in Projects

The Commission will not own the 2010 Projects, other than the West Virginia Education, Research and Technology Park located in South Charleston, or other property financed with the proceeds of the 2010 Series Bonds, and no lien on or other security interest in the Projects is being granted to the Owners of the 2010 Series Bonds. As a result, in the event the amounts deposited in the State Excess Lottery Revenue Fund or otherwise available from the State Lottery Fund are insufficient to pay debt service on the 2010 Series Bonds, neither the Trustee nor the Owners of such bonds will have any rights with respect to the real property, improvements thereon or appurtenances thereunto belonging that constitute the Projects.

THE COMMISSION

In General

The Commission is the successor to the Board of Directors of the State College System and the University of West Virginia Board of Trustees. The Commission was formed in June of 2000 as part of a restructuring of higher education.

The Commission is responsible for developing 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 increases in tuition and other fees of the institutions, except West Virginia University and Marshall University, and the power to prescribe institutions' budget request. The Commission has the authority to assess each Institution for payment of debt service of the 2010 Series Bonds.

Members

The Commission is comprised of ten members. The ex-officio members are the Chairman of the Council for Community and Technical College Education, the Secretary of Education and the Arts, and 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. The Governor shall appoint a member to fill any vacancy among the seven members of the Commission appointed by the Governor. The 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:

David K. Hendrickson, Esq., Chairman

David K. Hendrickson is the Founding Managing Partner of Hendrickson and Long, P.L.L.C. He graduated from West Virginia University in 1979 with a Bachelor of Arts, cum laude, and Juris Doctorate from the West Virginia University College of Law in 1982. He is a veteran, leaving active duty after completing a four-year tour of service as a Captain in the United States Army. Mr. Hendrickson is a new inductee into the International Academy of Trial Lawyers. He has also been recognized by several national publications including Chambers, USA, Best Lawyers in America, and Litigation Magazine in the area of Corporate Litigation. While at West Virginia University, Mr. Hendrickson served as the student body president and was the second ever student voting member on the West Virginia Board of Regents. He is a past president of the West Virginia University Alumni Association and was named Outstanding Alumnus of the Year, 2004. Mr. Hendrickson served as the legal correspondent to the Charleston, ABC affiliate, WCHS-TV and conducted a news segment titled "The Legal Pad." He currently serves on the Boards of several charitable, civic and social organizations.

Dr. Bruce Berry, Vice Chairman

Bruce Berry, M.D., of Morgantown, currently serves as the medical director at Colombo & Stuhr P.L.L.C. where he oversees risk management and quality assurance. For nearly thirty years, Dr. Berry practiced medicine at a private practice in Charleston. Dr. Berry also served as a clinical instructor, clinical assistant professor, and clinical associate professor at West Virginia University's School of Medicine campus at Charleston Area Medical Center. In addition to his work with WVU, Dr. Berry served as a clinical associate professor with the West Virginia School of Osteopathic Medicine. Dr. Berry graduated with an A.B. in biology, M.S. in embryology, and a M.D. from West Virginia University.

Kathy G. Eddy, Secretary

Kathy G. Eddy, CPA is a shareholder in McDonough, Eddy, Parsons & Baylous, A.C., located in Parkersburg, West Virginia. Ms. Eddy joined the firm in 1974 and became a shareholder in 1981. She is a graduate of Marshall University with B.A. in accounting. She became a Certified Public Accountant in 1978. She has been active in her profession at the national level, serving as Chairman of the Board of Directors of the 340,000 member professional organization, the American Institute of Certified Public Accountants (AICPA). She was awarded the AICPA Gold Medal for Distinguished Service. In addition to her service to her profession at the national level she has served the accounting profession in West Virginia including the West Virginia Society of CPAs and the West Virginia Board of Accountancy by holding all offices, including President of both organizations. Until her recent appointment to the Higher Education Policy Commission she was a member of Marshall University's Lewis College of Business Board of Advisors and the Accounting Curriculum and Accreditation Committee.

She is the recipient of the Marshall Distinguished Alumni Award and a member of the Lewis College of Business Hall of Fame. She has been involved in many community organizations and continues to serve on the Board of Directors of Camden Clark Memorial Hospital.

Jenny Allen

Jenny Allen, of Shepherdstown, has served as vice chair of the nearly completed $20 million Create the Future campaign for Shepherd University, the institution's first comprehensive fundraising initiative. She is currently the vice president of the board of the Contemporary American Theater Festival at Shepherd, a significant driver of the Eastern Panhandle economy that brings thousands of visitors to West Virginia each summer. From 2005-2010 she was a member of the West Virginia Public Broadcasting Foundation board. She has been a trustee of North Country School and Camp Treetops in Lake Placid, NY, since 2006. Ms. Allen earned a B.A. from Hampshire College in Amherst, Mass., an M.A. from the University of Georgia, and recently completed the Executive Certificate program in Nonprofit Management at Georgetown University.

Bob Brown, Ex-Officio, Chair, West Virginia Council for Community and Technical College Education

Bob Brown is Executive Director of the West Virginia School Service Personnel Association, AFT/AFL-CIO. Brown resides in Charleston, West Virginia, is Chair of the West Virginia Public Employee Grievance Board; Chair of the West Virginia Community and Technical College Council; a member of the West Virginia Workforce Investment Council; a member of the Teachers Retirement System Committee of the West Virginia Investment Management Board; a Commissioner for the Malden Public Service District; a member of the West Virginia Attorney General's Citizen Advisory Committee; and is Senior Vice President of the West Virginia AFL-CIO. Brown is a Marine Corps veteran of the Vietnam War and was educated in Kanawha County public schools, West Virginia Institute of Technology, and West Virginia University.

John Estep

John Estep is a graduate of West Virginia State College (now University) and earned his Master of Science degree from West Virginia University. A resident of Richwood, Mr. Estep formerly taught and coached in Greenbrier, Wyoming and Nicholas County Schools. He currently is employed as a staff representative for the American Federation of Teachers (AFT) – West Virginia. He served as a member of the Governor's Higher Education Transition Team and is active in his community as a member of the board of directors of the Cherry Hills Country Club and the board of trustees of the First Baptist Church of Richwood.

Kay H. Goodwin, Ex-Officio, Secretary of Education and the Arts

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.

Dr. John Leon

John Leon, MD was born in Steubenville, Ohio and grew up in Wellsburg, West Virginia. He attended the University of Notre Dame in South Bend, Indiana, where he played varsity football and received a BA in Psychology. After receiving his MD from West Virginia University School of Medicine in Morgantown, he completed an internship and residency. Dr. Leon is board certified in Diagnostic Radiology with Special Competence in Nuclear Medicine. He joined Radiological Physician Associates in July of 1988 and now serves as president of the corporation. He is also Chief of Radiology at Fairmont General Hospital and is past president of the Marion County Medical Society.

Dr. Steven L. Paine, Ex-Officio, State Superintendent of Schools

Dr. Steven L. Paine became West Virginia's 25th State Superintendent of Schools on July 1, 2005. He joined the West Virginia Department of Education in 2003 as Deputy State Superintendent of Schools after serving as county superintendent in Morgan County, West Virginia. He has also served as principal, assistant principal, teacher and curriculum director in Harrison, Upshur and Morgan counties. Dr. Paine is a recipient of the prestigious Milken Family Foundation National Educator Award. Dr. Paine received his undergraduate degree from Fairmont State College. He furthered his education by attending West Virginia University where he received his masters in educational administration and his doctorate in educational leadership. He has completed post-graduate studies at The Ohio State University and at Marshall University.

David Richard Tyson, Esq.

David Tyson, of Huntington, is the managing partner in the law firm Tyson & Tyson. He is a graduate of West Virginia University and California Western School of Law. He previously served on the West Virginia Board of Regents as a student representative in 1975. Other higher education experience includes serving as adjunct professor at Marshall University, President of the Huntington Chapter of the West Virginia University Alumni Association, and member of the West Virginia University Extension Service Board. Mr. Tyson was appointed to the President's Advisory Committee for the Arts by President George W. Bush in 2002, and formerly served as State Chairman of the Republican State Executive Committee of West Virginia. Mr. Tyson is very active in community affairs and serves on numerous boards, including the Y.M.C.A. Board of Directors, the Huntington Chamber of Commerce, and the Huntington Visitors and Convention Bureau.

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. Below are the biographies of the administrative staff of the Commission:

Dr. Brian Noland, Chancellor of Higher Education for West Virginia

Dr. Brian Noland serves as the chancellor of the West Virginia Higher Education Policy Commission. Under his leadership, the Commission has engaged in a series of initiatives to implement a public agenda for higher education in the state. Dr. Noland's professional career has been primarily focused in higher education and higher education policy. Prior to joining the Commission's staff, he served as the Associate Executive Director for the Tennessee Higher Education Commission, and was a faculty member in the Peabody College of Education at Vanderbilt University. Dr. Noland received his B.A. and M.A in political science from West Virginia University, and holds a Ph.D. in Political Science from the University of Tennessee, Knoxville.

Dr. Kevin G. Walthers, Vice Chancellor for Administration

Dr. Kevin Walthers was appointed Vice Chancellor for Administration for the West Virginia Higher Education Policy Commission and the West Virginia Community and Technical College System in November 2009. Dr. Walthers previously served as the Vice President for Finance and Administration at the College of Eastern Utah. He has served in a variety of roles in state government and higher education, including positions with the Utah State Board of Regents and the Utah Legislature. Vice Chancellor Walthers holds a Ph.D. in Educational Leadership and Policy from the University of Utah. He earned a M.S. in Educational Administration from Texas A&M University – Commerce and a B.S. from The University of Texas at Austin.

Richard B. Donovan, Chief Financial Officer

Richard Donovan has been employed by West Virginia's higher education governing and policy boards since 1980 and has served in various positions in the Division of Finance and Facilities. He has served as the Assistant Director of Facilities since 1991, and from November 2006 as Co-Interim Director of Finance and Facilities along with the Assistant Director of Finance. In March 2009, he was appointed as Chief Financial Officer of the West Virginia Higher Education Policy Commission. Mr. Donovan holds a bachelor's degree in business administration from Shepherd College.

Terry L. Hess, Assistant Director of Finance

Terry L. Hess has served as Assistant Director of Finance for the West Virginia Higher Education Policy Commission since November 2000. Prior to joining the Higher Education Policy Commission, he held several accounting and administrative positions with the West Virginia State Tax Department over a seventeen year period. Mr. Hess received his A.S. in computer science and B.A. in accounting from West Virginia State University.

Bruce Ray Walker, Esq., 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.

History and Experience of Commission in the Issuance of Bonds

The Commission and its predecessor, the Board of Directors of the State College System and the University of West Virginia Board of Trustees, have 7 series of bonds, representing an aggregate principal amount of $377,926,232 outstanding. The bonds outstanding include the Commission's 1998 A University Facilities Bonds, originally issued in the amount of $55,025,000, currently outstanding in the amount of $43,525,000, its 2000 A University Facilities Bonds, originally issued in the amount of $36,590,868, and having a current accretion value of $69,936,232, its 2003 A State College Facilities Bonds, originally issued in the amount of $22,160,000, currently outstanding in the amount of $3,925,000, its 2003 A University Facilities Bonds, originally issued in the amount of $60,380,000, currently outstanding in the amount of $15,380,000, its 2004 B Higher Education Facilities Bonds, originally issued in the amount of $167,260,000, currently outstanding in the amount of $144,025,000, and its 2007 A Higher Education Facilities Bonds, originally issued in the amount of $25,915,000, currently outstanding in the amount of $24,265,000 (collectively the "Prior Bonds"). The CTC Lottery Bonds, as hereinafter defined, were issued under a separate indenture and do not constitute a lien on the Revenues from which the 2010 Series Bonds are payable.

WEST VIRGINIA HIGHER EDUCATION

Capital Budgeting and Planning

West Virginia funds the capital needs of its colleges and universities almost entirely through regular student fees and excess lottery appropriations rather than 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 general tax appropriations.

Among the duties of the Commission is the development of an appropriation request for the State system of higher education. The appropriation request includes the 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 toward meeting compact goals and other standards.

Under West Virginia Code, the Commission has the authority to transfer funds pledged for the repayment of Bonds from the accounts of Institutions if an Institution fails to transfer funds to the Commission in a timely manner.

State Appropriations for Higher Education

The State has a policy of utilizing its general fund revenues to meet a 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 that ended June 30, 2010, state appropriations of $471,249,000 represented almost 30% of total revenues of $1,576,834,000 with the balance coming from grants and contracts (27%), student fees (30%), auxiliary revenues (12%) and other income (1%).

Student Enrollment

Data reported in the Table under the caption "Student Enrollment Statistics" above, relates to recent enrollment at Commission and Council 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 or a graduate student enrolled for twelve 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. An undergraduate student taking eighteen credit hours would be considered a full-time student but be counted as 1.20 FTE since he/she is taking one-fifth more credit hours than what is considered to be a normal 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.

High school graduation rates in West Virginia are projected to decline for the next decade, which will decrease the number of traditional students generally attending higher education. This downturn is the result of demographic trends in the State. However, the economic downturn, aggressive marketing, a GEAR-UP grant that targets underrepresented counties, and a new adult learner campaign entitled RBA Today should ensure moderate gains. In addition, the potential exists for further growth in the rate of college participation by West Virginians before the market is saturated. Also, 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.

Accredited institutions with a wide range of academic programs and support services, tuition and fee levels, and enhanced efforts in student recruitment and retention, are among the factors which place the institutions of the Higher Education Policy Commission and Council for Community and Technical College Education in a position of growing importance to the State and its residents. Enrollment data from recent years indicate that West Virginians view quality programs of higher education as the key to their personal future as well as that of the State.

Select Financial Information of West Virginia Higher Education Fund

The audited financial statements of the West Virginia Higher Education Fund for the Fiscal Years ended June 30, 2010, and June 30, 2009, are set forth in Appendix C.

The following table sets forth certain historical financial information relating to the West Virginia Higher Education Fund, which is comprised of ten four-year public colleges and universities, ten community and technical colleges, and two administrative units.

The following table sets forth selected combined financial data. The Commission derived its selected combined financial data as of and for the years ended June 30, 2010 and 2009 from its combined financial statements, which were audited by Deloitte & Touche LLP. The Commission derived its selected combined financial data as of and for the years ended June 30, 2008, 2007 and 2006 from its combined financial statements. The historical selected financial data may not be indicative of future performance and should be read in conjunction with "Managements Discussion and Analysis" and "Risk Factors" in the financial statements included in Appendix C.

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WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS
FOR THE YEARS ENDED JUNE 30, 2006, 2007, 2009, 2009 AND 2010
(Dollars in thousands)

	2006	2007	2008	2009	2010
OPERATING REVENUES:					
Student tuition and fees — net of scholarship allowance	$ 333,266	376,390	406,818	447,080	467,933
Federal and local land grants	8,147	8,825	9,439	9,853	9,760
Contracts and grants:					
Federal	194,642	195,722	131,529	135,781	149,728
State	62,331	62,736	65,042	64,583	58,500
Local	1,234	1,114	1,211	1,425	1,455
Private	59,455	58,885	59,656	70,172	66,316
Interest on student loans receivable	846	998	876	896	1,154
Sales and services of educational activities	17,097	18,803	18,760	20,183	23,471
Auxiliary enterprise revenue — net of scholarship allowance	151,893	165,104	184,238	190,468	195,447
Other operating revenues	24,231	20,723	22,866	23,447	22,983
Total operating revenues	853,142	909,300	900,435	963,888	996,747
OPERATING EXPENSES:					
Salaries and wages	572,376	611,065	645,769	698,667	733,485
Benefits	177,021	174,286	214,021	221,412	294,569
Supplies and other services	283,710	303,158	325,562	340,115	346,927
Utilities	44,606	44,283	44,646	47,865	49,335
Student financial aid — scholarships and fellowships	68,360	75,730	79,349	89,674	117,365
Depreciation	69,797	74,461	78,642	82,113	89,780
Other operating expenses	1,510	9,130	8,127	11,314	6,060
Total operating expenses	1,217,380	1,292,113	1,396,116	1,491,160	1,637,521
OPERATING LOSS	(364,238)	(382,813)	(495,681)	(527,272)	(640,774)
NONOPERATING REVENUES (EXPENSES):					
State appropriations	401,829	423,858	536,101	483,534	449,305
State fiscal stabilization funds (federal)					21,944
Federal Pell grants[1]			71,930	80,668	133,211
Payments on behalf of West Virginia Higher Education Fund			18,000	10,864	0
Gifts	16,006	15,902	19,548	21,092	21,548
Investment income (loss)	21,050	28,235	17,426	(961)	10,947
Interest on indebtedness	(36,215)	(34,921)	(36,181)	(36,504)	(40,328)
Payments to other institutions	(13,444)	(15,346)	(18,222)	(20,492)	(14,915)
Other nonoperating expenses — net	(1,738)	(2,804)	(1,838)	(215)	(1,625)
Net nonoperating revenues	387,488	414,924	606,764	537,986	580,087
LOSS (INCOME) BEFORE OTHER REVENUES, EXPENSES, GAINS, OR LOSSES	23,250	32,111	111,083	10,714	(60,687)
CAPITAL GRANTS AND GIFTS	63,192	77,912	78,174	43,633	43,126
STATE CAPITAL GRANTS (FEDERAL)					4,242
DECREASE (INCREASE) IN NET ASSETS BEFORE CUMULATIVE EFFECT OF ADOPTION OF ACCOUNTING PRINCIPLE[2]	86,442	110,023	189,257	54,347	(13,319)
NET ASSETS — Beginning of year	1,032,336	1,118,778	1,228,801	1,418,058	1,472,882
CUMULATIVE EFFECT OF ADOPTION OF ACCOUNTING PRINCIPLE[2]			61,858[2]	477	
NET ASSETS — End of year	$1,118,778	$1,228,801	$1,418,058	$1,472,882	$1,459,563

See notes to combined financial statements.
[1]Effective FY 2009, Federal Pell grants moved to Non-operating Revenue (Expenses)
[2]Adopted Accounting Principal in FY 2008 is GASB 45 as it relates to Other Post Employment Benefits (OPEB)

UNDERWRITING

Citigroup Global Markets Inc., Raymond James & Associates, Inc. and Crews & Associates, Inc. (the "Underwriters") have agreed to purchase the 2010 Series Bonds at an aggregate purchase price of $__,___,___.__ (par, plus net original issue premium of $___,___.__, less Underwriters' discount of $___,___.__), pursuant to a bond purchase agreement between the Commission and the Underwriters. The Underwriters may offer and sell the 2010 Series Bonds to certain dealers (including dealers depositing such 2010 Series 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 inside cover page hereof may be changed after the initial offering by the Underwriters.

Citigroup Inc., parent company of Citigroup Global Markets Inc., an underwriter of the 2010 Series Bonds, has entered into a retail brokerage joint venture with Morgan Stanley. As part of the joint venture, Citigroup Global Markets Inc. will distribute municipal securities to retail investors through the financial advisor network of a new broker-dealer, Morgan Stanley Smith Barney LLC. This distribution arrangement became effective on June 1, 2009. As part of this arrangement, Citigroup Global Markets Inc. will compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the 2010 Series Bonds.

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 2010 Series Bonds the ratings of "A+" and "Aa3", 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. There is no assurance that such ratings will continue for any given period of time or that they 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 Beneficial Owners of the 2010 Series 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 Agreement to provide notice of any rating changes to EMMA. Any such downward revision or withdrawal may have an adverse effect on the market price of the 2010 Series Bonds.

TAX MATTERS

General

The following discussion of "Tax Matters" is a brief discussion of certain income tax matters with respect to the 2010 Series Bonds under existing applicable law. It does not purport to deal with all aspects of taxation that may be relevant to the owner of a bond. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the tax consequences of owning and disposing of the 2010 Series Bonds.

2010 SERIES A BONDS - TAX-EXEMPT BONDS

Federal Income Tax Exemption of the 2010 Series A Bonds

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 2010 Series A 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 2010 Series A 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 taken into account in determining the adjusted current earnings of certain corporations for purpose of calculating corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Bond Counsel is set forth in **APPENDIX H** hereto.

Assumed Compliance with Certain Covenants and Federal Tax Requirements

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 2010 Series A Bonds. The Commission has covenanted to comply with certain restrictions designed to insure that interest on the 2010 Series A Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2010 Series A Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2010 Series A 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 2010 Series A Bonds may adversely affect the value of, or the tax status of interest on, the 2010 Series A 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 2010 Series A Bonds. Prospective purchasers of 2010 Series A 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 General Resolution, the Tax Certificate, and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the 2010 Series A 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 Series 2010 A 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.

[Original Issue Discount and Original Issue Premium

To the extent the issue price of any maturity of the 2010 Series A Bonds is less than the amount to be paid at maturity of such 2010 Series A Bonds (excluding amounts stated to be interest and payable at least annually over the term of such 2010 Series A Bonds) (the "Discount

Bonds"), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each beneficial owner thereof, is treated as interest on the 2010 Series A Bonds which is excluded from gross income for federal income tax purposes and State of West Virginia personal income taxes. For this purpose, the issue price of a particular maturity of the 2010 Series A Bonds is the first price at which a substantial amount of such maturity of the 2010 Series A 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 2010 Series A Bonds accrues daily over the term to maturity of such 2010 Series A Bonds on the basis of a constant interest rate compounded semiannually (or over a shorter permitted compounding interval selected by the owner). The accruing original issue discount is added to the adjusted basis of such 2010 Series A Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such 2010 Series A Bonds. A purchaser of a Discount Bond in the initial public offering at a price for that Discount Bond stated on the cover of this Official Statement who holds that Discount Bond to maturity will realize no gain or loss upon the retirement of that Discount Bond. Beneficial owners of the 2010 Series A Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2010 Series A Bonds with original issue discount, including the treatment of beneficial owners who do not purchase such 2010 Series A Bonds in the original offering to the public at the first price at which a substantial amount of such 2010 Series A Bonds is sold to the public.

2010 Series A Bonds purchased, whether at original issuance or otherwise, for an amount higher 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 beneficial owner's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocated to such beneficial owner. For purposes of determining the owner's gain or loss on the sale, redemption (including redemption at maturity) or other disposition of a Premium Bond, the owner's tax basis in the Premium Bond is reduced by the amount of bond premium that is amortized during the period of ownership. As a result, an owner may realize taxable gain for federal income tax purposes from the sale or other disposition of a Premium Bond for an amount equal to or less than the amount paid by the owner for that Premium Bond. A purchaser of a Premium Bond in the initial public offering at the price for that Premium Bond stated on the cover of this Official Statement who holds that Premium Bond to maturity (or, in the case of a callable Premium Bond, to its earlier call date that results in the lowest yield on that Premium Bond) will realize no gain or loss upon the retirement of that Premium Bond. Beneficial owners of the 2010 Series A Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2010 Series A Bonds with bond premium,, including the treatment of beneficial owners who do not purchase such 2010 Series A Bonds in the original offering to the public at the first price at which a substantial amount of such 2010 Series A Bonds is sold to the public.]

Information Reporting and Backup Withholding

Information reporting requirements apply to interest paid on tax-exempt obligations,

including the 2010 Series A Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number Certification," or unless the recipient is one of a limited class of exempt recipients, including corporations. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to "backup withholding," which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a "payor" generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a 2010 Series A Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the 2010 Series A Bonds from gross income for federal income tax purposes. Any amounts withheld pursuant to the backup withholding should be allowed as a refund or a credit against any owner's federal income tax once the required information is furnished to the Internal Revenue Service.

State Income Tax Exemption

In the opinion of Bond Counsel, under the Act, as presently written and applied, the 2010 Series A Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof.

Individual Circumstances

Although Bond Counsel is of the opinion that interest on the 2010 Series A 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 2010 Series A 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.

Future Tax Changes

Future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the 2010 Series A Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the 2010 Series A Bonds. Prospective purchasers of the 2010 Series A Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters

not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the 2010 Series A Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Commission, or about the effect of future changes in the Code, the application regulations, the interpretation thereof or the enforcement thereof by the IRS. The Commission has covenanted, however, to comply with the requirements of the Code.

Bond Counsel Obligations

Bond Counsel's engagement with respect to the 2010 Series A Bonds ends with the issuance of the 2010 Series A Bonds, and unless separately engaged, Bond Counsel is not obligated to defend the Commission or the beneficial owners regarding the tax-exempt status of the 2010 Series A Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Commission and their appointed counsel including the beneficial owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt 2010 Series A Bonds is difficult, obtaining an independent review of IRS positions with which the Commission legitimately disagrees may not be practicable. Any action of the IRS, including but not limited to selection of the 2010 Series A Bonds for audit, or the course or result of such audit, or an audit of 2010 Series A Bonds presenting similar tax issues may affect the market price for, or the marketability of, the 2010 Series A Bonds, and may cause the Commission or the beneficial owners to incur significant expense.

Bond Counsel's opinions represent its legal judgment based in part upon the representations and covenants referenced therein and its review of existing law, but are not a guarantee of result or binding on the IRS or the courts. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may come to Bond Counsel's attention after the date of its opinions or to reflect any changes in law or the interpretation thereof that may occur or become effective after such date.

2010 SERIES B BONDS AND 2010 SERIES C BONDS – TAXABLE BONDS

IRS CIRCULAR 230 DISCLOSURE:

Any discussion of the tax issues relating to the 2010 Series B Bonds and the 2010 Series C Bonds, hereafter described as the "Taxable Bonds", in this Official Statement was written to support the promotion or marketing of the Taxable Bonds. Such discussion was not intended or written to be used, and it cannot be used, by any person for the purpose of avoiding tax penalties that may be imposed on such person. Each investor should seek advice with respect to the tax consequences of the Taxable Bonds based on its particular circumstances from an independent tax advisor.

Opinion of Bond Counsel

In the opinion of Bond Counsel, interest on the Taxable Bonds will be included in gross

income for Federal income tax purposes; however, under the Act, the Taxable Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof.

Tax Consequences

The following is a discussion of certain material United States federal income tax consequences of the ownership and disposition of the Taxable Bonds. This summary is based on the Code and existing and proposed Treasury regulations, revenue rulings, administrative interpretations and judicial decisions, all as currently in effect and all of which are subject to change, possibly with retroactive effect. Except as specifically set forth in this subsection, this summary deals only with Taxable Bonds purchased by a United States holder, as defined below, at original issuance and held as capital assets within the meaning of Section 1221 of the Code. It does not discuss all of the tax consequences that may be relevant to such a holder in light of his particular circumstances or to holders subject to special rules, such as insurance companies, financial institutions, regulated investment companies, dealers in securities or foreign currencies, traders in securities that elect the mark-to-market accounting method, persons holding the Taxable Bonds as part of a hedging transaction, "straddle," conversion transaction, or other integrated transaction, or United States holders whose functional currency, as defined in Section 985 of the Code, is not the United States dollar. This discussion does not address United States estate tax consequences of holding the Taxable Bonds and, except as specifically described, does not address either tax consequences to pension plans or foreign investors or any aspect of state or local taxation with respect to the Taxable Bonds. Persons considering the purchase of the Taxable Bonds should consult with their own tax advisors concerning the application of the United States federal income tax laws to their particular situations as well as any tax consequences arising under the laws of any state, local or foreign jurisdiction. The opinion of Bond Counsel with respect to the Taxable Bonds, the form of which is attached in Appendix H, will not address such matters.

If a partnership or other entity classified as a partnership for United States federal income tax purposes holds Taxable Bonds, the tax treatment of the partnership and each partner generally will depend on the activities of the partnership and the status of the partner. Partnerships acquiring Taxable Bonds, and partners in such partnerships, should consult their tax advisors.

United States Holder.

As used in the sections below, the term *"United States holder"* means a beneficial owner of a Taxable Bond that is for United States federal income tax purposes (a) a citizen or resident of the United States, (b) a corporation (including an entity treated as a corporation for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (c) an estate, the income of which is includible in gross income for United States federal income tax purposes, regardless of its source, or (d) a trust if (i) a court within the United States can exercise primary supervision over the administration of such trust and one or more United States persons have the authority to control all substantial decisions of such trust or (ii) the trust has in effect a valid election to be

treated as a domestic trust for United States federal income tax purposes. Further, as described below, a non-United States holder is any holder of a Taxable Bond that is not a United States holder.

Taxation of Interest.

Interest paid on a Taxable Bond generally will be taxable to a United States holder as ordinary interest income at the time it accrues or is received, in accordance with the United States holder's method of tax accounting.

Sale, Exchange or Retirement of the Taxable Bonds.

Upon the sale, exchange or retirement of a Taxable Bond, a United States holder generally will recognize taxable gain or loss equal to the difference between the amount realized on the sale, exchange or retirement (other than amounts representing accrued and unpaid interest) and the United States holder's adjusted tax basis in the Bond. A United States holder's adjusted tax basis in a Taxable Bond will equal the cost of the Bond to that holder, increased by the amount of any original issue discount previously included in income by such holder with respect to such Bond and reduced by any principal payments received by the holder or by any amortized premium.

Gain or loss recognized on the sale, exchange or retirement of a Taxable Bond generally will be capital gain or loss, and will generally be long-term capital gain or loss if at the time of sale, exchange or retirement the Bond has been held for more than one year. Through December 31, 2010, non-corporate taxpayers are subject to reduced maximum rates on long-term capital gains and generally are subject to tax at ordinary income rates on short-term capital gains. The deductibility of capital losses is subject to certain limitations. Prospective investors should consult their own tax advisor concerning these tax law provisions.

Any amount realized on the sale, exchange or retirement of a Taxable Bond that is attributable to accrued interest will be taxable as interest unless previously taken into account. In addition, the tax treatment of the receipt of any redemption premium resulting from the exercise of an extraordinary optional redemption of the Taxable Bonds (see, "THE TAXABLE BONDS" - Redemption Provisions") is unclear, and prospective purchasers of the Taxable Bonds are urged to consult their tax advisors regarding the tax treatment of any such payment.

Defeasance or material modification of the terms of any Taxable Bond may result in a deemed reissuance thereof, in which event a beneficial owner of the defeased Taxable Bond generally will recognize taxable gain or loss equal to the difference between the amount realized from the sale, exchange or retirement (less any accrued qualified stated interest which will be taxable as such) and the beneficial owner's adjusted tax basis in the Taxable Bond. Prospective purchasers of the Taxable Bonds are urged to consult their tax advisors regarding the foregoing matters.

[Original Issue Discount or Premium.

"Original issuer discount" will arise for United States federal income tax purposes in respect of any Bond if its stated redemption price at maturity exceeds its issue price by more than a de minimis amount (as determined for tax purposes). The stated redemption price at maturity of a Taxable Bond is the sum of all scheduled amounts payable on such Bond other than qualified stated interest. United States holders of Taxable Bonds generally will be required to include any original issue discount in income for United States federal income tax purposes as it accrues, in accordance with a constant yield method based on a compounding of interest (which may be before the receipt of cash payments attributable to such income). Under this method, United States holders of Taxable Bonds issued with original issue discount generally will be required to include in income increasingly greater amounts of original issue discount in successive accrual periods.

"Premium" generally will arise for United States federal income tax purposes in respect of any Bond purchased, whether upon issuance or otherwise, for an amount (excluding any amount attributable to accrued interest) in excess of their principal amount. Taxable Bonds so purchased will be treated for federal income tax purposes as having amortizable bond premium. A holder's basis in such a Taxable Bond must be reduced by the amount of premium which accrues while such Bond is held by the holder. A United States holder of a Taxable Bond issued at a premium may make an election, applicable to all debt securities purchased at a premium by such United States holder, to amortize such premium, using a constant yield method over the term of such Bond. Purchasers of Taxable Bonds should consult their own tax advisors as to the calculation, accrual and treatment of amortizable bond premium and the state and local tax consequences of holding such Taxable Bonds.]

Taxation of Tax-Exempt Investors.

Special considerations apply to employee benefit plans and other investors ("Tax-Exempt Investors") that are subject to tax only on their unrelated business taxable income ("UBTI'). A Tax-Exempt Investor's income from the Taxable Bonds generally will not be treated as UBTI under current law, so long as such Tax-Exempt Investor's acquisition of such Taxable Bonds is not debt-financed. Tax-Exempt Investors should consult with their own tax advisors concerning these special considerations.

The Employees Retirement Income Security Act of 1974, as amended ("ERISA"), and the Code generally prohibit certain transactions between a qualified employee benefit plan under ERISA or tax-qualified retirement plans and individual retirement accounts under the Code (collectively, the "Plans") and persons who, with respect to a Plan, are fiduciaries or other "parties in interest" within the meaning of ERISA or "disqualified persons" within the meaning of the Code. All fiduciaries of Plans, in consultation with their advisors, should carefully consider the impact of ERISA and the Code on an investment in any Taxable Bonds.

Non-United States Holders.

The following applies to a holder if the holder is a beneficial owner of a Taxable Bond

and is not a United States holder or a United States partnership (or entity treated as a partnership for United States federal income tax purposes) (hereinafter a "non-United States holder"). Special rules which will not be addressed herein may apply if a non-United States holder is a "controlled foreign corporation" or a "passive foreign investment company" for United States federal income tax purposes. If a non-United States holder is such an entity, the non-United States holder should consult its tax advisor to determine the tax consequences that may be relevant to the non-United States holder.

All payments on a Taxable Bond made to a non-United States holder and any gain realized on a sale, exchange, or other disposition of a Taxable will be exempt from United States federal income and withholding tax, provided that:

- the non-United States holder does not own, actually or constructively, 10% or more of the Authority's outstanding capital or profit interests within the meaning of the Code and the Treasury regulations;

- the non-United States holder is not a controlled foreign corporation related, directly or indirectly, to the Authority through stock ownership;

- the non-United States holder is not a bank whose receipt of interest on the Bond is described in Section 881(c)(3)(a) of the Code;

- the non-United States holder has fulfilled the certification requirement described below;

- such payments are not effectively connected with the conduct by the non-United States holder of a trade or business in the United States; and

- in the case of gain realized on the sale, exchange, or other disposition of a Taxable Bond, if the non-United States holder is a nonresident alien individual, the non-United States holder is not present in the United States for 183 or more days in the taxable year of the disposition where certain other conditions are met.

The certification requirement referred to above will be fulfilled if the non-United States holder provides its name and address to the Trustee on IRS Form W-8BEN (or an acceptable substitute), and certifies, under penalties of perjury, that the holder is not a United States person.

If the non-United States holder is engaged in a trade or business in the United States, and if payments on a Taxable Bond are effectively connected with the conduct of that trade or business, or are attributable to a permanent establishment maintained by the non-United States holder in the United States, the holder will generally be taxed in the same manner as a United States holder (see, "United States Holder" above), except that the non-United States holder will be required to provide a properly executed IRS Form W-8ECI in order to claim an exemption from or reduction of withholding tax.

Recently proposed legislation could impose United States withholding tax on payments of

interest and proceeds of sale in respect of the Taxable Bonds to a non-United States holder that does not comply with certain disclosure requirements related to the equity ownership of the non-United States holder by United States persons. If payment of withholding taxes were required, non-United States holders that were eligible for an exemption from United States withholding taxes with respect to such interest and proceeds would be required to seek a refund from the IRS to obtain the benefit of such exemption. It is unclear whether this legislation will be enacted and if so in what form.

Non-United States holders should consult their tax advisors with respect to other tax consequences of the ownership of the Taxable Bonds, including the possible imposition of a 30% branch profits tax.

Information Reporting And Backup Withholding.

Information returns may be filed with the Internal Revenue Service ("IRS") in connection with payments on the Taxable Bonds and the proceeds from a sale, exchange, or other disposition of the Taxable Bonds. Holders may receive statements containing the information reflected on these returns. If the holder is a United States holder, the holder may be subject to United States backup withholding tax on these payments if it fails to provide its taxpayer identification number to the paying agent and comply with certification procedures or otherwise establish an exemption from backup withholding. If the holder is not a United States holder, it may be subject to United States backup withholding tax on these payments unless the holder complies with certification procedures to establish that the holder is not a United States person. The certification procedures required of the holder to claim the exemption from withholding tax on certain payments on the Taxable Bonds described above will satisfy the certification requirements necessary to avoid the backup withholding tax as well.

The amount of any backup withholding made from a payment will be allowable as a credit against the holder's United States federal income tax liability and may entitle the holder to a refund, provided that the holder timely furnishes the required information to the IRS.

Certain State and Local Tax Consequences.

In addition to the United States federal income tax consequences described above, prospective investors should consider the potential state and local tax consequences of an investment in the Taxable Bonds. State income tax law may vary substantially from state to state, and this discussion does not purport to describe any aspect of the income tax laws of any state or locality. Therefore, potential purchasers should consult their own tax advisors with respect to the various state and local tax consequences of an investment in the Taxable Bonds. Notwithstanding the foregoing, under the Act, the Taxable Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof.

2010 Series B Bonds are Build America Bonds (Direct Payment).

The Authority will make an irrevocable election to treat the 2010 Series B Bonds as Build

America Bonds (Direct Payment). As a result of this election, interest on the 2010 Series B Bonds will be includable in gross income of the holders thereof for federal income tax purposes and the holders of the 2010 Series B Bonds will not be entitled to any tax credits as a result of either ownership of the 2010 Series B Bonds or receipt of any interest payments on the 2010 Series B Bonds. Holders of the 2010 Series B Bonds should consult their tax advisors with respect to the inclusion of interest on the 2010 Series B Bonds in gross income for federal income tax purposes.

General Tax Provisions

Prospective purchasers of the Taxable Bonds should consult their own tax advisors as to the status of interest on the Taxable Bonds under the tax laws of any state other than West Virginia.

The IRS has a program to audit state and local government obligations to determine, as applicable, whether the interest thereon is includible in gross income for federal income tax purposes or whether such obligations qualify for certain designations, such as "Build America Bonds." If the IRS does audit the 2010 Series B Bonds, under current IRS procedures, the IRS will treat the Commission as the taxpayer and the owners of the 2010 Series B Bonds will have only limited rights, if any, to participate.

There are many events that could affect the value and liquidity or marketability of the Taxable Bonds after their issuance, including but not limited to public knowledge of an audit of the Taxable Bonds by the IRS, a general change in interest rates for comparable securities, a change in federal or state income tax rates, legislative or regulatory proposals affecting state and local government securities and changes in judicial interpretation of existing law. In addition, certain tax considerations relevant to owners of Taxable Bonds who purchase Taxable Bonds after their issuance may be different from those relevant to purchasers upon issuance. Neither the opinions of Bond Counsel nor this Official Statement purports to address the likelihood or effect of any such potential events or such other tax considerations and purchasers of the Taxable Bonds should seek advice concerning such matters as they deem prudent in connection with their purchase of Taxable Bonds.

Bond Counsel Obligations

Bond Counsel's engagement with respect to the Taxable Bonds ends with the issuance of the Taxable Bonds, and unless separately engaged, Bond Counsel is not obligated to defend the Commission or the beneficial owners regarding the Build America Bonds (Direct Payment) status of the 2010 Series B Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Commission or their appointed counsel, including the beneficial owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of the Taxable Bonds is difficult, obtaining an independent review of IRS positions with which the Commission legitimately disagrees may not be practicable.

Bond Counsel's opinions represent its legal judgment based in part upon the

representations and covenants referenced therein and its review of existing law, but are not a guarantee of result or binding on the IRS or the courts. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may come to Bond Counsel's attention after the date of its opinions or to reflect any changes in law or the interpretation thereof that may occur or become effective after such date.

LITIGATION

There is no litigation of any nature pending or threatened against the Commission concerning the validity of the 2010 Series Bonds, and the Commission will furnish to the Underwriters a no-litigation certificate certifying to the foregoing at the time of the delivery of the 2010 Series Bonds.

LEGALITY

The validity of the 2010 Series Bonds and the tax exemption of interest on the 2010 Series 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 2010 Series Bonds. Certain matters will be passed upon for the Commission by Bruce R. Walker, Esq., Charleston, West Virginia, its counsel and for the Underwriters by their counsel, Goodwin & Goodwin, LLP, Charleston, West Virginia.

INDEPENDENT AUDITORS

The financial statements of the Commission included in Appendix C to this Official Statement have been audited by Deloitte & Touche LLP, independent auditors, to the extent and for the periods indicated in their report. The financial statements of the West Virginia Lottery included in Appendix F to this Official Statement have been audited by Gibbons & Kawash, independent auditors, to the extent and for the periods indicated in their report.

FINANCIAL ADVISOR

Public Resources Advisory Group, New York, New York, is serving as Financial Advisor in connection with the issuance of 2010 Series Bonds. The Financial Advisor is an independent advisory firm and is not engaged in the business of underwriting, trading, or distributing municipal securities or other public securities. The Financial Advisor has not and is not obligated to undertake to make an independent verification of, or to assume responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement.

CONTINUING DISCLOSURE

The Commission is the obligated party with respect to the 2010 Series Bonds and will provide the continuing disclosure described below. The Commission, on behalf of the Lottery, has covenanted to provide, in accordance with the Continuing Disclosure Agreement, which shall be delivered in substantially the form attached hereto as APPENDIX I, certain financial information and operating data regarding the West Virginia Lottery (the "Annual Information") not later than two hundred seventy (270) days following the end of the Lottery's fiscal year, commencing with the report for the fiscal year ending June 30, 2011 (which is due no later than

March 31, 2012), and to provide notice of the occurrence of the enumerated events listed therein, if material. The Annual Information and each notice of material events will be filed electronically by the Commission, on behalf of the Lottery, with the Electronic Municipal Markets Access system ("EMMA").

This continuing disclosure obligation is being undertaken by the Commission, on behalf of the Lottery, to assist the Underwriters in complying with Rule 15c2-12 promulgated by the SEC. The Commission, on behalf of the Lottery, has agreed to give notice in a timely manner to EMMA of any failure to supply the required information. However, any such failure will not constitute a default under the terms of the 2010 Series Bonds. Under the Continuing Disclosure Agreement, the sole remedy for such failure is to seek an order for specific performance. See "APPENDIX I – FORM OF CONTINUING DISCLOSURE AGREEMENT."

The Commission has complied with all continuing disclosure obligations applicable to the Commission.

MISCELLANEOUS

The foregoing descriptions or statements of provisions of the West Virginia Code of 1931, as amended and supplemented, the 2010 Series Bonds, the 2010 Series Bonds Resolution, 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 2010 Series Bonds. Copies of the documents mentioned in this paragraph are on file at the offices of the Commission. The Commission has duly authorized delivery and distribution of this Official Statement.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Chancellor

APPENDIX A

STATE INSTITUTIONS OF HIGHER EDUCATION

West Virginia Higher Education Policy Commission, as the governing board of State Institutions of Higher Education

Baccalaureate and Graduate Institutions

Bluefield State College
Concord University
Fairmont State University
Glenville State College
Marshall University
Shepherd University
West Liberty University
West Virginia School of Osteopathic Medicine
West Virginia State University
West Virginia University
    Potomac State College, a division of West Virginia University
    West Virginia University Institute of Technology, a division of West Virginia University

Community and Technical College Institutions

Blue Ridge Community and Technical College
Bridgemont Community and Technical College
Eastern West Virginia Community and Technical College
Kanawha Valley Community and Technical College
Mountwest Community and Technical College
New River Community and Technical College
Pierpont Community and Technical College
Southern West Virginia Community and Technical College
West Virginia Northern Community and Technical College
West Virginia University at Parkersburg

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APPENDIX B

PROJECT LIST

Institution	Project	Funding Source: Institution, Federal, and/or Private Funding	Funding Source: HEPC Bond Funding	Running Total Bond Proceeds
New Buildings & Facilities				
	New Buildings & Facilities funded by HEPC Bonds			
WLU	Science Center	2,250,000	12,750,000	12,750,000
SU	Visual Arts Project	2,085,000	11,815,000	24,565,000
MU	Biotechnology Development Center & Applied Engineering	25,000,000	25,000,000	49,565,000
GSC	Multi-Function Health and Wellness Education Center (State funding to be applied to academic facilities only)	15,000,000	11,000,000	60,565,000
HEPC	Dow Research Park - Building Renovation	10,500,000	10,000,000	70,565,000
Subtotal New E&G Buildings & Facilities		**$54,835,000**	**$70,565,000**	
Building and Campus Renewal (Renovation)				
	Additional Projects Subject to Available Funding from HEPC Bonds			
WVU-Tech	Old Main Renovations	0	3,000,000	73,565,000
WVSU	Wallace Hall Renovation	0	1,800,000	75,365,000
WVSU	Davis Fine Arts Renovation	0	2,000,000	77,365,000
WVU	Research Laboratories (HSC)	0	3,200,000	80,565,000
WVU	Renovation of Health Sciences North (HSC)	0	15,000,000	95,565,000
BSC	Campus Infrastructure Improvements	0	6,000,000	101,565,000
MU	Forensic Science Center Annex/Renovation	0	1,000,000	102,565,000
WVU	Chemistry Research Annex Renovation	0	1,500,000	104,065,000
WVU	Hodges Renovation	0	25,000,000	129,065,000
Subtotal E&G Bldg. & Campus Renewal		**$0**	**$58,500,000**	
Total All Bond Projects		**$54,835,000**	**$129,065,000**	

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APPENDIX C

FINANCIAL STATEMENTS OF THE COMMISSION

West Virginia Higher Education Fund

(A Component Unit of the State of West Virginia)

Combined Financial Statements as of and for the Years Ended June 30, 2010 and 2009, Additional Information as of and for the Year Ended June 30, 2010, and Independent Auditors' Reports

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

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Deloitte.

Deloitte & Touche LLP
2500 One PPG Place
Pittsburgh, PA 15222-5401
USA
Tel: +1 412 338 7200
Fax: +1 412 338 7380
www.deloitte.com

INDEPENDENT AUDITORS' REPORT

To the West Virginia Higher Education
Policy Commission:

We have audited the accompanying combined statements of net assets of the West Virginia Higher Education Fund (the "Fund") as of June 30, 2010 and 2009, and the related statements of revenues, expenses, and changes in net assets and of cash flows for the years then ended. These combined financial statements are the responsibility of the Fund's management. Our responsibility is to express an opinion on these combined financial statements based on our audits. We did not audit the financial statements of Bluefield State College, Concord University, Glenville State College, New River Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and West Virginia School of Osteopathic Medicine (collectively, "Other Institutions") for the years ended June 30, 2010 and 2009, which statements reflect total assets, total net assets, and total revenues constituting approximately 11%, 16%, and 12%, respectively, of the Fund in 2010, and 11%, 15%, and 12%, respectively, of the Fund in 2009. Those statements were audited by other auditors whose reports have been furnished to us, and our opinion, insofar as it relates to the amounts included for the Fund for the years ended June 30, 2010 and 2009, is based solely on the reports of such other auditors. We also did not audit the discretely presented component units' financial statements. The component units' statements were audited by other auditors whose reports have been furnished to us, and our opinion, insofar as it relates to the discretely presented component units' financial statements, is based solely on the reports of such other auditors.

We, and the auditors for the Other Institutions and Marshall University Foundation, Inc., 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 combined financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used, and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that these audits provide a reasonable basis for our opinion.

In our opinion, based on our audits and the reports of the other auditors, the combined financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of June 30, 2010 and 2009, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

The Management's Discussion and Analysis (MD&A) on pages 3 to 16 is not a required part of the combined financial statements but is supplementary information required by the GASB. This supplementary information is the responsibility of the Fund's management. We have applied certain

Member of
Deloitte Touche Tohmatsu Limited

limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit such information and we do not express an opinion on it.

Our audits were conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The additional information listed in the table of contents is presented for the purpose of additional analysis and is not a required part of the basic financial statements. This additional information is the responsibility of the Fund's management. Such information has been subjected to the auditing procedures applied in our audits of these basic financial statements and, in our opinion, is fairly stated in all material respects when considered in relation to the basic financial statements taken as a whole.

Deloitte & Touche LLP

December 2, 2010

West Virginia Higher Education Fund

Management's Discussion and Analysis
Fiscal Year 2010 (Unaudited)

Overview of the Combined Financial Statements and Financial Analysis

The West Virginia Higher Education Fund (the "Fund") is comprised of twenty public colleges and universities and two administrative units. The Fund is a discretely presented component unit of the State of West Virginia. The supervision and management of the affairs of each institution is the responsibility of individual Governing Boards, while the West Virginia Higher Education Policy Commission (the "Commission") and the West Virginia Council for Community and Technical College Education (the "Council") are responsible for the development and implementation of a higher education policy agenda.

GASB standards require the audited financial statements of certain institutions' component units to be separately presented as a discrete component unit in the Fund's financial statements for the fiscal years ended June 30, 2010 and 2009. These component units are private nonprofit organizations that report under FASB standards. A supplemental information schedule is provided presenting these statements on a consolidated GASB basis to meet the State of West Virginia reporting requirements.

The following discussion and analysis of the Fund's Combined Financial Statements provides an overview of its financial activities for Fiscal Years 2010 and 2009 and is required supplemental information. The emphasis of discussions about these statements will focus on current year data in comparison to prior year. There are three financial statements presented: the Combined Statement of Net Assets; the Combined Statement of Revenues, Expenses, and Changes in Net Assets; and the Combined Statement of Cash Flows.

Combined Statement of Net Assets

The Combined Statement of Net Assets presents the assets, liabilities, and net assets of the Fund and is a point of time financial statement, designed to present to the readers of the financial statements a fiscal snapshot of the Fund. The Combined Statement of Net Assets presents end-of-year financial information on Assets (current and noncurrent), Liabilities (current and noncurrent), and Net Assets (assets minus liabilities).

From the data presented, readers of the Combined Statement of Net Assets are able to determine the assets available to continue the operations of the Fund. They are also able to determine how much the Fund owes vendors, employees, investors and lending institutions. Finally, the Combined Statement of Net Assets provides a picture of the net assets (assets minus liabilities) and their availability for expenditure by the Fund.

Net assets are divided into three major categories as follows:

(1) Invested in Capital Assets, Net of Related Debt, which provides the Fund's equity in property, plant and equipment owned by the Fund.

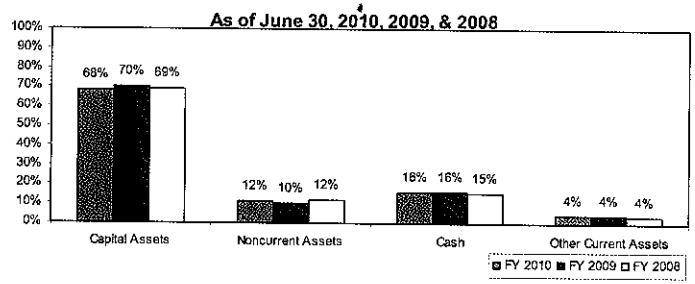
(2) Restricted Net Assets, which is divided into two categories, nonexpendable and expendable. Nonexpendable restricted net assets are not available for expenditure by the Fund. These funds are invested and generate earnings that are available for certain types of expenditures. Expendable restricted net assets are available for expenditure by the Fund but have a specific purpose.

(3) Unrestricted net assets are available for expenditure and can be used for any lawful purpose of the Fund.

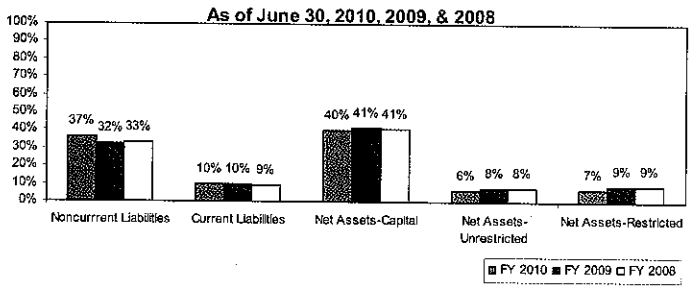
Condensed Statements of Net Assets
(In thousands of dollars)

	June 30 2010	June 30 2009	June 30 2008	Change From 2009 to 2010
Assets				
Current Assets	$ 568,479	$ 542,442	$ 491,652	$ 26,037
Capital Assets, net	1,941,703	1,862,554	1,767,642	79,149
Other Noncurrent Assets	327,283	240,584	303,961	86,699
Total Assets	$ 2,837,465	$ 2,645,580	$ 2,563,255	$ 191,885
Liabilities				
Current Liabilities	$ 280,034	$ 259,359	$ 236,858	$ 20,675
Noncurrent Liabilities	1,036,010	851,481	846,481	184,529
Total Liabilities	1,316,044	1,110,840	1,083,339	205,204
Net Assets				
Invested in Capital Assets, net	1,141,427	1,095,650	1,044,109	45,777
Restricted-expendable	196,161	230,330	227,311	(34,169)
Restricted-nonexpendable	5,946	5,354	5,454	592
Unrestricted	177,887	203,406	203,042	(25,519)
Total Net Assets	1,521,421	1,534,740	1,479,916	(13,319)
Total Liabilities and Net Assets	$ 2,837,465	$ 2,645,580	$ 2,563,255	$ 191,885

Asset Composition



Liabilities & Net Assets



Major items of note in the Combined Statement of Net Assets include:

- Total current assets of $568.5 million exceeded total current liabilities of $280.0 million as of June 30, 2010 for net working capital of $288.5 million as compared to net working capital of $283.0 million as of June 30, 2009. Current assets increased by $26.0 million over the prior year, while current liabilities increased by $20.7 million.
    - The major components of currents assets include cash and cash equivalents of $454.5 million and $431.9 million and net accounts receivable of $82.2 million and $71.8 million as of June 30, 2010 and 2009, respectively. The majority of the cash and cash equivalents represent interest earning assets invested through the office of the West Virginia State Treasurer which invested with Board of Treasury Investments at both June 30, 2010 and 2009.
    - The major components of current liabilities include $85.5 million and $82.6 million of deferred revenue, $56.2 million and $58.4 million in accounts payable, $44.0 million and $40.2 million of accrued liabilities, $39.7 million and $40.1 million in accrued compensated absences, and $26.9 million and $24.4 million in bonds payable, as of June 30, 2010 and 2009, respectively.
    - The changes from last year in the level of current assets and liabilities reflect normal fluctuations in business operations, anticipation of upcoming projects including current construction projects, increases in grant activities, and the general growth of the higher education institutions.
- Noncurrent assets total $2,269.0 million and $2,103.1 million and noncurrent liabilities total $1,036.0 million and $851.5 million as of June 30, 2010 and 2009, respectively. Noncurrent assets increased by $165.8 million over the prior year while noncurrent liabilities increased by $184.5 million.
    - The primary noncurrent asset is $1,941.7 million and $1,862.6 million of net capital assets as of June 30, 2010 and 2009, respectively. Also included as noncurrent assets are cash and cash equivalents primarily for capital purposes of $103.7 million and $79.2 million and investments for capital purposes totaling $151.2 million and $86.6 million as of June 30, 2010 and 2009, respectively. Net loans to students total $51.2 million and $53.5 million as of June 30, 2010 and 2009, respectively.
    - Major components of noncurrent liabilities include long-term bonds payable totaling $722.0 million and $655.0 million, capital leases of $67.2 million and $44.2 million, advances from federal sponsors of $41.4 million and $41.5 million, notes payable of $30.3 million and $31.2 million, and accruals for other post employment benefit liability of $113.5 million and $24.0 million as of June 30, 2010 and 2009, respectively.
    - The increase in post employment benefit liability of $89.5 million is partially attributed to decreases in payments on behalf of West Virginia Higher Education Fund and decreases in investment returns by the State's Multiple-Employer Trust Fund resulting in an increase of the Annual Required Contribution (ARC).
    - Other changes from the prior year in noncurrent assets and liabilities primarily reflect new capital projects financed by prior year revenue bonds at Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Virginia University, and a system bond issue by the Commission as discussed in more detail in a later section.

- The net assets of the Fund total $1,521.4 million and $1,534.7 million as of June 30, 2010 and 2009, respectively, a decrease of $13.3 million and increase of $54.8 million from each previous year end.
  - Net assets invested in capital assets total $1,141.4 million and $1,095.6 million as of June 30, 2010 and 2009 respectively.
  - Restricted expendable net assets total $196.2 million and $230.3 million and include $78.6 million and $96.4 million for sponsored projects, $66.9 million and $70.8 million for capital projects, and $25.7 million and $27.9 million for loan programs as of June 30, 2010 and 2009, respectively.
  - Unrestricted net assets total $177.9 million and $203.4 million as of June 30, 2010 and 2009, respectively, and represent net assets available to the Fund for any lawful purpose of the Fund.
  - The increase in Net Assets is more fully explained in the following section.

Combined Statement of Revenues, Expenses, and Changes in Net Assets

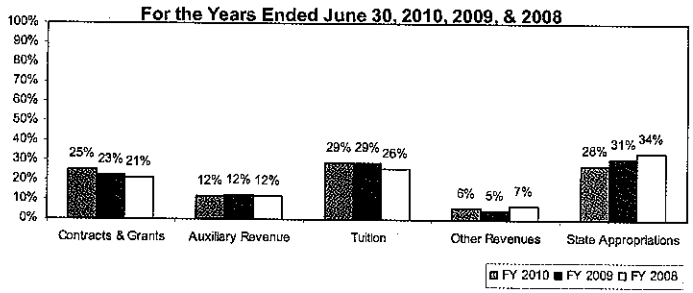
Changes in total net assets as presented on the Combined Statement of Net Assets are based on the activity presented in the Combined Statement of Revenues, Expenses, and Changes in Net Assets. The purpose of the statement is to present the revenues of the Fund, both operating and nonoperating, and the expenses of the Fund, operating and nonoperating, and any other revenues, expenses, gains or losses of the Fund.

Operating revenues represent the receipts earned from providing goods and service to the various customers and constituencies served by the Fund, including fees from students and revenue in the form of Federal and State grants used to support operations and various initiatives. Operating expenses are those expenses incurred in the form of staff salaries, benefits and various goods and services to carry out the mission of the Fund. Revenues for which goods and services are not provided are reported as nonoperating revenues. For example, State appropriations are nonoperating because they are provided by the West Virginia State Legislature to the Fund without the Legislature directly receiving commensurate goods and services for those revenues.

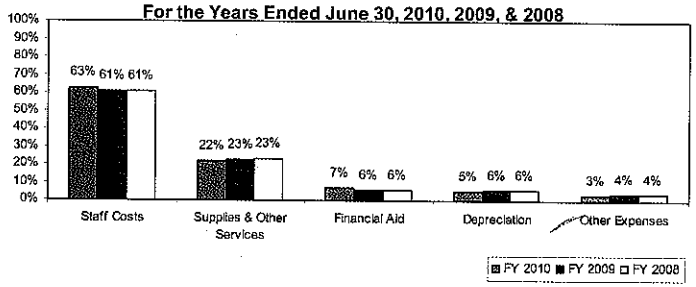
Condensed Statements of Revenues, Expenses, and Changes in Net Assets
(In thousands of dollars)

	FY 2010	FY 2009	FY 2008	Change From 2009 to 2010
Operating Revenues	$ 996,747	$ 963,888	$ 900,435	$ 32,859
Operating Expenses	1,637,521	1,491,160	1,396,116	146,361
Operating Loss	(640,774)	(527,272)	(495,681)	(113,502)
Net Nonoperating Revenues	580,087	537,986	606,764	42,101
(Loss) Income Before Other Revenues, Expenses, Gains or Losses	(60,687)	10,714	111,083	(71,401)
Capital Grants and Gifts-Net	43,126	43,633	78,174	(507)
State Capital Grants (Federal)	4,242	-	-	-
(Decrease) Increase in Net Assets Before Cumulative Effect	(13,319)	54,347	189,257	(67,666)
Net Assets-Beginning of Year	1,534,740	1,479,916	1,228,801	54,824
Cumulative Effect Of Adoption Of Accounting Principle	-	477	61,858	(477)
Net Assets-End of Year	$ 1,521,421	$ 1,534,740	$ 1,479,916	$ (13,319)

Total Revenues



Total Expenses



Major items of note in the Combined Statement of Revenue, Expenses and Changes in Net Assets include:

- Operating Revenues of the Fund totaled $996.7 million and $963.9 million, for the years ended June 30, 2010 and 2009, respectively, an increase of $32.8 million compared to the prior year increase of $63.2 million.
    - Student tuition and fees revenues totaled $467.9 million in FY 2010, an increase of $20.9 million or 4.7% in FY 2010 compared to a 9.9% increase in FY 2009. Tuition is reported net of scholarship allowances totaling $134.8 million and $106.5 million for the years ended June 30, 2010 and 2009, respectively. This increase is a combination of increases in tuition and number of students.
    - Federal grant and contracts totaled $149.7 million and $135.8 million for the years ended June 30, 2010 and 2009, respectively. The increase of $13.9 million represents normal fluctuations in grant activities. Federal grants include funding for sponsored research, and other miscellaneous federal programs.
    - Auxiliary enterprises generated revenues of $195.4 million and $190.5 million, net of $18.7 million and $16.1 million of scholarship allowances for the years ended June 30, 2010 and 2009, respectively. FY 2010 net auxiliary revenues increased by $5.0 million or 2.6% compared to a 3.4% increase in FY 2009, reflecting primarily increases in rates as there were no new significant additions to level of service in 2010.
    - State grants and contracts totaled $58.5 million and $64.6 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $6.1 million from FY 2009 compared to a decrease of $0.4 million from FY 2008. Private grants and contracts totaled $66.3 million and $70.2 million for the years ended June 30, 2010 and 2009 respectively, a decrease of $3.9 million from FY 2009, compared to an increase of $10.5 million from FY 2008. These changes represent normal fluctuations in grant activities.
- Operating expenses totaled $1,637.5 million and $1,491.2 million for the years ended June 30, 2010 and 2009, respectively, an increase of $146.4 million and $94.5 million from each previous year.
    - Staff salary costs totaled $733.5 million and $698.7 million, an increase of $34.8 million and $52.9 million for the years ended June 30, 2010 and 2009, respectively, or 5.0% from FY 2009. This increase is attributed to salary increases and an additional year of service of annual increment. Benefit costs increased by $73.2 million in FY 2010, or 33.0% from FY 2009 and is due to the increase of the OPEB liability.
    - Supplies and other services totaled $346.9 million and $340.1 million for the years ended June 30, 2010 and 2009, respectively, an increase of $6.8 million from FY 2009, compared to an increase $14.5 million from FY 2008. The largest increases in the functional areas are related to research and public service of $5.2 million and $3.7 million, respectively.
    - Scholarships and fellowships totaled $117.4 million and $89.7 million for the years ended June 30, 2010 and 2009, respectively, an increase of $27.7 million or 30.9% from FY 2009 compared to an increase of $10.4 million or 13.1% from FY 2008.

- Depreciation on capital assets totaled $89.8 million and $82.1 million for the years ended June 30, 2010 and 2009, respectively, an increase of $7.7 million from FY 2009 compared to a $3.5 million increase from FY 2008.

- The result from operations was a net operating loss of $640.8 million and $527.3 million for the years ended June 30, 2010 and 2009, respectively, which excludes State appropriations of $449.3 million (which does not include another $21.9 million of State fiscal stabilization funds), and $483.5 million and Federal Pell grants of $133.2 million and $80.7 million for the years ended June 30, 2010 and 2009, respectively, which are recorded as non-operating revenue. The net operating loss increased by $113.5 million in FY 2010, from the increase in operating expenses of $146.4 million, in excess of increases in revenue of $32.9 million. The increase in net operating loss of $113.5 million is more than the FY 2009 increase of $31.3 million as discussed above.

- Net non-operating revenue totaled $580.1 million and $538.0 million for the years ended June 30, 2010 and 2009, respectively, an increase of $42.1 million.

  - State general revenue and lottery appropriations totaled $449.3 million and $483.5 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $34.2 million, primarily attributed to a decrease in State appropriations from FY 2009 as State budget reductions mandated by the Governor were imposed for FY 2010. This decrease was backfilled with State fiscal stabilization funds of $21.9 million.

  - Interest incurred on indebtedness totaled $40.3 million and $36.5 million, an increase of $3.8 million from FY 2009, compared to $0.3 million from FY 2008.

  - Interest income (loss) on investments totaled $10.9 million and $(1.0) million for the years ended June 30, 2010 and 2009, respectively, a positive change of $11.9 million from the prior year. This positive change is due to improving investment returns by the Board of Treasury Investments (BTI) and gains in market value of investments by West Virginia University and Marshall University.

  - Payments on behalf of West Virginia Higher Education Fund totaled $10.9 million for the year ended June 30, 2009 and is attributed to OPEB credits from the State of West Virginia for retiree insurance premiums. For FY 2010, the State did not make payments to the Trust.

  - Student financial aid payments to other institutions totaled $14.9 million and $20.5 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $5.6 million from FY 2009, compared to an increase of $2.3 million from FY 2008.

- Other revenues consist of capital grants and gifts totaling $43.1 million and $43.6 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $0.5 million from FY 2009, compared to a decrease of $34.6 million from FY 2008. The decrease from FY 2008 is primarily attributed to a one time $30.0 million capital appropriation in FY 2008 for the construction of two advanced technology centers within the Community and Technical College System.

- The activity for FY 2010 resulted in a decrease of net assets totaling $13.3 million, as compared to the $54.3 million increase in net assets during FY 2009. The decrease in net assets at June 30, 2010 is primarily attributed to the additional OPEB liability.

- As reported below on a functional expenditure basis, expenditures for Educational and General Expenses were $1,252.7 million and $1,149.7 million for the years ended June 30, 2010 and 2009, respectively, an increase of $103.0 million or 8.2% from FY 2009. Cost of instruction constitutes 39.8% of total educational and general expenses. Student Services grew by 11.3%, Academic Support increased by 10.3% and costs of Instruction increased by 9.6% over FY 2009.

Functional Expenditure Comparisons
(in thousands of dollars)

	FY10 Total	% of E&G Total	FY09 Total	% of E&G Total	FY08 Total	% of E&G Total
Instruction	$ 498,765	39.8%	$ 450,986	39.2%	$ 419,054	39.2%
Research	161,548	12.9%	152,535	13.3%	152,181	14.2%
Public Service	96,345	7.7%	87,671	7.6%	81,935	7.7%
Academic Support	87,605	7.0%	78,557	6.8%	76,288	7.1%
Student Services	81,483	6.5%	72,302	6.3%	69,441	6.5%
Plant Operations	133,450	10.7%	125,891	10.9%	108,970	10.2%
Institutional Support	193,454	15.4%	181,804	15.8%	161,837	15.1%
Total E & G Expenses	1,252,650	100.0%	1,149,746	100.0%	1,069,706	100.0%
Financial Aid	115,175		88,232		77,858	
Auxiliary Enterprises	175,874		168,821		168,064	
Depreciation	89,780		82,113		78,642	
Other	4,042		2,248		1,846	
Total Operating Expenses	$ 1,637,521		$1,491,160		$ 1,396,116	

Combined Statement of Cash Flows

The final statement presented is the Combined Statement of Cash Flows. The Combined Statement of Cash Flows presents detailed information about the cash activity of the Fund during the year. The statement is divided into five parts. The first section deals with operating cash flows and shows the net cash used by the operating activities of the Fund. The second section reflects cash flows from noncapital financing activities. This section reflects the cash received and spent for nonoperating, noninvesting, and noncapital financing purposes. The third section deals with cash flows from capital and related financing activities. This section deals with the cash used for the acquisition and construction of capital and related items. The fourth section reflects the cash flows from investing activities and shows the purchases, proceeds, and interest received from investing activities. The fifth part reconciles the net cash used to the operating loss reflected on the Combined Statement of Revenues, Expenses, and Changes in Net Assets.

Condensed Statements of Cash Flows
(In thousands of dollars)

	FY 2010	FY 2009	FY 2008	Change From 2009 to 2010
Cash Provided (Used) By:				
Operating Activities	$ (456,304)	$ (400,958)	$ (366,983)	$ (55,346)
Noncapital Financing Activities	616,726	565,023	628,834	51,703
Capital and Related Financing Activities	(83,460)	(158,366)	(240,599)	74,906
Investing Activities	(54,397)	32,056	47,988	(86,453)
Increase in Cash and Cash Equivalents	22,565	37,755	69,240	(15,190)
Cash and Cash Equivalents, beginning of year	431,890	394,135	324,895	37,755
Cash and Cash Equivalents, end of year	$ 454,455	$ 431,890	$ 394,135	$ 22,565

Major items of note in the Combined Statement of Cash Flows include:

- Cash provided from operating revenues was exceeded by cash expended for operating activities by $456.3 million and $401.0 million for the years ended June 30, 2010 and 2009, respectively, primarily due to the reporting of State appropriations and Federal Pell grants as noncapital financing activities. Primary sources of cash from Operating Activities during FY 2010 and 2009, respectively, were Student tuition and fees of $487.4 million and $443.1 million; Contracts and grants of $270.8 million and $274.7 million; and Auxiliary enterprise charges of $185.1 million and $199.9 million. Primary uses of cash for FY 2010 and 2009, respectively, included payments to and on behalf of employees of $936.7 million and $888.9 million and payments to suppliers of $347.3 million and $337.3 million.

- Net cash provided from noncapital financing activities for FY 2010 and 2009, respectively, totaled $616.7 million and $565.0 million, of which $456.2 million and $480.0 million was from State General Revenue and Lottery appropriations and $133.2 million and $80.7 million was from Federal Pell Grants. In FY 2010, the fund received $20.8 million is State fiscal stabilization funds from the Federal Government American Recovery and Reinvestment Act (ARRA).

- Net cash used in capital and related financing activities for FY 2010 totaled $83.5 million primarily for purchases of capital assets of $160.2 million, offset by proceeds from bond issuances and borrowings totaling $96.0 million as compared to net cash used of $158.4 million in FY 2009 primarily for purchases of capital assets of $171.8 million offset by proceeds from bond issuances and borrowings of $10.0 million.

- Net cash used in investing activities for FY 2010 totaled $54.4 million compared to net cash provided by investing activities of $32.1 million for FY 2009. This represents the net purchases of investments for funding capital projects primarily from the investment of the 2009 Series A bond proceeds.

- Net cash for FY 2010 increased by $22.6 million compared to increase in net cash for FY 2009 of $37.8 million. This increase is the net result of all the previous activity discussed.

Capital Asset and Long-Term Debt Activity

The Fund continued to expand its capital facilities to further its mission of providing quality programs to students and to provide expanded research capabilities. Expenditures for capital assets totaled $160.2 million in FY 2010, as compared to $171.8 million in FY 2009. Institutional projects at all the institutions are under way due to institutional bond issues in FY 2003, 2004, 2005, 2006 and 2008 and system bond issues in FY 2005 and FY 2010. For FY 2010, expenditures at West Virginia University, Glenville State College, Marshall University, Concord University, Mountwest Community and Technical College and Shepherd University accounted for $137.6 million of the $160.2 million total. Major projects at West Virginia University included in these expenditures include a new student recreation center, an addition to the Wise Library, a new Life Sciences Building, continuation of an asbestos abatement program, and various projects focused on infrastructure improvements. Major projects at Glenville State College include a new housing complex. Major projects at Marshall University include a new housing complex, a new parking garage, and planning for a new biotechnology science center. Major projects at Concord University include ADA upgrades and the University Point project. Major projects for Mountwest Community and Technical College include the acquisition of land and a building for the future site of the Mountwest campus. Major projects at Shepherd University include a new housing complex, infrastructure upgrades, improvements to the Arts Center and construction of the Ken Boone Field House at Ram Stadium. The remaining expenditures reflect on-going capital projects at the other state colleges, universities and community and technical colleges.

Funding for capital projects comes from a variety of sources, including student tuition and other operating revenues, fund raising, bond proceeds, capital lease financing, and other external financing arrangements. The Institutions have participated in a number of System Bonds issued in previous years, with a balance outstanding of $123.7 million as of June 30, 2010. This includes the State College and University System Bonds prior to the Facilities 2004 System Bonds and the 2007 Refunding Bonds, which are funded from tuition collections at the institutions. The Facilities 2004 System Bonds of $144.0 million are funded from excess lottery revenue. There have been no significant changes in credit ratings or debt limitations that may affect future financing for the Fund. Further details concerning the long-term liabilities of the Fund are included in Notes 7 through 12 of the Notes to the Combined Financial Statements.

On December 8, 2009, the Commission, on behalf of the Council, issued $78,295,000 of Community and Technical Colleges Improvement Revenue Bonds, 2009 Series A (2009 Bonds). The proceeds of the 2009 Bonds are being used to finance the acquisition, construction, equipping, or improvement of community and technical college facilities in West Virginia. The interest rate on the 2009 Bonds ranges from 2.5% to 5.0% and the due dates commence July 1, 2010 and end July 1, 2028. State Lottery proceeds of a maximum of $5,000,000 per year will be used to repay the debt, which has a maximum annual debt service of $4,999,750. In addition, pursuant to Section 18 (j) (1) of the Lottery Act, the Commission has granted a third-in-party lien, for the benefit of the bond holders, on the proceeds of the State Lottery Fund, up to a maximum of $7,500,000 annually.

Lastly, the Commission entered into an agreement on February 25, 2010 with the Union Carbide Corporation (UCC) a wholly-owned subsidiary of The Dow Chemical Company (Dow) for the donation of property known as Union Carbide Corporation's Technology Park in the City of South Charleston, County of Kanawha, and State of West Virginia. This property consists of 258 acres, several major buildings and infrastructure. Dow has opened the Tech Park to other business to enhance economic development opportunities. Kanawha Valley Community and Technical College will relocate their campus to the site with the renovation of one of the existing buildings and there will be the construction of an Advanced Technology Center for community college technical training and education. The deed to the property is expected to transfer to the Commission on or before December 15, 2010, at which time a donation would be recognized.

Other Factors Impacting the Financial Position and Results of Operations of the Fund

The mission of the Commission is to align the West Virginia Higher Education System to a new master plan for 2007-2012. The master plan has two sections. The first section, The Public Agenda – Meeting West Virginia's Needs: A Vision for Higher Education in West Virginia, is a vision statement and an executive summary of the master plan. It will set forth the overarching goals for West Virginia public higher education and provides the conceptual framework for the 2007-2012 master plan of the Higher Education Policy Commission. The plan will focus on five areas that are central to meeting current challenges in West Virginia higher education:

1. Economic Growth
2. Access
3. Cost and Affordability
4. Learning and Accountability
5. Innovation

The second section, Achieving the Goals – What We Need to Do, will provide findings, outlines goals, and suggests strategies for West Virginia's public colleges and universities to address in each of the five areas of the public agenda. The findings, goals, and strategies constitute the plan for addressing needs in higher education in West Virginia from 2007 to 2012 and are the basis for developing new elements in the establishment of new institutional compacts for the state's four-year public colleges and universities.

The achievement of the goals for the higher education system as described in the Master Plan are dependent upon many factors, one of which is adequate resources to implement the strategies necessary to achieve the goals. At the present time the Fund maintains a strong financial condition. The net asset position of the Fund is $1,521.4 million, including $177.9 million in unrestricted net assets. The continued success of the Fund is closely tied to the economic strength of the State of West Virginia. Over 28% of operating and nonoperating revenues of the Fund in FY 2010 are from State general revenue and lottery revenues. This funding is critical to the success of the higher education system in meeting the Compact goals.

State appropriations decreased approximately 7% in FY 2010 from FY 2009 and are attributable to State budget reductions mandated by the Governor in FY 2010. Unlike the majority of the nation, West Virginia was not impacted as quickly by the downturn in the economy and budget reductions did not occur until fiscal year 2010. For fiscal year 2011, as the West Virginia economy worsened, State appropriations for operations have been reduced by approximately 5% and the potential for mid year budget reductions does not seem likely. Due to the American Recover and Reinvestment Act (ARRA), State higher education institutions had their FY 2010 budget reductions backfilled by the State Fiscal Stabilization Fund Program in the amount of $21.9 million. For fiscal year 2012 the Governor's Office instructed that budget requests are to be at the current FY 2011 level plus the anticipated ARRA funds for FY 2011.

The GASB issued Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*, effective for fiscal years beginning after December 15, 2006. The adoption of GASB Statement No. 45 by the Fund resulted in a cumulative effect adjustment of approximately $61.9 million which increased net assets as the existing liability of the Fund was transferred to the State's Multiple-Employer Trust Fund. The Trust Fund for OPEB invoiced the Fund $13.7 million in fiscal year 2009 in excess of current amounts paid and for fiscal year 2010 the Trust Fund invoiced the Fund $89.6 million in excess of current amounts paid. The liability as of June 30, 2010 is $113.5 million. In the past,

the State made certain payments on behalf of the Fund. However, no such payments were made in fiscal year 2010 and there is no commitment of any payments made on behalf of the Fund from the State for years after fiscal year 2010, at this time. Accordingly, as of June 30, 2010, the GASB Statement No. 45 liability exceeded the amount that was recognized as a positive cumulative effect in FY 2008 by over $50 million.

The demographics of the State of West Virginia also have an impact on the future operations of the Fund. The number of high school graduates has declined in recent years and is projected to decline further over the next ten years. Significant efforts are underway to expand the participation rate in higher education by both high school graduating seniors as well as adults to improve the economic environment of the State. Increased attendance by non-resident students is another factor in the future financial stability of the Fund. Net student tuition and fees provide approximately 29% of the total revenues of the Fund.

One of the key goals of the higher education system is to improve the economic environment of the State of West Virginia. The full impact of the current economic environment and the resulting impact on the future economic environment by various factors including the performance of the higher education system cannot be predicted with any certainty. The current financial condition of the Fund will be beneficial in meeting the challenges that lie ahead.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF NET ASSETS
AS OF JUNE 30, 2010 AND 2009
(Dollars in thousands)

ASSETS	2010	2009
CURRENT ASSETS:		
Cash and cash equivalents	$ 454,455	$ 431,890
Appropriations due from Primary Government	15,867	23,741
Due from State		
Accounts receivable — net	82,241	71,807
Loans receivable — current portion	6,670	6,589
Other current assets	3,254	2,581
Inventories	5,992	5,834
Total current assets	568,479	542,442
NONCURRENT ASSETS:		
Cash and cash equivalents	103,701	79,188
Investments	151,222	86,580
Appropriations due from Primary Government	2,959	2,979
Loans receivable — net of allowance of $10,454 and $8,855 in 2010 and 2009, respectively	51,245	53,524
Other assets	18,156	18,313
Capital assets — net	1,941,703	1,862,554
Total noncurrent assets	2,268,986	2,103,138
TOTAL	$2,837,465	$2,645,580

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF NET ASSETS
AS OF JUNE 30, 2010 AND 2009
(Dollars in thousands)

LIABILITIES	2010	2009
CURRENT LIABILITIES:		
Accounts payable	$ 56,223	$ 58,420
Due to State of West Virginia	112	223
Accrued liabilities	43,980	40,204
Deferred revenue	85,530	82,615
Deposits	5,687	6,267
Other liabilities — current portion	162	287
Compensated absences — current portion	39,707	40,141
Notes payable — current portion	2,815	885
Capital lease obligations — current portion	13,925	2,536
Interest payable	4,997	3,385
Bonds payable — current portion	26,896	24,396
Total current liabilities	280,034	259,359
NONCURRENT LIABILITIES:		
Advances from federal sponsors	41,355	41,542
Compensated absences	3,142	3,213
Notes payable	30,302	31,208
Capital lease obligations	67,152	44,226
Deferred interest payable	29,917	26,060
Bonds payable	721,991	655,028
Other post employment benefit liability	113,543	23,990
Other noncurrent liabilities	28,608	26,214
Total noncurrent liabilities	1,036,010	851,481
Total liabilities	1,316,044	1,110,840
NET ASSETS:		
Invested in capital assets — net of related debt	1,141,427	1,095,650
Restricted for:		
Expendable:		
Scholarships	13,775	20,732
Sponsored projects	78,599	96,416
Loans	25,720	27,877
Capital projects	66,869	70,764
Debt service	8,317	7,527
Other	3,881	7,014
Total restricted expendable	196,161	230,330
Nonexpendable	5,946	5,354
Unrestricted	177,887	203,406
Total net assets	1,521,421	1,534,740
TOTAL	$2,837,465	$2,645,580

See notes to combined financial statements.

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF NET ASSETS
AS OF JUNE 30, 2010

LIABILITIES AND NET ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
LIABILITIES:															
Accounts payable	$ -	$ 103,912	$ -	$ -	$ 30,232	$ -	$ 439,532	$ 767,186	$ 1,115	$ 25,425	$ -	$ 3,020	$ 8,339	$ 7,434	$ 2,116
Other accrued liabilities		580		5,000		60,180	398,328	1,754,356	3,005	125,324			9,000		
Amounts held on behalf of others	2,184	85,950	780,894						3,338,541				123,156		
Annuity obligations			320,335	75,529			690,241								
Bonds and notes payable		3,672,157			17,345		12,342,210	90,065,000	195,026		63,884				
Swap liability								13,277,767							
Total liabilities	2,184	3,862,599	1,101,229	80,529	47,577	60,180	13,870,311	105,864,309	3,537,687	150,749	63,884	3,020	140,495	7,434	2,116
NET ASSETS (DEFICIT):															
Unrestricted	1,272,841	1,054,945	453,148	957,675	546,894	(142,853)	10,357,717	(15,897,577)	(3,226,912)	144,572	1,310,972	379,056	1,833,059	399,693	192,556
Temporarily restricted	5,286,858		3,934,813	2,933,065	25,698	115,422	20,696,013		4,399,595	2,513,210	1,248,873	1,150,533	69,185	1,364,132	4,653,943
Permanently restricted	1,070,530		17,027,260	10,829,892	11,529,721	1,015,710	68,336,110		20,073,694	15,000	8,874,969	496,820	344,344	3,815,380	1,650,741
Total net assets (deficit)	7,629,429	1,054,945	21,415,221	14,720,632	12,102,313	988,279	99,389,840	(15,897,577)	21,246,377	2,672,782	11,434,814	2,026,409	2,246,588	5,579,205	6,497,240
TOTAL	$7,631,613	$4,917,544	$22,516,450	$14,801,161	$12,149,890	$1,048,459	$113,260,151	$ 89,966,732	$24,784,064	$2,823,531	$11,498,698	$2,029,429	$2,387,083	$5,586,639	$6,499,356

* December 31 year-end.

See notes to combined financial statements.

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF NET ASSETS
AS OF JUNE 30, 2010

ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
CASH AND CASH EQUIVALENTS	$1,106,536	$ 41,814	$ 649,205	$ 34,868	$ 139,926	$ 323,841	$ 7,308,174	$ 1,102,676	$ 2,150,994	$ 576,680	$ 481,145	$ 70,403	$ 514,269	$ 879,686	$ 262,035
INVESTMENTS	6,503,811		21,374,062	11,540,030	11,275,599		76,060,291	6,743,702	21,490,881	1,775,050	8,886,776	1,834,516	23,311	3,649,657	6,212,671
NET INVESTMENT IN DIRECT FINANCING LEASES							3,587,018								
PLEDGES AND CONTRIBUTIONS RECEIVABLE	3,581		450,555	1,020,585	692,731	2,000	5,598,598		1,069,093	437,414	184,744	62,598			
OTHER ASSETS	17,685	176,765	41,094	14,028	9,006	2,300	992,075	2,579,583	68,698	33,742	57,933	61,912	24,259	11,843	24,650
BENEFICIAL INTERESTS				2,191,650		720,318	6,415,960				1,888,100		231,423	115,685	
PROPERTY, PLANT, AND EQUIPMENT — Net		4,698,965	1,534		32,578		13,298,035	79,540,771	4,398	645			1,593,821	929,768	
TOTAL	$7,631,613	$4,917,544	$22,516,450	$14,801,161	$12,149,840	$1,048,459	$113,260,151	$ 89,966,732	$24,784,064	$2,823,531	$11,498,698	$2,029,429	$2,387,083	$5,586,639	$6,499,356

* December 31 year-end.

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS -- STATEMENT OF NET ASSETS
AS OF JUNE 30, 2009

LIABILITIES AND NET ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
LIABILITIES:															
Accounts payable	$ -	$ 70,223	$ 7,700	$ 40	$ 25,295	$ 8,663	$ 639,094	$ 1,194,482	$ 250	$ 21,000	$ 88,457	$ 706	$ 281	$ 5,189	$ 9,359
Other accrued liabilities		354				42,536	780,191	1,203,620	1,562	305,507		4,900	9,000		
Amounts held on behalf of others	3,737	65,869	878,555						3,230,255						
Annuity obligations			188,950	68,795			727,458		167,649				128,619		
Bonds and notes payable		3,727,121			24,897		6,306,563	90,065,000			71,401				
Swap liability								8,879,900							
Total liabilities	3,737	3,863,567	1,075,205	68,835	50,192	51,193	8,453,306	101,343,002	3,399,716	326,507	159,858	5,606	137,900	5,189	9,359
NET ASSETS (DEFICIT):															
Unrestricted	1,016,404	1,265,553	104,120	477,400	848,054	(153,906)	14,904,732	(7,656,579)	(3,195,799)	27,859	1,203,957	292,744	1,767,519	329,997	200,498
Temporarily restricted	5,113,808		3,797,857	4,569,930	(805,673)	52,267	12,036,205		4,056,902	2,666,234	595,871	1,072,256	10,746	1,018,701	4,191,368
Permanently restricted	1,017,190		15,515,216	7,838,013	10,718,512	945,010	67,552,366		18,420,393	15,000	8,625,001	458,826	288,584	3,735,772	1,530,779
Total net assets (deficit)	7,141,402	1,265,553	19,417,193	12,885,343	10,760,893	843,371	94,493,203	(7,656,579)	19,281,486	2,709,093	10,424,829	1,823,826	2,066,849	5,084,470	5,922,625
TOTAL	$7,145,139	$5,129,120	$20,492,398	$12,954,178	$10,811,085	$ 894,564	$102,946,509	$ 93,686,423	$22,681,202	$3,035,600	$10,584,687	$1,829,432	$2,204,749	$5,089,659	$5,931,984

* December 31 year-end.

See notes to combined financial statements.

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS -- STATEMENT OF NET ASSETS
AS OF JUNE 30, 2009

ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
CASH AND CASH EQUIVALENTS	$1,143,172	$ 49,880	$ 1,216,369	$ 105,009	$ 65,925	$ 256,566	$ 617,817	$ 1,286,567	$ 1,194,217	$ 484,880	$ 680,899	$ 7,048	$ 325,329	$ 769,543	$ 391,214
INVESTMENTS	5,977,683		18,367,739	9,554,979	9,874,365		77,073,781	7,884,235	19,844,150	1,748,498	7,822,069	1,653,171	18,800	3,218,314	5,396,787
NET INVESTMENT IN DIRECT FINANCING LEASES							4,052,229								
PLEDGES AND CONTRIBUTIONS RECEIVABLE	4,563		825,406	1,610,839	713,231		6,287,280		1,557,592	782,851	275,251	84,520			99,047
OTHER ASSETS	19,721	149,954	67,121	23,921	13,898	6,407	978,527	2,704,010	81,079	14,674	61,850	83,693	212,097	27,453	45,436
BENEFICIAL INTERESTS				1,659,430		631,591	6,018,545				1,744,618			109,518	
PROPERTY, PLANT, AND EQUIPMENT — Net		4,929,286	15,823		143,666		7,918,330	81,811,611	4,164	4,697			1,648,523	964,831	
TOTAL	$7,145,139	$5,129,120	$20,492,398	$12,954,178	$10,811,085	$ 894,564	$102,946,509	$ 93,686,423	$22,681,202	$3,035,600	$10,584,687	$1,829,432	$2,204,749	$5,089,659	$5,931,984

* December 31 year-end.

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2010

	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, LLC	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.*	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
REVENUES, GAINS, AND OTHER SUPPORT:															
Unrestricted:															
Gifts, contributions, and other	$ 66,837	$ 813,234	$ 162,117	$ 101,000	$ 218,477	$ 251,149	$ 799,564	$ 7,493,498	$ 28,196	$ 12,140	$ 127,044	$ 35,371	$ 713,442	$ 331,084	$ 5,245
Investment income (loss)	19,512		389,982	767,464	253,074	13,219	5,185,598	(3,591,498)	571,085	5,137	286,020	37,466	1,865	405,846	27,741
Reclassifications					(243,959)	5,000	(7,797,263)							(388,725)	
Temporarily restricted:															
Gifts, contributions, and other	93,381	348,872	207,146	1,039,005	490,647	29,604	5,551,578		853,131	238,298	833,903	300,579	72,796	156,203	249,202
Investment income	525,506		859,661	341,861	990,915	87,551	1,020,226		551,619	163,512	739,663	59,214	23,578	197	471,591
Reclassifications				(1,659,430)	227,331	(3,000)	8,895,006							391,225	
Permanently restricted:															
Gifts, contributions, and other	50,149		1,113,487	1,117,725	793,550	72,700	1,184,928		1,642,449		29,704	37,994	55,315	75,941	
Investment income			565,073	214,724	1,449		696,659		18,400		223,562		445	6,167	176,400
Reclassifications				1,659,430	16,628	(2,000)	(1,097,743)							(2,500)	176,400
Total revenues, gains, and other support	755,385	1,162,106	3,297,466	3,581,779	2,748,112	454,223	14,438,553	3,902,000	3,664,880	419,087	2,239,896	470,624	867,441	975,438	1,106,579
EXPENSES:															
Scholarships, awards, and grants	186,121	1,175,225	334,918	878,943	354,086	51,000	1,740,952		968,023	246,030	549,740	18,836		220	85,595
College support	45,568		674,748	632,068	525,661		5,164,396		166,283	128,957	638,178	203,124		168,007	145,525
Management and general	35,669	197,489	289,772	235,479	526,945	258,315	2,636,568	12,142,998	565,683	80,411	41,993	46,081	687,702	312,476	124,444
Total expenses	267,358	1,372,714	1,299,438	1,746,490	1,406,692	309,315	9,541,916	12,142,998	1,699,989	455,398	1,229,911	268,041	687,702	480,703	355,564
CHANGE IN NET ASSETS	488,027	(210,608)	1,998,028	1,835,289	1,341,420	144,908	4,896,637	(8,240,998)	1,964,891	(36,311)	1,009,985	202,583	179,739	494,735	751,015
NET ASSETS — Beginning of year	7,141,402	1,265,553	19,417,193	12,885,343	10,760,893	843,371	94,493,203	(7,656,579)	19,281,486	2,709,093	10,424,829	1,823,826	2,066,849	5,084,470	5,922,625
NET ASSETS (DEFICIT) — End of year	$ 7,629,429	$1,054,945	$21,415,221	$14,720,632	$12,102,313	$ 988,279	$ 99,389,840	$(15,897,577)	$21,246,377	$2,672,782	$11,434,814	$2,026,409	$2,246,588	$5,579,205	$ 6,673,640

* December 31 year-end.

See notes to combined financial statements.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS
FOR THE YEARS ENDED JUNE 30, 2010 AND 2009
(Dollars in thousands)

	2010	2009
OPERATING REVENUES:		
Student tuition and fees — net of scholarship allowance of $134,763 in 2010 and $106,499 in 2009	$ 467,933	$ 447,080
Federal and local land grants	9,760	9,853
Contracts and grants:		
Federal	149,728	135,781
State	58,500	64,583
Local	1,455	1,425
Private	66,316	70,172
Interest on student loans receivable	1,154	896
Sales and services of educational activities	23,471	20,185
Auxiliary enterprise revenue — net of scholarship allowance of $18,657 in 2010 and $16,099 in 2009	195,447	190,468
Other operating revenues	22,981	23,447
Total operating revenues	996,747	963,888
OPERATING EXPENSES:		
Salaries and wages	733,485	698,667
Benefits	294,569	221,412
Supplies and other services	346,937	340,115
Utilities	49,335	47,865
Student financial aid — scholarships and fellowships	117,365	89,674
Depreciation	89,780	82,111
Other operating expenses	6,060	11,314
Total operating expenses	1,637,521	1,491,160
OPERATING LOSS	(640,774)	(527,272)
NONOPERATING REVENUES (EXPENSES):		
State appropriations	449,306	483,534
State fiscal stabilization funds (federal)	21,944	
Federal Pell grants	133,211	80,668
Payments on behalf of West Virginia Higher Education Fund		10,864
Gifts	21,548	21,092
Investment income (loss) (including unrealized gain (loss) of $6,759 in 2010 and $(9,356) in 2009)	10,947	(961)
Interest on indebtedness	(40,328)	(36,504)
Payments to other institutions	(14,915)	(20,492)
Other nonoperating expenses — net	(1,625)	(215)
Net nonoperating revenues	580,087	537,986
(LOSS) INCOME BEFORE OTHER REVENUES, EXPENSES, GAINS, OR LOSSES	(60,687)	10,714
CAPITAL GRANTS AND GIFTS	43,126	43,633
STATE CAPITAL GRANTS (FEDERAL)	4,242	
(DECREASE) INCREASE IN NET ASSETS BEFORE CUMULATIVE EFFECT	(13,319)	54,347
NET ASSETS — Beginning of year	1,534,740	1,479,916
CUMULATIVE EFFECT OF ADOPTION OF ACCOUNTING PRINCIPLE		477
NET ASSETS — End of year	$1,521,421	$1,534,740

See notes to combined financial statements.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED JUNE 30, 2010 AND 2009
(Dollars in thousands)

	2010	2009
CASH FLOWS FROM OPERATING ACTIVITIES:		
Student tuition and fees	$ 487,377	$ 443,082
Federal and local land grants	9,760	9,853
Contracts and grants	270,797	274,669
Payments to and on behalf of employees	(936,690)	(888,860)
Payments to suppliers	(347,285)	(337,332)
Payments to utilities	(48,202)	(49,072)
Payments for scholarships and fellowships	(125,850)	(92,768)
Loans issued to students	(3,175)	(9,526)
Collection of loans to students	2,428	6,233
Sales and service of educational activities	21,088	22,396
Interest earned on loans to students	720	664
Auxiliary enterprise charges	183,067	190,852
Other receipts — net	27,661	19,851
Net cash used in operating activities	(456,304)	(400,958)
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:		
State appropriations	456,195	480,009
State fiscal stabilization funds (federal)	20,841	
Federal Pell grants	133,211	80,668
Payments to other institutions	(14,634)	(15,128)
Gift receipts	21,306	21,067
Direct and Stafford lending receipts	411,735	351,725
Direct and Stafford lending payments	(411,736)	(351,272)
Other nonoperating disbursements — net	(192)	(2,046)
Net cash provided by noncapital financing activities	616,726	565,023
CASH FLOWS FROM CAPITAL FINANCING ACTIVITIES:		
Proceeds from bond issuances and borrowings	95,965	10,049
Proceeds from capital asset disposals	739	3,368
Payment of bond issuance costs	(178)	
Withdrawals from noncurrent cash and cash equivalents	50,133	28,106
Deposits to noncurrent cash and cash equivalents	(38,175)	(7,993)
Capital grants and gifts received	27,119	37,961
State capital grants (federal) received	3,506	
Purchases of capital assets	(160,217)	(171,828)
Principal paid on notes, bonds, and leases	(28,100)	(24,390)
Interest paid on notes, bonds, and leases	(34,119)	(33,595)
Bond proceeds to outside entities	(133)	(44)
Net cash used in capital financing activities	(83,460)	(158,366)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Receipts from sales of investments	11,914	31,527
Purchase of investments	(71,536)	(8,711)
Investment income	5,225	9,240
Net cash (used in) provided by investing activities	(54,397)	32,056
INCREASE IN CASH AND CASH EQUIVALENTS	22,565	37,755
CASH AND CASH EQUIVALENTS — Beginning of year	431,890	394,135
CASH AND CASH EQUIVALENTS — End of year	$ 454,455	$ 431,890

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2009

	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, LLC	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.*	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
REVENUES, GAINS, AND OTHER SUPPORT:															
Unrestricted:															
Gifts, contributions, and other	$ 39,617	$ 858,704	$ 395,233	$ 1,209,618	$ 531,464	$ 232,279	$ 797,494	$ 5,206,116	$ 28,149	$ -	$ 157,310	$ 15,822	$ 711,047	$ 428,754	$ 2,607
Investment (loss) income	(114,872)		(499,288)	(1,744,367)	82,604	(20,723)	(23,379,223)	(5,277,556)	(2,608,036)	(4,424)	16,591	(64,560)	409	(551,607)	(56,227)
Temporarily restricted:															
Gifts, contributions, and other	92,851	146,515	350,595	2,600,109	621,965	26,000	6,408,172		1,952,570	416,253	704,446	173,609	5,536	272,231	340,748
Investment (loss) income	(956,457)		(1,436,929)	9,641	(520,157)	(150,160)	3,325,876		537,730	(62,505)	(1,979,850)	(108,963)	(47,536)	22,090	(776,556)
Permanently restricted:															
Gifts, contributions, and other	37,902		499,674	1,515,518	3,541,621	66,200	2,476,989		223,777		(186,774)	45,533	22,212	327,103	
Investment (loss) income			(1,336,328)	20,224	(60,671)		(721,725)		18,131		84,596		473		(349,463)
Total revenues, gains, and other support	(900,959)	1,005,219	(2,027,043)	3,610,743	4,197,026	153,596	(11,092,417)	(71,440)	152,321	349,324	(1,213,681)	61,441	692,141	499,171	(838,891)
EXPENSES:															
Scholarships, awards, and grants	103,076	1,081,648	469,316	1,012,959		54,430	2,420,726		1,314,424	189,943	498,891	24,343		8,435	107,337
College support	103,478		2,368,037	1,600,311	1,188,449		7,064,577		157,596	237,775	990,812	58,092		305,760	137,182
Management and general	39,643	206,791	447,745	238,789	521,615	222,551	3,524,713	7,585,139	558,283	208,929	152,269	54,055	687,890	301,728	133,270
Total expenses	246,197	1,288,439	3,285,098	2,844,059	1,710,064	276,981	13,010,016	7,585,139	2,030,303	636,647	1,641,972	136,490	687,890	615,923	377,789
CHANGE IN NET ASSETS	(1,147,156)	(283,220)	(5,312,141)	766,684	2,486,962	(123,385)	(24,102,433)	(7,656,579)	(1,877,982)	(287,323)	(2,855,653)	(75,049)	4,251	(116,752)	(1,216,680)
NET ASSETS — Beginning of year	8,288,558	1,548,773	24,729,334	12,118,659	8,273,931	966,756	118,595,636		21,159,468	2,996,416	13,280,482	1,898,875	2,062,598	5,201,222	7,139,305
NET ASSETS (DEFICIT) — End of year	$ 7,141,402	$ 1,265,553	$ 19,417,193	$ 12,885,343	$ 10,760,893	$ 843,371	$ 94,493,203	$ (7,656,579)	$ 19,281,486	$ 2,709,093	$ 10,424,829	$ 1,823,826	$ 2,066,849	$ 5,084,470	$ 5,922,625

* December 31 year-end.

See notes to combined financial statements.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED JUNE 30, 2010 AND 2009
(Dollars in thousands)

	2010	2009
RECONCILIATION OF OPERATING LOSS TO NET CASH USED IN OPERATING ACTIVITIES:		
Operating loss	$(640,774)	$(527,272)
Adjustments to reconcile operating loss to net cash used in operating activities:		
Depreciation and amortization expense	92,219	93,784
Expenses paid on behalf of the Fund	145	10,864
Changes in assets and liabilities:		
Receivables — net	(9,999)	(14,460)
Loans receivable — net	2,146	(2,328)
Prepaid expenses	(1,055)	102
Inventories	(157)	(20)
Accounts payable	1,808	6,254
Accrued liabilities	6,299	3,182
Compensated absences	(505)	2,916
Deferred revenue	3,573	12,424
Deposits	368	101
Other post employment benefit liability	89,148	13,702
Advances from federal sponsors	(179)	(122)
Other	659	(85)
NET CASH USED IN OPERATING ACTIVITIES	$(456,304)	$(400,958)
SIGNIFICANT NONCASH TRANSACTIONS:		
Cumulative effect of adoption of accounting principle	$ -	$ 477
Construction in progress and capital asset additions included in accounts payable and accrued liabilities	$ 9,317	$ 8,225
Donated capital assets	$ 12,813	$ 10,595
Loss on disposals	$ 1,014	$ 2,887

See notes to combined financial statements. (Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

NOTES TO COMBINED FINANCIAL STATEMENTS
AS OF AND FOR THE YEARS ENDED JUNE 30, 2010 AND 2009

1. ORGANIZATION

The West Virginia Higher Education Fund (the "Fund") is comprised of the following:

- Bluefield State College
- Blue Ridge Community and Technical College
- Bridgemont Community and Technical College
- Concord University
- Eastern West Virginia Community and Technical College
- Fairmont State University
- Glenville State College
- Kanawha Valley Community and Technical College (formerly West Virginia State Community and Technical College)
- Marshall University (including Marshall University Graduate College)
- Mountwest Community and Technical College (formerly Marshall Community and Technical College)
- New River Community and Technical College
- Pierpont Community and Technical College
- Shepherd University
- Southern West Virginia Community and Technical College
- West Liberty University
- West Virginia Council for Community and Technical College Education
- West Virginia Higher Education Policy Commission (including West Virginia Network for Educational Telecomputing)
- West Virginia Northern Community College
- West Virginia State University
- West Virginia School of Osteopathic Medicine
- West Virginia University (including Potomac State College and West Virginia University Institute of Technology)
- West Virginia University at Parkersburg Community and Technical College

The Fund is a discretely presented component unit of the State of West Virginia (the "State").

Each college and university (the "Institutions") in the Fund is governed by its own Governing Board, which is responsible for the general determination, control, supervision, and management of the financial business and educational policies and affairs of its institution. The West Virginia Higher Education Policy Commission (the "Policy Commission"), in accordance with Senate Bill No. 653, is responsible for developing, gaining consensus around, and overseeing the implementation and development of a higher education public policy agenda. The Policy Commission is comprised of 10 persons appointed by the Governor with the advice and consent of the Senate. Senate Bill No. 448 gives the West Virginia Council for Community and Technical College Education (the "Council") the responsibility of developing, overseeing, and advancing the State's public policy agenda as it relates to

community and technical college education. The Council is comprised of 12 persons appointed by the Governor with the advice and consent of the Senate.

During fiscal year 2008, House Bill No. 3215 was passed which clarified and redefined relationships between and among certain higher education boards and institutions. This legislation defines the statewide network of independently accredited community and technical colleges. Effective July 1, 2008, the administratively linked community and technical colleges of Fairmont State University, Marshall University, West Virginia State University, and West Virginia University (the "Universities") established their own Boards of Governors. Except for Fairmont State University and Pierpont Community and Technical College which were granted an extension to be effective January 1, 2010, the newly established Boards of Governors and the Boards of Governors of the Universities jointly agreed on a division of assets and liabilities of the Universities as required. The division of all assets and liabilities was effective retroactively to July 1, 2008. The amount of net assets transferred out from the Universities to the separately established community and technical colleges was $21,778,265 and $26,111,703 during 2010 and 2009, respectively. These were transfers within the Fund and have no impact on the Fund's financial statements. The Universities and the separately established community and technical colleges developed a plan that ensures the financial stability of auxiliary enterprises, including, but not limited to, student housing, student centers, dining services, parking, and athletics through fiscal year 2012.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The combined financial statements of the Fund have been prepared in accordance with accounting principles generally accepted in the United States of America ("generally accepted accounting principles") as prescribed by Governmental Accounting Standards Board standards (GASB). The financial statement presentation required by GASB provides a comprehensive, entity-wide perspective of the Fund's assets, liabilities, net assets, revenues, expenses, changes in net assets, and cash flows and replaces the fund-group perspective previously required.

The Fund follows all GASB pronouncements as well as Financial Accounting Standards Board (FASB) Statements and Interpretations, Accounting Principles Board Opinions, and Accounting Research Bulletins issued on or before November 30, 1989, and has elected not to apply the FASB Statements and Interpretations issued after November 30, 1989, to its combined financial statements.

Reporting Entity — The accompanying combined financial statements present all entities under the authority of the Fund under GASB, including:

- Concord University Research and Development Corporation
- Glenville State College Research Corporation
- Glenville State College Housing Corporation
- Marshall University Research Corporation (MURC)
- Shepherd University Research and Development Corporation
- West Virginia State University Research and Development Corporation
- West Virginia University Research and Development Corporation

These entities are included in the combined financial statements as blended component units of the Fund.

The basic criterion for inclusion in the accompanying combined financial statements is the exercise of oversight responsibility derived from the Fund's ability to significantly influence operations and accountability for fiscal matters of related entities. Related foundations and other affiliates of the Fund

are not part of the Fund's reporting entity and are not included in the accompanying combined financial statements as the Fund has no ability to designate management, cannot significantly influence operations of these entities, and is not accountable for the fiscal matters of the foundations and other affiliates under GASB blended component unit requirements.

The Fund applies GASB discretely presented component unit requirements and, as a result, certain component units' financial statements are discretely presented here with the Fund's financial statements. The component units are the separate private nonprofit organization of each applicable institution that are required to be reported under GASB. These discretely presented component unit organizations report under FASB standards. As such, certain revenue recognition criteria and presentation features are different from GASB revenue recognition criteria and presentation features. The component units consist of foundations and other entities which meet the criteria for inclusion under GASB discretely presented component unit requirements.

Financial Statement Presentation — GASB establishes standards for external financial reporting for public colleges and universities and requires that financial statements be presented on a combined basis to focus on the Fund as a whole. Net assets are classified into four categories according to external donor restrictions or availability of assets for satisfaction of Fund obligations. The Fund's net assets are classified as follows:

Invested in Capital Assets — Net of Related Debt — This represents the Fund's total investment in capital assets, net of accumulated depreciation and outstanding debt obligations related to those capital assets. To the extent debt has been incurred but not yet expended for capital assets, such amounts are not included as a component of invested in capital assets — net of related debt.

Restricted Net Assets — Expendable — This includes resources in which the Fund is legally or contractually obligated to spend resources in accordance with restrictions imposed by external third parties.

The West Virginia Legislature, as a regulatory body outside the reporting entity, has restricted the use of certain funds by Article 10, Fees and Other Money Collected at State Institutions of Higher Education of the West Virginia State Code. House Bill No. 101 passed in March 2004 simplified the tuition and fees restrictions to auxiliaries and capital items. These activities are fundamental to the normal ongoing operations of the Fund. These restrictions are subject to change by future actions of the West Virginia Legislature.

Restricted Net Assets — Nonexpendable — This includes endowment and similar type funds in which donors or other outside sources have stipulated, as a condition of the gift instrument, that the principal is to be maintained inviolate and in perpetuity, and invested for the purpose of producing present and future income, which may either be expended or added to principal.

Unrestricted Net Assets — Unrestricted net assets represent resources derived from student tuition and fees, state appropriations, and sales and services of educational activities. These resources are used for transactions relating to the educational and general operations of the Fund, and may be used at the discretion of the respective governing boards to meet current expenses for any purpose.

Basis of Accounting — For financial reporting purposes, the Fund is considered a special-purpose government engaged only in business-type activities. Accordingly, the Fund's financial statements have been prepared on the accrual basis of accounting with a flow of economic resources measurement focus. Revenues are reported when earned and expenses when materials or services are received. All intercompany accounts and transactions have been eliminated.

Cash and Cash Equivalents — For purposes of the statements of net assets, the Fund considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Cash and cash equivalents balances on deposit with the State of West Virginia Treasurer's Office (the "State Treasurer") are pooled by the State Treasurer with other available funds of the State for investment purposes by the West Virginia Board of Treasury Investments (BTI). These funds are transferred to the BTI and the BTI is directed by the State Treasurer to invest the funds in specific external investment pools in accordance with West Virginia Code, policies set by the BTI, and by the provisions of bond indentures and trust agreements, when applicable. Balances in the investment pools are recorded at fair value or amortized cost which approximates fair value. Fair value is determined by a third-party pricing service based on asset portfolio pricing models and other sources in accordance with GASB. The BTI was established by the State Legislature and is subject to oversight by the State Legislature. Fair value and investment income are allocated to participants in the pools based upon the funds that have been invested. The amounts on deposit are available for immediate withdrawal and, accordingly, are presented as cash and cash equivalents in the accompanying combined financial statements.

The BTI maintains the Consolidated Fund investment fund which consists of eight investment pools and participant-directed accounts, three of which the state and local governmental agencies may invest in. These pools have been structured as multiparticipant variable net asset funds to reduce risk and offer investment liquidity diversification to the Fund participants. Funds not required to meet immediate disbursement needs are invested for longer periods. A more detailed discussion of the BTI's investment operations pool can be found in its annual report. A copy of that annual report can be obtained from the following address: 1900 Kanawha Blvd. East, Room E-122, Charleston, WV 25305 or http://www.wvbti.com.

Investments — GASB requires the Fund to record certain investment balances at fair value. As provided in the statement, the Fund's investments maintained by the BTI and the Municipal Bond Commission are determined by the pool's share price, which approximates fair value. Other investments, other than alternative investments, are presented at fair value, based upon quoted market prices.

The alternative investments are also carried at fair value as of June 30, 2010 and 2009. These valuations include assumptions and methods that were reviewed by Fund management and are primarily based on quoted market values or other readily determinable market values for underlying investments. The majority of the alternative investments have a readily determinable market value. The Fund believes that the carrying amount of its alternative investments is a reasonable estimate of fair value as of June 30, 2010 and 2009. Because a portion of alternative investments are not readily marketable, and the estimated value is subject to uncertainty, the reported value may differ from the value that would have been used had a ready market existed.

Permissible investments for all agencies include those guaranteed by the United States of America, its agencies and instrumentalities (U.S. Government obligation); corporate debt obligations, including commercial paper, which meet certain ratings; certain money market funds; repurchase agreements; reverse repurchase agreements, asset-backed securities; certificates of deposits; state and local government securities (SLGS); and other investments. Other investments consist primarily of investments in accordance with the Linked Deposit Program, a program using financial institutions in West Virginia to obtain certificates of deposit, loans approved by the legislature and any other program investments authorized by the legislature.

The Fund's investments held with the foundations and other agents are governed by investment policies that determine the permissible investments by category. The holdings include appropriately rated U.S. debt and equity securities, foreign debt and equity securities, as well as alternative investments. The respective investment policies outline the acceptable exposure to each category of investment and generally outline a liquidity goal.

Allowance for Doubtful Accounts — It is the Fund's policy to provide for future losses on uncollectible accounts, contracts, grants, and loans receivable based on an evaluation of the underlying account, contract, grant, and loan balances, the historical collectibility experienced by the Fund on such balances, and such other factors which, in the Fund's judgment, require consideration in estimating doubtful accounts.

Inventories — Inventories are stated at the lower of cost or market, cost being determined on the first-in, first-out method.

Noncurrent Cash, Cash Equivalents, and Investments — Cash and investments that are (1) externally restricted to make debt service payments, long-term loans to students, or to maintain sinking or reserve funds, (2) to purchase capital or other noncurrent assets or settle long-term liabilities, or (3) held for permanently restricted net assets, are classified as noncurrent assets in the combined statements of net assets.

Capital Assets — Capital assets include property, plant, and equipment, books and materials that are part of a catalogued library, and infrastructure assets. Capital assets are stated at cost at the date of acquisition or construction, or fair market value at the date of donation in the case of gifts. Interest on related borrowing, net of interest earnings on invested proceeds, is capitalized during the period of construction and was approximately $0.7 million and $1.8 million for the years ended June 30, 2010 and 2009, respectively. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, generally 20 to 50 years for buildings and infrastructure, 20 years for land improvements, 7 to 20 years for library assets, and 3 to 10 years for furniture and equipment. The combined financial statements reflect all adjustments required by GASB.

Deferred Revenue — Cash received for programs or activities to be conducted primarily in the next fiscal year are classified as deferred revenue, including items such as football ticket sales, orientation fees, room, and board. Financial aid and other deposits are separately classified as deposits.

Compensated Absences and Other Post Employment Benefits — The Fund accounts for compensated absences in accordance with the provisions of GASB.

GASB provides standards for the measurement, recognition, and display of other postemployment benefit (OPEB) expenditures, assets, and liabilities, including applicable note disclosures and required supplementary information. During fiscal year 2007, House Bill No. 4654 was established to create a trust fund for postemployment benefits for the State. Effective July 1, 2007, the Fund was required to participate in this multiple employer cost-sharing plan, the West Virginia Retiree Health Benefit Trust Fund, sponsored by the State. Details regarding this plan can be obtained by contacting West Virginia Public Employees Insurance Agency (PEIA), State Capitol complex, Building 5, Room 1001, 1900 Kanawha Boulevard, East, Charleston, WV 25305-0710 or http://www.wvpeia.com.

GASB requires entities to accrue for employees' rights to receive compensation for vacation leave, or payments in lieu of accrued vacation or sick leave, as such benefits are earned and payment becomes probable.

The Fund's full-time employees earn up to two vacation leave days for each month of service and are entitled to compensation for accumulated, unpaid vacation leave upon termination. Full-time employees also earn 1-1/2 sick leave days for each month of service and are entitled to extend their health or life insurance coverage upon retirement in lieu of accumulated, unpaid sick leave. Generally, two days of accrued sick leave extend health insurance for one month of single coverage and three days extend health insurance for one month of family coverage. For employees hired after 1988 or who were hired before 1988 but did not choose such coverage until after 1988 but before July 1, 2001, the employee shares in the cost of the extended benefit coverage to the extent of 50% of the premium required for the extended coverage. Employees hired on July 1, 2001, or later will no longer receive sick leave credit toward insurance premiums when they retire. Additionally, all retirees have the option to purchase continued coverage regardless of their eligibility for premium credits. This liability is then provided for under the multiple employer cost-sharing plan sponsored by the State.

Certain faculty employees (generally those with less than a 12-month contract) earn a similar extended health or life insurance coverage retirement benefit based on years of service. Generally 3-1/3 years of teaching service extend health insurance for one year of single coverage and five years extend health insurance for one year of family coverage. The same hire date mentioned above applies to coverage for faculty employees also. Faculty hired after July 1, 2009, will no longer receive years of service credit toward insurance premiums when they retire.

The estimated expense and expense incurred for vacation leave or OPEB benefits are recorded as a component of benefits expense in the combined statements of revenues, expenses, and changes in net assets.

Risk Management — The State's Board of Risk and Insurance Management (BRIM) provides general liability, medical malpractice liability, property and auto insurance coverage to the Fund and its employees. Such coverage is provided to the Fund through a self-insurance program maintained by BRIM for general liability, medical malpractice liability, and auto insurance coverage. BRIM maintains a self-insurance program to pay the first $1 million of each property insurance claim and purchases excess property insurance from the commercial insurance market to cover individual claims that exceed $1 million. The BRIM self-insurance programs may involve experience and exposure-related premiums.

BRIM engages an independent actuary to assist in the determination of its premiums so as to minimize the likelihood of premium adjustments to the Fund or other participants in BRIM's insurance programs. As a result, management does not expect significant differences between the premiums the Fund is currently charged by BRIM and the ultimate cost of that insurance based on the Fund's actual loss experience. In the event such differences arise between estimated premiums charged by BRIM to the Fund and the Fund's ultimate actual loss experience, the difference will be recorded as the change in estimate became known.

The West Virginia University's (WVU) and Marshall University's ("Marshall") Schools of Medicine (SOMs) have established a $250,000 deductible program under BRIM's professional liability coverage for the SOMs effective July 1, 2005. Prior to this date, the SOMs were totally covered by BRIM at a limit of $1 million per occurrence. Starting July 1, 2005, the SOMs assumed the risk and responsibility for any and all indemnity amounts up to $250,000 per occurrence and all loss expenses associated with medical malpractice claims and/or suits in exchange for a reduction in its premium for medical malpractice insurance.

Under the program, the SOMs entered into an agreement with BRIM whereby the SOMs have on deposit $4.5 million and $4.6 million as of June 30, 2010 and 2009, respectively, in escrow accounts created in the State Treasurer from which BRIM may withdraw amounts to pay indemnity costs and

allocated expenses in connection with medical malpractice claims against the SOMs. Additionally, the WVU Health Sciences Center also has on deposit $16.7 million and $14.0 million as of June 30, 2010 and 2009, respectively, in an investment earnings account with the West Virginia Foundation to cover the liabilities under this program. Marshall has a receivable from the University Physicians & Surgeons, Inc. for the funding it has agreed to provide for the self-insurance liability of $6,041,843 and $4,673,642 as of June 30, 2010 and 2009, respectively. Based on actuarial valuations of this self-insurance program, the Fund has recorded a liability of $26.2 million and $24.8 million to reflect projected claim payments at June 30, 2010 and 2009, respectively, for both WVU's and Marshall's SOMs.

In addition, through its participation in the PEIA and third-party insurers, the Fund has obtained health, life, prescription drug coverage, and coverage for job-related injuries for its employees. In exchange for payment of premiums to PEIA and the third-party insurers, the Fund has transferred its risks related to health, life, prescription drug coverage, and job-related injuries.

Classification of Revenues — The Fund has classified its revenues according to the following criteria:

Operating Revenues — Operating revenues include activities that have the characteristics of exchange transactions, such as (1) student tuition and fees, net of scholarship discounts and allowances, (2) sales and services of auxiliary enterprises, net of scholarship discounts and allowances, (3) most federal, state, local, and nongovernmental grants and contracts, (4) federal appropriations for land grant institutions, and (5) sales and services of educational activities.

Nonoperating Revenues — Nonoperating revenues include activities that have the characteristics of nonexchange transactions, such as gifts and contributions, and other revenues that are defined as nonoperating revenues by GASB, such as state appropriations, Federal Pell grants, and investment income.

Other Revenues — Other revenues consist primarily of capital grants and gifts.

Use of Restricted Net Assets — The Fund has not adopted a formal policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net assets are available. Generally, the Fund attempts to utilize restricted net assets first when practicable. Certain Institutions have adopted a policy to utilize restricted net assets first.

Federal Financial Assistance Programs — The Fund makes loans to students under the Federal Direct Student Loan Program. Under this program, the U.S. Department of Education makes interest subsidized and nonsubsidized loans directly to students, through the institutions within the Fund. The Fund also makes loans to students under the Stafford Loan Program through financial institutions. Direct and Stafford student loan receivables are not included in the Fund's combined statements of net assets. In 2010 and 2009, the Fund received and disbursed, or awarded, approximately $435 million and $377 million, respectively, under both Student Loan Programs, which is not included as revenue and expense in the combined statements of revenues, expenses, and changes in net assets.

The Fund also distributes other student financial assistance funds on behalf of the federal government to students under the Federal Pell Grant, Supplemental Educational Opportunity Grant, and College Work Study programs. The activity of these programs is recorded in the accompanying combined financial statements. In 2010 and 2009, the Fund received and disbursed approximately $136 million and $94 million, respectively, under these federal student aid programs.

Scholarship Allowances — Student tuition and fee revenues, and certain other revenues from students, are reported net of scholarship allowances in the combined statements of revenues, expenses, and changes in net assets. Scholarship allowances are the difference between the stated charge for goods and services provided by the Fund, and the amount that is paid by students and/or third parties making payments on the student's behalf.

Financial aid to students is reported in the combined financial statements under the alternative method as prescribed by the National Association of College and University Business Officers ("NACUBO"). Certain aid such as loans, funds provided to students as awarded by third parties, and Federal Direct Lending is accounted for as a third-party payment (credited to the student's account as if the student made the payment). All other aid is reflected in the financial statements as operating expenses, or scholarship allowances, which reduce revenues. The amount reported as operating expense represents the portion of aid that was provided to the student in the form of cash. Scholarship allowances represent the portion of aid provided to the student in the form of reduced tuition. Under the alternative method, these amounts are computed on an institution basis by allocating the cash payments to students, excluding payments for services, on the ratio of total aid to the aid not considered to be third-party aid.

Government Grants and Contracts — Government grants and contracts normally provide for the recovery of direct and indirect costs, subject to audit. The Fund recognizes revenue associated with direct costs as the related costs are incurred. Recovery of related indirect costs is generally recorded at fixed rates negotiated for a period of one to five years.

Income Taxes — The Fund is exempt from income taxes, except for unrelated business income, as a nonprofit organization under federal income tax laws and regulations of the Internal Revenue Service (IRS).

Cash Flows — Any cash and cash equivalents escrowed, restricted for noncurrent assets, or in funded reserves have not been included as cash and cash equivalents for the purpose of the combined statements of cash flows.

Use of Estimates — The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ materially from those estimates.

Risk and Uncertainties — Investments are exposed to various risks, such as interest rate, credit, and overall market volatility. Due to the level of risk associated with certain securities, it is reasonably possible that changes in risk and values will occur in the near term and that such changes could materially affect the amounts reported in the combined financial statements.

Reclassification — Certain reclassifications have been made to the 2009 financial statements to conform to the 2010 presentation for the adoption of GASB Statement No. 51, *Accounting and Financial Reporting for Intangible Assets*. With such adoption, $4,628,000 of other assets was reclassified into capital assets.

Newly Adopted Statements Issued by the Governmental Accounting Standards Board — During 2010, the Fund adopted GASB Statement No. 51. This statement provides guidance regarding whether and when intangible assets should be considered capital assets for financial reporting purposes. See "Reclassification" note above for further disclosure.

The Fund also adopted GASB Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*. This statement requires governmental entities to measure most derivative instruments at fair value as assets or liabilities. It also improves disclosure requirements surrounding the entity's derivative instrument activity, its objectives for entering into the derivative instrument, and the instrument's significant terms and risks. The adoption of this statement did not have a material impact on the financial statements.

Recent Statements Issued by the Governmental Accounting Standards Board — The Governmental Accounting Standards Board has issued GASB Statement No. 59, *Financial Instruments Omnibus*, effective for fiscal years beginning after June 15, 2010. This statement improves financial reporting by providing more complete information, by improving consistency of measurements, and by providing clarifications of existing standards related to certain financial instruments and external investment pools. The Fund has not yet determined the effect that the adoption of GASB Statement No. 59 may have on its financial statements.

3. CASH AND CASH EQUIVALENTS

The composition of cash and cash equivalents at June 30, 2010 and 2009, was held as follows (dollars in thousands):

	2010		
	Current	Noncurrent	Total
State Treasurer:			
Fund	$403,861	$ 50,816	$454,677
Municipal Bond Commission	1,270		1,270
Trustee	83	47,039	47,122
Bank	35,931	705	36,636
Cash equivalents	13,139	5,141	18,280
On hand	171		171
	$454,455	$103,701	$558,156

	2009		
	Current	Noncurrent	Total
State Treasurer:			
Fund	$364,194	$ 47,428	$411,622
Municipal Bond Commission	5,526		5,526
Trustee	96	25,907	26,003
Bank	41,887	667	42,554
Cash equivalents	20,085	5,186	25,271
On hand	102		102
	$431,890	$ 79,188	$511,078

Amounts held by the Municipal Bond Commission or trustee represent various project revenue, debt service, and other repair and replacement reserve funds required to be escrowed by various bond trust indentures. Other amounts held by the State Treasurer include $17.1 million and $30.1 million of restricted cash at June 30, 2010 and 2009, respectively.

The combined carrying amounts of cash in the bank at June 30, 2010 and 2009, were $36.6 million and $42.6 million, as compared with the combined bank balance of $33.5 million and $38.1 million, respectively. The difference is primarily caused by outstanding checks and items in transit. The bank balances were covered by federal depository insurance or were secured by financial instruments held as collateral by the State's agent.

Amounts with the State Treasurer and the Municipal Bond Commission as of June 30, 2010 and 2009, are comprised of the following investment pools:

The BTI has adopted an investment policy in accordance with the "Uniform Prudent Investor Act." The "prudent investor rule" guides those with responsibility for investing the money for others. Such fiduciaries must act as a prudent person would be expected to act, with discretion and intelligence, to seek reasonable income; preserve capital; and, in general, avoid speculative investments. The BTI's investment policy is to invest assets in a manner that strives for maximum safety, provides adequate liquidity to meet all operating requirements, and achieves the highest possible investment return consistent with the primary objectives of safety and liquidity. The BTI recognizes that risk, volatility, and the possibility of loss in purchasing power are present to some degree in all types of investments. Due to the short-term nature of BTI's Consolidated Fund, the BTI believes that it is imperative to review and adjust the investment policy in reaction to interest rate market fluctuations/trends on a regular basis and has adopted a formal review schedule. Investment policies have been established for each investment pool and account of the BTI's Consolidated Fund. Of the BTI's Consolidated Fund pools and accounts in which the Commission invest, all are subject to credit risk.

WV Money Market — Credit Risk — Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. For the years ended June 30, 2010 and 2009, the WV Money Market Pool has been rated AAAm by Standard & Poor's. A Fund rated "AAAm" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAm" is the highest principal stability fund rating assigned by Standard & Poor's. As this pool has been rated, specific information on the credit ratings of the underlying investments of the pool have not been provided.

The BTI limits the exposure to credit risk in the WV Money Market Pool by requiring all corporate bonds to be rated AA- by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standard & Poor's and P1 by Moody's. The pool must have at least 15% of its assets in U.S. Treasury issues.

At June 30, 2010 and 2009, the WV Money Market Pool investments had a total carrying value of $2,876,711,000 and $2,570,261,000, respectively, of which the Fund's ownership represents 13.27% and 10.24%, respectively.

WV Government Money Market Pool — Credit Risk — For the years ended June 30, 2010 and 2009, the WV Government Money Market Pool has been rated AAAm by Standard & Poor's. A Fund rated "AAAm" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAm" is the highest principal stability fund rating assigned by Standard & Poor's. As this pool has been rated, specific information on the credit ratings of the underlying investments of the pool have not been provided.

The BTI limits the exposure to credit risk in the WV Government Money Market Pool by limiting the pool to U.S. Treasury issues, U.S. government agency issues, money market funds investing in U.S. Treasury issues and U.S. government agency issues, and repurchase agreements collateralized by

U.S. Treasury issues and U.S. government agency issues. The pool must have at least 15% of its assets in U.S. Treasury issues.

At June 30, 2010 and 2009, the WV Government Money Market Pool investments had a total carrying value of $221,183,000 and $283,826,000, of which the Fund's ownership represents 0.98% and 0.77% respectively.

WV Short Term Bond Pool:

Credit Risk — The BTI limits the exposure to credit risk in the WV Short Term Bond Pool by requiring all corporate bonds to be rated A by Standards & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standards & Poor's and P1 by Moody's. The following table provides information on the credit ratings of the WV Short Term Bond Pool's investments (in thousands):

	Credit Rating*		2010		2009	
Security Type	Moody's	S&P	Carrying Value	Percent of Pool Assets	Carrying Value	Percent of Pool Assets
Corporate asset backed securities	Aaa	AAA	$ 24,330	5.37 %	$ 16,402	5.21 %
	Aaa	NR *	10,353	2.28	5,136	1.63
	Aa3	AAA	1,000	0.22	223	0.07
	Aa2	AAA			461	0.15
	A3	AAA			273	0.09
	Baa2	AAA			831	0.26
	Baa1	BBB**			332	0.10
	Baa2	BBB**			1,376	0.44
	Ba1	CC**	45	0.01		
	Ba2	BB**	219	0.05		
	Ba3	AAA			645	0.20
	B1	AAA			779	0.25
	B1	BBB**	605	0.13		
	B1	CCC**	857	0.19		
	B2	B**			493	0.16
	B2	CCC**	366	0.08	539	0.17
	B3	AAA			949	0.30
	B3	B**	442	0.10		
	B3	BBB**	247	0.05		
	B3	CCC**	554	0.12		
	Caa1	BB**			254	0.08
	Caa1	CCC**	230	0.05		
	Caa2	CCC**	779	0.17		
	NR *	AAA	3,538	0.78	679	0.22
			43,565	9.60	29,372	9.33
Corporate bonds and notes	Aaa	AAA	72,549	16.00	47,204	14.99
	Aaa	AA	2,060	0.46		
	Aa1	AA	5,430	1.20	4,445	1.41
	Aa1	A			2,052	0.65
	Aa2	AAA			3,040	0.96
	Aa2	AA	6,650	1.47	9,066	2.88
	Aa3	AA	6,722	1.48		
	Aa3	A	13,850	3.05	7,831	2.49
	A1	AA	15,485	3.41	4,813	1.53
	A1	A	21,098	4.65	5,522	1.75
	A2	A	41,093	9.06	32,040	10.17
	A3	A	4,158	0.92	7,024	2.23
	Baa3	A			2,067	0.66
			189,095	41.70	125,104	39.72
						.00
U.S. agency bonds	Aaa	AAA	40,180	8.86	60,250	19.13
U.S. Treasury notes***	Aaa	AAA	158,423	34.93	88,805	28.20
U.S. agency mortgage backed securities****	Aaa	AAA	4,540	1.00	4,975	1.58
Money market funds	Aaa	AAA	17,715	3.91	6,426	2.04
			$ 453,518	100 %	$ 314,932	100 %

* NR = Not Rated

** The securities were not in compliance with BTI Investment Policy at June 30, 2010 and/or 2009. The securities were in compliance when originally acquired, but were subsequently downgraded. BTI management and its investment advisors have determined that it is in the best interests of the participants to hold the securities for optimal outcome.

*** U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

**** U.S. agency mortgage backed securities are issued by the Government National Mortgage Association and are explicitly guaranteed by the United States government and are not subject to credit risk.

At June 30, 2010 and 2009, the Fund's ownership represents 8.70% and 1.57%, respectively, of these amounts held by the BTI.

Interest Rate Risk — Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. All the BTI's Consolidated Fund pools and accounts are subject to interest rate risk.

The overall weighted average maturity of the investments of the WV Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides information on the weighted average maturities for the various asset types in the WV Money Market Pool:

	2010		2009	
Security Type	Carrying Value (In thousands)	WAM (Days)	Carrying Value (In thousands)	WAM (Days)
Repurchase agreements	$ 174,980	1	$ 212,010	1
U.S. Treasury notes	65,153	140		
U.S. Treasury bills	476,670	35	483,714	69
Commercial paper	855,844	18	592,479	32
Certificates of deposit	281,000	45	128,402	56
U.S. agency discount notes	606,048	52	635,602	57
Corporate bonds and notes	20,000	19	73,812	38
U.S. agency bonds/notes	246,990	55	294,019	70
Money market funds	150,026	1	150,223	1
	$2,876,711	33	$2,570,261	47

The overall weighted average maturity of the investments of the WV Government Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides information on the weighted average maturities for the various asset types in the WV Government Money Market Pool:

Security Type	2010 Carrying Value (In thousands)	2010 WAM (Days)	2009 Carrying Value (In thousands)	2009 WAM (Days)
Repurchase agreements	$ 66,600	1	$ 53,000	1
U.S. Treasury notes	8,526	114		
U.S. Treasury bills	29,982	72	74,424	94
U.S. agency discount notes	36,465	115	87,662	55
U.S. agency bonds/notes	79,532	30	68,608	37
Money market funds	78	1	132	1
	$221,183	44	$283,826	51

The overall effective duration of the investments of the WV Short Term Bond Pool cannot exceed 731 days. Maximum maturity of individual securities cannot exceed 1,827 days (five years) from date of purchase. The following table provides information on the effective duration for the various asset types in the WV Short Term Bond Pool at June 30, 2010 and 2009:

Security Type	2010 Carrying Value (In Thousands)	2010 Effective Duration (Days)	2009 Carrying Value (In Thousands)	2009 Effective Duration (Days)
U. S. Treasury bonds/notes	$158,423	583	$ 88,805	917
Corporate notes	189,095	560	125,104	559
Corporate asset backed securities	43,565	679	29,372	622
U.S. agency bonds/notes	40,180	288	60,250	752
U.S. agency mortgage backed securities	4,540	360	4,975	540
Money market funds	17,715	1	6,426	1
	$453,518	530	$314,932	691

Other Investment Risks — Other investment risks include concentration of credit risk, custodial credit risk, and foreign currency risk. None of the BTI's Consolidated Fund's investment pools or accounts is exposed to these risks as described below.

Concentration of credit risk is the risk of loss attributed to the magnitude of the BTI's Consolidated Fund pool or account's investment in a single corporate issuer. The BTI investment policy prohibits those pools and accounts permitted to hold corporate securities from investing more than 5% of their assets in any one corporate name or one corporate issue.

The custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, the BTI will not be able to recover the value of investment or collateral securities that are in the possession of an outside party. Repurchase agreements are required to be collateralized by at least 102% of their value, and the collateral is held in the name of the BTI. Securities lending collateral that is reported on the BTI's statement of fiduciary net assets is invested in the lending agent's money market

fund in the BTI's name. In all transactions, the BTI or its agent does not release cash or securities until the counterparty delivers its side of the transaction.

Foreign currency risk is the risk that changes in exchange rates will adversely affect the fair value of an investment or a deposit. None of the BTI's Consolidated Fund's investment pools or accounts holds interests in foreign currency or interests valued in foreign currency.

Deposits — Custodial credit risk of deposits is the risk that in the event of failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. Deposits include nonnegotiable certificates of deposit. None of the above pools contain nonnegotiable certificates of deposit. The BTI does not have a deposit policy for custodial credit risk.

Amounts with Trustee as of June 30, 2010 and 2009, are comprised of the following (dollars in thousands):

Investment Type	Moody's Rating	Standard and Poor's Rating	2010 Carrying Value	2009 Carrying Value
U.S. Treasury money market fund	Aaa	AAAm	$43,847	$17,110
Commercial paper	Aaa	AAAm		153
Money market fund (Credit Enhancers/ Collateral 1,000 Financial Guaranty Insurance Co. Municipal Bond Insurance Policy)	Aaa	N/A	83	83
Money market fund	AAA	N/A		364
Guaranteed Investment Contract (GIC)	N/A	N/A	3,192	3,192
			$47,122	$20,902

N/A = Not available

These investments have no significant custodial risk or interest rate risk and they are not exposed to a concentration of credit risk nor any foreign currency risk.

At both June 30, 2010 and 2009, the GIC investments of approximately $3,192,000, have a fixed rate of interest of 5.18%.

The remaining amounts on deposit with Trustee are invested in funds, the underlying assets of which are securities of the U.S. government, its agencies, authorities, and instrumentalities.

4. INVESTMENTS

Investments at June 30, 2010, were as follows (dollars in thousands):

Investment Type	Level 1	Level 2	Level 3	Total
U.S. government investments:				
Federal Home Loan Mortgage Corporation bonds	$ 50,821	$ -	$ -	$ 50,821
Federal National Mortgage Association bonds	9,304			9,304
Federal National Mortgage Association securities		3,043		3,043
Mutual Bond Funds:				
BTI Short-Term Bond Pool	13,065			13,065
Dodge & Cox Income Fund		8,783		8,783
Harbor Bond Fund		2,492		2,492
Vanguard Bond Index Fund		1,876		1,876
Other	1,105	180		1,285
State and Local Government Securities — Auction Rate Certificates		7,475		7,475
Fixed Income Fund — Income Research and Management		5,765		5,765
Mutual Money Market Funds — State Street Cash — SSGA Money Market		2,400		2,400
Mutual Stock Funds:				
MFS	2,580			2,580
Dodge & Cox Stock Fund	2,321			2,321
Other	1,063	1,000		2,063
Other investments	3,909	477		4,386
Other alternative investments:				
CF Multi Strategy Equity Fund		7,244		7,244
CF Multi-Strategy Bond Fund		5,593		5,593
CF Core Equity Fund	4,946			4,946
CF Multi-Strategy Bond Investors Fund		4,516		4,516
CFI Multi-Strategy Equity Fund		4,317		4,317
Robeco-Sage Capital International		3,622		3,622
CF Intermediate Fund		2,067		2,067
Other			1,258	1,258
	$ 89,114	$ 60,850	$ 1,258	$ 151,222

Investments at June 30, 2009, were as follows (dollars in thousands):

Investment Type	Level 1	Level 2	Level 3	Total
Mutual Bond Funds:				
BTI Short-Term Bond Pool	$ 12,660	$ -	$ -	$ 12,660
Income Research & Management	6,919			6,919
Other	3,672			3,672
State and Local Government Securities — Auction Rate Certificates		10,950		10,950
Mutual Money Market Funds — State Street Cash — SSGA Money Market		6,658		6,658
Mutual Stock Funds:				
MFS	2,335			2,335
Dodge & Cox Stock Fund	2,012			2,012
Other	1,834			1,834
Other investments	2,257	477		2,734
Other alternative investments:				
CF Multi-Strategy Equity Fund		10,669		10,669
CF Multi-Strategy Bond Fund		8,342		8,342
CF Multi-Strategy Bond Investors Fund		5,728		5,728
CFI Multi-Strategy Equity Fund		3,795		3,795
Robeco-Sage Capital International			3,413	3,413
CF Intermediate Fund		1,887		1,887
Other		870	2,102	2,972
	$ 31,689	$ 49,376	$ 5,515	$ 86,580

Investments have been reported at fair value and categorized as Level 1, 2, or 3. Level 1 represents investments that have a quoted price in the active markets. Level 2 represents investments with direct or indirect observable market inputs. Level 3 represents investments with no observable market.

Historically, the Fund was unable to invest excess operating funds outside of the Treasurer. In 2005, the West Virginia State Legislature passed Senate Bill No. 603 (S.B. 603). S.B. 203 granted WVU and Marshall the ability to invest a limited amount of funds with their foundations. The amounts invested with the two foundations at June 30, 2010 and 2009, were approximately $61,000,000 and $57,000,000, respectively.

In 2010, the U.S. Government investments have the following rates and maturity dates:

	Rates	Maturity Dates
Federal Home Loan Mortgage Corporation bonds	1.75%–6.00%	June 15, 2011–January 15, 2013
Federal National Mortgage Association bonds	1.75–4.875	May 18, 2012–April 19, 2013
Federal National Mortgage Association securities	4.285–4.50	July 20, 2039–July 1, 2040

In May 2008, the West Virginia University invested in the BTI's WV Short-Term Bond Pool an amount which represents long-term investment monies of WVU. The WV Short-Term Bond Pool is a bond mutual fund which was created to invest monies of participants which have a perceived longer term investment horizon. The goal of the portfolio is to earn incremental returns over the WV Money Market Pool with an objective of capital growth rather than current income. The portfolio is restricted to monthly contributions and withdrawals and calculates a per-unit price each month. The risk factor on

this portfolio is higher than the WV Money Market Pool. See additional disclosures in Note 3. As of June 30, 2010 and 2009, the investment was $13.1 million and $12.7 million, respectively.

WVU, through its board, issued Auction Rate Certificate (ARC) debt in 2004. These 2004 ARCs are variable rate debt that reset at auction every 28 days. Based on guidance from bond counsel, the WVU Research and Development Corporation began to submit bids to purchase the ARCs in the April 23, 2008 auction. At June 30, 2010 and 2009, the carrying value of these investments was approximately $7.8 million and $10.95 million, respectively. These ARCs mature in October 2012. These investments have been rated A+ by Standard & Poor's for both years.

At June 30, 2010 and 2009, certain other investments had the following Standard and Poor's (S&P) ratings:

Investment Type	Standard & Poor's Rating 2010	2009
Income Research & Management (IRM)	AA+	AA
State Street Cash — SSGA Money Market	Am	Am
CF Multi-Strategy Bond Fund	AA	AA
CF Multi-Strategy Bond Investors Fund	AA	AA
CF Intermediate Fund	AA	AA
Harbor Bond Fund	A	

Remaining investments have not been rated.

Other than listed above, these investments have no significant custodial credit risk or interest rate risk and they are not exposed to a concentration of credit risk or any foreign currency risk.

5. ACCOUNTS RECEIVABLE

Accounts receivable at June 30, 2010 and 2009, were as follows (dollars in thousands):

	2010	2009
Students — net of allowance of $12,472 and $11,502 in 2010 and 2009, respectively	$ 12,304	$ 10,810
Grants and contracts — net of allowance of $1,960 and $1,101 in 2010 and 2009, respectively	52,522	42,708
Auxiliary services — net of allowance of $795 and $713 in 2010 and 2009, respectively	2,430	1,945
Due from State and State agencies	4,176	3,948
Other — net of allowance of $15 and $14 in 2010 and 2009, respectively	10,809	12,396
	$ 82,241	$ 71,807

6. CAPITAL ASSETS

The following, for the years ended June 30, 2010 and 2009, is a summary of capital assets transactions for the Fund (dollars in thousands):

	2010			
	Beginning Balance	Additions	Reductions	Ending Balance
Capital assets not being depreciated:				
Land	$ 73,721	$ 3,268	$ 711	$ 76,278
Construction in progress	134,983	117,672	140,424	112,231
Other	132			132
Total capital assets not being depreciated	$ 208,836	$ 120,940	$ 141,135	$ 188,641
Other capital assets:				
Land improvements	$ 51,743	$ 7,186	$ 2	$ 58,927
Infrastructure	312,939	4,517	47	317,409
Buildings	1,913,329	136,132	2,515	2,046,946
Equipment	293,754	39,911	36,065	297,600
Software	46,992	4,672	1,087	50,577
Library books	143,456	8,994	573	151,877
Intangibles	20,542	8,928		29,470
Total other capital assets	2,782,755	210,340	40,289	2,952,806
Less accumulated depreciation for:				
Land improvements	17,632	3,410	1	21,041
Infrastructure	228,865	8,042	(63)	236,970
Buildings	516,636	39,932	1,186	555,382
Equipment	191,200	23,964	16,908	198,256
Software	44,177	1,619	501	45,295
Library books	115,250	7,128	539	121,839
Intangibles	15,277	5,685	1	20,961
Total accumulated depreciation	1,129,037	89,780	19,073	1,199,744
Other capital assets — net	$ 1,653,718	$ 120,560	$ 21,216	$ 1,753,062
Capital asset summary:				
Capital assets not being depreciated	$ 208,836	$ 120,940	$ 141,135	$ 188,641
Other capital assets	2,782,755	210,340	40,289	2,952,806
Total cost of capital assets	2,991,591	331,280	181,424	3,141,447
Less accumulated depreciation	1,129,037	89,780	19,073	1,199,744
Capital assets — net	$ 1,862,554	$ 241,500	$ 162,351	$ 1,941,703

	2009			
	Beginning Balance	Additions	Reductions	Ending Balance
Capital assets not being depreciated:				
Land	$ 73,325	$ 1,361	$ 965	$ 73,721
Construction in progress	142,108	132,903	140,028	134,983
Other	132			132
Total capital assets not being depreciated	$ 215,565	$ 134,264	$ 140,993	$ 208,836
Other capital assets:				
Land improvements	$ 49,126	$ 2,694	$ 77	$ 51,743
Infrastructure	289,578	24,046	685	312,939
Buildings	1,799,161	121,638	7,470	1,913,329
Equipment	290,624	26,543	23,413	293,754
Software	45,646	1,571	225	46,992
Library books	135,703	8,477	724	143,456
Intangibles	19,686	856		20,542
Total other capital assets	2,629,524	185,825	32,594	2,782,755
Less accumulated depreciation for:				
Land improvements	14,509	3,153	30	17,632
Infrastructure	219,176	9,906	217	228,865
Buildings	482,749	37,661	3,774	516,636
Equipment	189,529	22,876	21,205	191,200
Software	43,004	1,339	166	44,177
Library books	108,794	7,145	689	115,250
Intangibles	8,533	6,744		15,277
Total accumulated depreciation	1,066,294	88,824	26,081	1,129,037
Other capital assets — net	$ 1,563,230	$ 97,001	$ 6,513	$ 1,653,718
Capital asset summary:				
Capital assets not being depreciated	$ 215,565	$ 134,264	$ 140,993	$ 208,836
Other capital assets	2,629,524	185,825	32,594	2,782,755
Total cost of capital assets	2,845,089	320,089	173,587	2,991,591
Less accumulated depreciation	1,066,294	88,824	26,081	1,129,037
Capital assets — net	$ 1,778,795	$ 231,265	$ 147,506	$ 1,862,554

The Fund maintains certain collections of inexhaustible assets to which no value can be practically determined. Accordingly, such collections are not capitalized or recognized for financial statement purposes. Such collections include contributed works of art, historical treasures, and literature that are held for exhibition, education, research, and public service. These collections are neither disposed of for financial gain nor encumbered in any means.

The Fund has construction commitments at June 30, 2010, of approximately the following (dollars in thousands):

Bluefield State College	$ 366
Concord University	1,000
Fairmont State University	201
Marshall University	800
Pierpont Community and Technical College	105
West Liberty State College	48
West Virginia Northern Community College	100
West Virginia School of Osteopathic Medicine	205
West Virginia University	53,600
	$ 56,425

7. LONG-TERM LIABILITIES

The following, for the years ended June 30, 2010 and 2009, is a summary of long-term obligation transactions for the Fund (dollars in thousands):

	2010				
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Bonds, capital leases, and notes payable:					
Notes payable	$ 32,093	$ 1,907	$ (883)	$ 33,117	$ 2,815
Capital leases payable	46,762	37,564	(3,249)	81,077	13,925
Revenue bonds payable	679,424	94,647	(25,184)	748,887	26,896
Total bonds, capital leases, and notes payable	758,279	134,118	(29,316)	863,081	
Advances from federal sponsors	41,542	84	(271)	41,355	
Accrued compensated absences	43,354	2,925	(3,430)	42,849	39,707
Deferred interest payable	26,060	3,857		29,917	
OPEB liability	23,990	89,553		113,543	
Other noncurrent liabilities	26,502	7,245	(4,977)	28,770	162
Total long-term liabilities	$919,727	$237,782	$(37,994)	$1,119,515	

	2009				
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Bonds, capital leases, and notes payable:					
Notes payable	$ 20,949	$ 11,534	$ (390)	$ 32,093	$ 885
Capital leases payable	46,827	4,539	(4,604)	46,762	2,536
Revenue bonds payable	703,593		(24,169)	679,424	24,396
Total bonds, capital leases, and notes payable	771,369	16,073	(29,163)	758,279	
Advances from federal sponsors	41,667	75	(200)	41,542	
Accrued compensated absences	41,020	4,022	(1,688)	43,354	40,141
Deferred interest payable	22,426	3,634		26,060	
OPEB liability	10,288	13,702		23,990	
Other noncurrent liabilities	23,511	6,711	(3,720)	26,502	287
Total long-term liabilities	$910,281	$44,217	$(34,771)	$919,727	

8. OTHER POST EMPLOYMENT BENEFITS

In accordance with GASB, OPEB costs are accrued based upon invoices received from PEIA based upon actuarial determined amounts. At June 30, 2010 and 2009, the noncurrent liability related to OPEB costs was $113,543,283 and $24,192,135, respectively. The total OPEB expense incurred and the amount of OPEB expense that relates to retirees were $108,087,365 and $17,895,752, respectively, during 2010, and $44,835,894 and $20,856,773, respectively, during 2009. As of June 30, 2010 and 2009, there were approximately 1,194 and 1,160 retirees receiving these benefits, respectively.

9. LEASE OBLIGATIONS

Capital — The Fund leases certain property, plant, and equipment through capital leases. The following is a schedule by year of future annual minimum payments required under the lease obligations existing at June 30, 2010 (dollars in thousands):

Years Ending June 30	Total
2011	$ 16,885
2012	14,957
2013	5,801
2014	5,877
2015	5,911
2016–2020	28,751
2021–2025	20,393
2026	8,055
Future minimum lease payments	106,630
Less interest	25,553
Total	$ 81,077

During fiscal year 2010, WVU entered into three lease purchase agreements to finance capital projects, including construction of the Intermodal Transportation Center and the Childcare Center and capital improvements to the Engineering Sciences Building, for total lease payments of $47.9 million. As of June 30, 2010, there was $10.9 million held by the lease trustee for expenditures for completion of the leased projects.

The lease purchase for construction of the Intermodal Transportation Center, totaling $10.9 million, was subject to federal approval and, as such, the proceeds were placed in escrow. Subsequent to year-end, the University was informed that the federal government would not approve the funding. As such, the University repaid the $10.9 million in full from the funds in escrow during fiscal year 2011.

The following is a related-party capital lease:

Marshall has a capital lease agreement with the Marshall University Graduate College Foundation, Inc. (the "MUGC Foundation") for the Marshall University Graduate College's administration facility (the "Facility"). The fair value of the Facility was estimated by independent appraisal during the year ended June 30, 1995, at $5 million (building $4.3 million and land $700,000), and the 21-year lease term commenced with the Marshall University Graduate College's occupancy of the Facility in June 1995. Ownership of the Facility transfers to Marshall at the end of the lease term.

Operating — The Fund had entered into various operating lease agreements. Future annual minimum lease payments for years subsequent to June 30, 2010, are as follows (dollars in thousands):

Years Ending June 30	
2011	$ 8,979
2012	7,164
2013	5,840
2014	4,999
2015	4,105
2016–2020	12,895
2021–2025	9,880
2026–2030	9,880
2031–2035	1,980
Total	$ 65,722

Total rent expense for these operating leases for the years ended June 30, 2010 and 2009, was approximately $10.5 million and $10.6 million, respectively.

The following is a related-party operating lease:

West Virginia University leases an office building from the West Virginia University Foundation, Incorporated. Rental expense under the operating lease is $1,975,000 per year through 2031. West Virginia University retains the right to cancel the lease upon giving 30 days' written notice.

10. NOTES PAYABLE

During fiscal year 1997, West Virginia State University signed an agreement with the Educational Direct Loan Mortgage Corporation (Eddie Mac) to have available a line of credit of $3.5 million to be used to renovate dormitories. As of June 30, 2010 and 2009, West Virginia State University had $2,612,963 and $2,718,067 outstanding, respectively. At an interest rate of approximately 6.3%, current monthly principal and interest payments of approximately $21,068 are payable through 2026. Eddie Mac has a security interest for this loan on the net revenues from West Virginia State University's dormitories and receives a monthly service fee. West Virginia State University is also subject to certain operating covenants and restrictions on incurrence of additional debt per the loan document.

During fiscal year 2008, West Virginia University Research Corporation drew their final approximately $2.1 million on their $6 million construction and term loan with West Virginia Housing Development Fund (WVHDF). The proceeds of the WVHDF loan were disbursed on a draw basis as construction progressed. The principal balance of the WVHDF loan bears interest at a fixed rate of 5.11% per annum. The note is due 240 months from the closing date of October 24, 2005. A note modification agreement dated April 26, 2007, allowed the West Virginia University Research Corporation to accrue quarterly interest for the period beginning April 1, 2007 through January 31, 2009, and to add it to the principal amount of the loan. Commencing on February 1, 2009, such accrued interest is amortized and paid over the remaining term of the loan. Total principal remaining to be paid, including accrued interest, at June 30, 2010 and 2009, was approximately $6.1 million and $6.4 million, respectively.

During fiscal year 2008, West Virginia University Research Corporation drew the entire amount of their $9 million construction and term loan with West Virginia Economic Development Authority (WVEDA). The proceeds of the WVEDA loan were disbursed on a draw basis as construction progressed. The principal balance of the WVEDA loan bears interest at a fixed rate of 5.51% per annum. The note is due 240 months from the closing date of October 24, 2005. Interest on the loan will accrue but payment will be deferred for the first 36 months of the loan. Commencing on October 1, 2009, such accrued interest will be amortized and paid over the remaining term of the loan. Total principal remaining to be paid, including accrued interest, at June 30, 2010 and 2009, was approximately $9.7 million and $10 million, respectively.

During fiscal year 2009, West Virginia University Research Corporation drew the entire amount of their $9.4 million loan with West Virginia Infrastructure and Jobs Development Council (WVIJDC). The proceeds of the WVIJDC were disbursed on a draw basis as construction progressed. The principal balance of the WVIJDC loan bears interest at a fixed rate of 3% per annum. The note is due 240 months from the closing date of October 24, 2005. Interest on the loan will accrue but payment will be deferred for five years from the date of closing. Commencing on October 24, 2010, such accrued interest will be amortized and paid over the remaining term of the loan. Total principal remaining to be paid, including accrued interest, at June 30, 2010 and 2009, was approximately $9.8 million and $9.4 million, respectively. After the expiration of the five-year period, the interest rate applicable to $3 million in principal for the balance of the term of the loan will be based on the satisfaction of certain employment criteria.

During fiscal year 2008, MURC borrowed the proceeds of a bond issuance by the Cabell County Commission for the construction of an addition to the Marshall University Forensic Science Center. MURC's repayment terms are the same as the bond repayment term. MURC is obligated to make interest payments commencing on October 10, 2008, for the interest due on the loan semiannually and to make annual principal payments starting on April 1, 2009, based on a hypothetical amortization of the then-remaining principal balance at the then-applicable interest rate for the then-remaining years of the original 20-year amortization period ending April 10, 2028. However, any unspent mortgage proceeds would go to pay the first amounts due for interest and principal. Any remaining principal balance shall be payable in full on April 10, 2028. The interest rate on the bonds is 3.2% at April 10, 2008, and continuing to and including year five, and will change for each subsequent five-year period to the rate per annum equal to 67% of the five-year Treasury Constant Maturity in effect on that date plus 1.67% per annum. The principal balance at June 30, 2010 and 2009, is $2,776,173 and $2,890,606, respectively.

During fiscal year 2010, Glenville State College entered into a $1.5 million note collateralized by the Glenville State College Foundation, Inc. securities, for construction purposes. Interest is 4.0% with principal due in fiscal year 2011.

During fiscal 2009, Glenville State College entered into a $635,000 promissory note collateralized by a first lien on various parcels of real estate and a motel building. Interest is 6.56% with monthly principal payments of $4,793. The note matures in May 2030.

Annual minimum payments for the years ending after June 30, 2010, are as follows (dollars in thousands):

Years Ending June 30	Principal	Interest	Total
2011	$ 2,815	$ 1,287	$ 4,102
2012	1,499	1,348	2,847
2013	1,567	1,277	2,844
2014	1,639	1,212	2,851
2015	1,705	1,140	2,845
2016–2020	9,754	4,367	14,121
2021–2025	12,230	1,984	14,214
2026–2030	1,908	133	2,041
Total	$33,117	$12,748	$45,865

11. INSTITUTION BONDS PAYABLE

The Institutions within the Fund, at June 30, 2010 and 2009, have the following outstanding bonds payable (dollars in thousands):

	Maximum Interest Rate	Annual Installments	Principal Outstanding 2010	Principal Outstanding 2009
West Virginia University — Auction Rate Certificates Federally Taxable Revenue Refunding and Improvement Bonds 2004, Series A, due through 2035	Variable	$975–$4,200	$ 7,600	$ 11,625
West Virginia University — Revenue Refunding Bonds 2004, Series B, due through 2021	5.00 %	0–6,685	55,430	55,430
West Virginia University — Revenue Improvement Bonds 2004, Series C, due through 2035	5.00	0–12,780	138,710	138,710
Marshall University — University Facilities Revenue Bonds 2001, due through 2031	5.30	1,135–3,035	40,690	41,775
Glenville State University — Student Housing Bonds, Series 2000A, due 2030	6.20	90–1,280	4,310	4,410
Glenville State University — Campus Community Center Bonds, Series 2006, due 2026	4.30 (10-year reset)	50–456	1,320	1,375
Glenville State University — Science Building Bonds, Series 2007, due in 2037	4.68 (10-year reset)	127	3,917	3,985
Glenville State University — Goodwin Hall Bonds, Series 2009, due in 2040	Variable	0–131	16,603	
Fairmont State University — College Facilities Revenue Bonds 2002, Series A, due through 2032	5.38	390–1,145	15,595	15,995
Fairmont State University — Infrastructure Revenue Bonds 2002, Series B, due through 2032	5.00	205–565	7,860	8,070
Fairmont State University — College Facilities Revenue Bonds 2003, Series A, due through 2032	5.25	300–860	11,850	12,160
Fairmont State University — Student Activity Revenue Bonds 2003, Series B, due through 2032	5.25	520–1,475	20,385	20,920
Fairmont State University — Facilities Improvement Revenue Bonds, 2006 Series, due through 2026	4.18 (10-year reset)	303–611	7,306	7,622
Shepherd University — Student Fee Revenue Bonds, due through 2033	5.13	105–370	5,320	5,440
Shepherd University — Infrastructure Revenue Bonds, Series 2004B, due through 2024	4.50	125–240	2,590	2,730
Shepherd University — Residence Facilities Revenue Bonds, due through 2035	5.00	435–1,450	21,580	22,040
Shepherd University — Wellness Center Facilities Revenue Bonds, Series 2007, due through 2037	4.77	435–1,170	18,700	19,055
WV State University — Student Union Revenue Bonds 2002, Series A, due through 2022	6.20	215–420	3,880	4,120
West Liberty State University — Dormitory Revenue Bonds 2003, Series A, due through 2028	6.13	225–650	7,415	7,650
West Liberty State University — University Union Revenue Bonds 2003, Series B, due through 2018	5.63	75–120	785	865
West Liberty State University — Capital Improvement Revenue Bonds 2003, Series C, due through 2028	6.00	100–285	3,240	3,345
			395,086	387,322
Less unamortized bond discount			(472)	(575)
Loss on bond defeasance			(2,476)	(3,235)
Add unamortized bond premium			5,008	5,378
			$397,146	$388,890

Prior to fiscal 2003, each of the above bond issues was specific to an individual institution within the Fund, although the bonds were also issued in the names of the Fund's former governing boards, previously responsible for the governance of the State's higher education system. The bonds issued after fiscal 2002 were issued by the Institution's Governing Board only.

A summary of the annual aggregate principal payments for years subsequent to June 30, 2010, is as follows (dollars in thousands):

Years Ending June 30	Principal	Interest	Total
2011	$ 9,202	$ 18,834	$ 28,036
2012	9,960	18,410	28,370
2013	10,283	18,085	28,368
2014	10,567	17,684	28,251
2015	11,038	17,236	28,274
2016–2020	64,035	77,821	141,856
2021–2025	78,664	60,624	139,288
2026–2030	93,799	39,172	132,971
2031–2035	86,634	15,415	102,049
2036–2040	20,587	874	21,461
2041	317	3	320
Total	$395,086	$284,158	$679,244

12. SYSTEM BONDS PAYABLE

The Fund receives State appropriations to finance its operations. In addition, it is subject to the legislative and administrative mandates of State government. Those mandates affect various aspects of the Fund's operations, its tuition and fee structure, its personnel policies, and its administrative practices.

The State has chartered the Fund with the responsibility to construct or renovate, finance, and maintain various academic and other facilities of the State's universities and colleges, including certain facilities within the Fund. Financing for these facilities was provided through revenue bonds issued by various former governing boards which are now administered by the Policy Commission.

The Policy Commission has the authority to assess each institution of the Fund for payment of debt service on these system bonds. The tuition and registration fees of the Institutions are generally pledged as collateral for the Fund's bond indebtedness. Student fees collected by an 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 Fund.

The 2007 Series A Bonds were issued in April 2007 in the original principal amount of $25,915,000 with rates up to 5% and a total all-in interest cost of 4.34%, maturing serially through April 1, 2027. The 2007 Series A Bonds were issued to provide funding for a refinancing of a portion of the State College System 1997 Series A Bonds ($7,885,000), State University System 1997 Series A Bonds ($9,990,000), and State University System 2000 B Bonds ($6,970,000). The amount refinanced was $24,815,000 and with the reduced interest rates will provide a total cash savings of $1,813,791 to the State. The economic gain on the refinancing was $1,253,171.

The Commission, at June 30, 2010 and 2009, has the following outstanding bonds payable (dollars in thousands):

	Maximum Interest Rate	Original Range of Annual Installments	Principal Outstanding 2010	Principal Outstanding 2009
Series 1998 — University System Bonds, due through 2028	5.25	$1,065–$3,625	$ 43,525	$ 44,930
Series 2000A — University System Bonds, due through 2031	6.26	0–3,264	36,591	36,591
Series 2000B — University System Bonds, due through 2010	5.96	210–625		285
Series 2003A — University Facilities Bonds, due through 2012	5.00	5,740–7,875	15,380	22,520
Series 2003A — College Facilities Bonds, due through 2012	5.00	2,325–2,690	3,925	6,520
Series 2004B — Higher Education Facilities Bonds, due through 2034	6.00	2,680–9,520	144,025	147,925
Series 2007A — Revenue Refunding Bonds, due through 2027	5.00	185–1,880	24,265	25,010
Series 2009A — Community and Technical College Improvement Revenue Bonds, due through 2039	5.25	1,425–4,760	78,295	
			346,006	283,781
Add bond premium and deferred gain			5,994	6,753
Less bond discount			(259)	
			$351,741	$290,534

A summary of the annual aggregate principal payments for years subsequent to June 30, 2010, is as follows (dollars in thousands):

Years Ending June 30	Principal	Interest	Total
2011	$ 18,205	$ 13,527	$ 31,732
2012	17,345	14,321	31,666
2013	11,874	17,032	28,906
2014	12,067	16,840	28,907
2015	12,290	16,619	28,909
2016–2020	61,151	78,629	139,780
2021–2025	69,747	68,846	138,593
2026–2030	68,193	55,108	123,301
2031–2035	53,499	18,278	71,777
2036–2040	21,635	3,351	24,986
Total	$346,006	$302,551	$648,557

13. UNRESTRICTED NET ASSETS

The Fund's unrestricted net assets at June 30, 2010 and 2009, include certain designated net assets as follows:

	2010	2009
Designated for auxiliaries	$ 9,136	$ 2,598
Designated for repair and replacement of property	8,297	1,195
Designated for affiliate organizations		103
Undesignated	273,997	223,500
Total unrestricted net assets before OPEB liability	291,430	227,396
Less OPEB liability	113,543	23,990
Total unrestricted net assets	$ 177,887	$ 203,406

14. RETIREMENT PLANS

Substantially all full-time employees of the Fund participate in either the West Virginia Teachers' Retirement System (STRS) or the Teachers' Insurance and Annuities Association — College Retirement Equities Fund (TIAA-CREF). Previously, upon full-time employment, all employees were required to make an irrevocable selection between the STRS and TIAA-CREF. Effective July 1, 1991, the STRS was closed to new participants. Current participants in the STRS are permitted to make a one-time election to cease their participation in that plan and commence contributions to the West Virginia Teachers' Defined Contribution Plan. Effective January 1, 2003, higher education employees enrolled in the basic 401(a) retirement plan with TIAA-CREF have an option to switch to the New Educators Money 401(a) basic retirement plan ("Educators Money"). New hires have the choice of either plan.

Total contributions to Educators Money for the years ended June 30, 2010, 2009, and 2008, were $1,657,300, $730,900, and $669,000, respectively, which consisted of approximately $525,500, $362,300, and $331,400, from the Fund in 2010, 2009, and 2008, respectively, and approximately $531,800, $368,600, and $337,700, from the covered employees in 2010, 2009, and 2008, respectively.

The STRS is a cost-sharing, defined benefit public retirement system. Employer and employee contribution rates are established annually by the State Legislature. The contractual maximum contribution rate is 15%. The Fund accrued and paid its contribution to the STRS at the rate of 15% of each enrolled employee's total annual salary for both years ended June 30, 2010 and 2009. Required employee contributions are at the rate of 6% of total annual salary for both years ended June 30, 2010 and 2009. Participants in the STRS may retire with full benefits upon reaching age 60 with five years of service, age 55 with 30 years of service, or any age with 35 years of service. Lump-sum withdrawal of employee contributions is available upon termination of employment. Pension benefits are based upon 2% of final average salary (the highest five years salary out of the last 15 years) multiplied by the number of years of service.

Total contributions to the STRS for the years ended June 30, 2010, 2009, and 2008, were approximately $6,794,200, $6,993,700, and $6,893,000, respectively, which consisted of approximately $4,701,500, $4,884,200, and $4,779,200, from the Fund in 2010, 2009, and 2008, respectively, and approximately $2,092,700, $2,149,500, and $2,113,800, from the covered employees in 2010, 2009, and 2008, respectively.

The contribution rate is set by the State Legislature on an overall basis, and the STRS does not perform a calculation of the contribution requirement for individual employers, such as the institutions within the Fund. Historical trend and net pension obligation information is available from the annual financial report of the Consolidated Public Retirement Board. A copy of the report may be obtained by writing to the Consolidated Public Retirement Board, Building 5, Room 1000, Charleston, WV 25305.

The TIAA-CREF is a defined contribution plan in which benefits are based solely upon amounts contributed plus investment earnings. Employees who elect to participate in this plan are required to make a contribution equal to 6% of total annual compensation. The Fund matches the employees' 6% contribution. Contributions are immediately and fully vested. In addition, employees may elect to make additional contributions to TIAA–CREF which are not matched by the Fund.

Total contributions to the TIAA-CREF for the years ended June 30, 2010, 2009, and 2008, were approximately $73.4 million, $69.8 million, and $65.8 million, respectively, which consisted of approximately $36.6 million, $34.9 million, and $32.9 million, from the Fund and from the covered employees in 2010, 2009, and 2008, respectively.

The Fund's total payroll for the years ended June 30, 2010 and 2009, was approximately $727.6 million and $694.8 million, respectively, and total covered employees' salaries in the STRS, TIAA-CREF, and Educators Money were approximately $36.4 million, $600.4 million, and $8.6 million, for the year ended June 30, 2009, and $39.1 million, $587.5 million, and $6.8 million, for the year ended June 30, 2009.

15. FOUNDATIONS

Various foundations have been established as separate nonprofit organizations incorporated in the State of West Virginia having as their purpose "... to aid, strengthen, and further in every proper and useful way, the work and services of the (individual institutions within the Fund), and their affiliated nonprofit organizations ..." Oversight of the foundations is the responsibility of separate and independently elected Boards of Directors, not otherwise affiliated with the Fund. In carrying out its responsibilities, the Boards of Directors of the foundations employ management, form policy and maintain fiscal accountability over funds administered by the foundations. Although the individual institutions within the Fund do not control the timing or amount of receipts from the foundations, the majority of resources, or income thereon, that the foundations hold and invest are restricted to the activities of the individual institutions within the Fund by donors. Because these restricted resources held by the foundations as detailed in the combined financial statements can only be used by, or for the benefit of, the individual institutions within the Fund, the foundations are considered component units of the Fund and are therefore discretely presented with the Fund's combined financial statements in accordance with GASB discretely presented component unit requirements.

The West Virginia University Foundation, Inc. is appropriately not included as a discretely presented component unit as the economic resources held do not entirely or almost entirely benefit the West Virginia University, and its net assets (including unrealized gains) totaled $491.6 million and $433.7 million at June 30, 2010 and 2009, respectively. The Eastern West Virginia Community and Technical College Foundation Inc. and MCTC Foundation, Inc. are not included for the years ended June 30, 2010 and 2009, because they were not significant to their institutions. The Higher Education Foundation is not included for the years ended June 30, 2010 and 2009, because it does not entirely or almost entirely benefit any one institution and because it was not significant to the Fund. Blue Ridge Community and Technical College and Kanawha Valley Community and Technical College do not have related foundations. Currently, Bridgemont Community and Technical College Foundation, Inc. has been registered with the Secretary of State, secured a separate federal identification number, and is in the

process of securing the 501(c)(3) status with the IRS. Tech Foundation, Inc. is not included for the years ended June 30, 2010 and 2009, because it is not significant to the Fund.

Complete financial statements for any discretely presented component unit foundation can be obtained by contacting the Business Office of the West Virginia Higher Education Policy Commission, 1018 Kanawha Boulevard, E, Suite 700, Charleston, WV 25301. See also Note 19.

16. OTHER DISCRETE COMPONENT UNITS

In addition to the Foundations included as discretely presented component units, the Fund has two other component units which are material and entirely or almost entirely for the benefit of the Fund's individual institutions. Oversight of the other discrete component units is the responsibility of separate and independently elected Boards of Directors, not otherwise affiliated with the Fund.

17. AFFILIATED ORGANIZATIONS

The Fund has various separately incorporated affiliated organizations, including alumni and other associations. Oversight responsibility for these organizations rests with independent boards and management not otherwise affiliated with the Fund. Accordingly, the financial statements of these organizations are not included in the Fund's accompanying combined financial statements under the blended component unit requirements. They are not included in the Fund's accompanying financial statements as discretely presented component unit requirements as they are (1) not significant or (2) have dual purpose (i.e., not entirely or almost entirely for the benefit of the Fund).

18. CONTINGENCIES AND COMMITMENTS

Contingencies — The nature of the educational industry is such that, from time to time, claims will be presented against colleges and universities on account of alleged negligence, acts of discrimination, breach of contract or disagreements arising from the interpretation of laws or regulations. While some of these claims may be for substantial amounts, they are not unusual in the ordinary course of providing educational services in a higher education system. In the opinion of management, all known claims are covered by insurance or are such that an award against the Fund would not impact seriously on the financial status of the Fund.

Under the terms of federal grants, periodic audits are required and certain costs may be questioned as not being appropriate expenditures under the terms of the grants. Such audits could lead to reimbursement to the grantor agencies. Management believes disallowances, if any, would not have a significant financial impact on the Fund's financial position.

The Internal Revenue Code of 1986 establishes rules and regulations for arbitrage rebates. There are no arbitrage rebate liabilities that have been recorded in the combined financial statements at June 30, 2010 or 2009.

The Fund and Institutions within the Fund own various buildings that are known to contain asbestos. The Fund is not required by federal, state, or local law to remove the asbestos from the buildings. The Fund is required by federal environmental, health, and safety regulations to manage the presence of asbestos in the buildings in a safe condition. Significant problems of dangerous asbestos conditions are abated as the condition becomes known. The Fund also addresses the presence of asbestos as building renovation or demolition projects are undertaken and through asbestos operation and maintenance programs directed at containing, managing, or operating with the asbestos in a safe condition.

Commitments — West Virginia University has signed an agreement providing for the purchase of steam through the year 2030 from a nearby facility that commenced operations in late 1992. Under the agreement, West Virginia University has an annual minimum steam purchase requirement, purchased at an operating rate calculated in accordance with the agreement. This operating rate is adjusted quarterly based on actual production costs and other cost indices. Management believes that the rate is comparable to market rates. West Virginia University's total payments for steam purchased under the agreement were approximately $7.8 million and $9.1 million in 2010 and 2009, respectively. West Virginia University anticipates substantially meeting the minimum steam purchase requirement for the remaining term of its commitment; however, payments in future years will be dependent on actual operating costs and other cost indices in those years.

19. COMPONENT UNITS' DISCLOSURES

The following are the significant notes for the financial statements of the discretely presented component units:

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization and Nature of Operations — The foundations are nonprofit organizations incorporated in the State of West Virginia. The primary purpose of the foundations is to provide assistance and support for the students, facilities, and programs of their respective institution. The other two component units are also nonprofit organizations — one incorporated in the State of West Virginia and one in Delaware. Their primary purpose is also to support their respective institutions.

Basis of Presentation — Financial statement presentation follows the requirements of the FASB. In accordance with such requirements, the component units are required to report information regarding their financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.

Basis of Accounting — The financial statements of the component units are presented on the accrual basis of accounting, in accordance with generally accepted accounting principles. Net assets and revenues, expenses, gains and losses are classified based on the existence or absence of donor-imposed restrictions.

Accordingly, net assets of the component units and changes therein are classified and reported as follows:

Unrestricted Net Assets — Net assets that are not subject to donor-imposed stipulations.

Temporarily Restricted Net Assets — Net assets subject to donor-imposed stipulations that will be met either by actions of the component units and/or the passage of time.

Permanently Restricted Net Assets — Net assets subject to donor-imposed stipulations that they be maintained permanently by the component units. Generally, the donors of these assets permit the component units to use all or part of the income earned from related investments for general or specific purposes. Included in the permanently restricted net assets is a general scholarship account that has been funded by the board of directors designating investment gains to the account. The account is generally used for general scholarships and funding of operating expense shortfalls.

Revenues are reported as increases in unrestricted net assets unless use of the related assets is limited by donor imposed restrictions. Expenses are reported as decreases in unrestricted net assets. Gains and

losses on assets or liabilities are reported as increases or decreases in unrestricted net assets unless their use is restricted by explicit donor stipulation or by law. Expirations of temporary restrictions on net assets (i.e., the donor-stipulated purpose has been fulfilled and/or the stipulated time period has elapsed) are reported as net assets released from restrictions.

Custodial accounts representing funds held by the component units on behalf of an Institution and/or departments of the Institution are reported as custodial liabilities. The component units are responsible for the management and administration of these funds.

Investments — The component units account for their investments in accordance with generally accepted accounting principles. Under generally accepted accounting principles, investments in marketable securities with readily determinable fair values and all investments in debt securities are valued at their fair values in the statement of financial position. Unrealized gains and losses are included in the change in net assets. See separately issued component units financial statements for fair value disclosures. At June 30, 2010 and 2009, there were not material items classified as Level 3 in the fair value hierarchy.

Property and Equipment — Purchased assets are recorded at cost. Donated assets are recorded at their fair value at the date they are donated. Expenditures for replaced items are capitalized and the replaced items are retired. Maintenance and repairs are expensed as incurred. Depreciation is calculated primarily by the straight-line method over the estimated useful lives of the assets.

Gift Annuities — The assets received are recognized at fair value when received, and the gift annuity liabilities are recorded using the present value of future cash flows expected to be paid to the donors and are being amortized over the expected lives of the donors.

Contributions — Contributions, including unconditional promises to give, are recognized as revenue in the period received. All contributions are available for unrestricted use unless specifically restricted by the donor. Bequests are recorded as revenue at the time an unassailable right to the gift has been established and the proceeds are measurable.

Endowments — See separately issued component unit financial statements for endowment related disclosures. For the years ended June 30, 2010 and 2009, there were no material reclasses among net asset classes nor were there material changes in the endowments.

Newly Adopted Statements Issued by the FASB — In December 2008, FASB issued FASB Staff Position (FSP) 132(R)-1, *Employers' Disclosures about Postretirement Benefit Plan Assets*, which amends FASB Statement No. 132, *Employers' Disclosures about Pensions and Other Postretirement Benefits — an amendment of FASB Statements No. 87, 88, and 106*, to provide guidance on an employer's disclosures about plan assets of a defined benefit pension or other postretirement plan. The disclosures primarily focus on the valuation of plan assets by category, including valuation techniques and significant concentrations of risk within plan assets. FSP FAS 132(R)-1 was effective for the fiscal year ended June 30, 2010. See separately issued component unit financial statements for pension related disclosures. Adoption of this statement did not have a material impact on the separately issued component unit financial statements.

In June 2009, FASB Statement No. 168, *The FASB Standards Codification™ and the Hierarchy of Generally Accepted Accounting Principles — a replacement of FASB Statement No. 162*, was issued. The objective of this pronouncement is to integrate and topically organize all relevant accounting pronouncements comprising generally accepted accounting principles into a single codified database. FASB Statement No. 162, *The Hierarchy of Generally Accepted Accounting Principles*, identified the

INVESTMENTS

The component units' investment securities at June 30, 2010 and 2009, are composed of the following:

2010	Bluefield State College Foundation, Inc.	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
Cash and temporary investments	$ 95,000	$ 1,388,660	$ 343,977	$ -	$ -	$ 346,589	$ 1,187,174	$ -	$ -	$ 400,044	$ -	$ 470,753	$ 243,568
U.S. government securities	1,114,163	2,742,647				6,397,113	9,363,193	622,188	341,881	529,970		454,391	
Corporate and municipal bonds and notes	230,986	722,406	1,418,431		22,803,440		1,061,208		716,167	52,458		369,923	535,194
Mutual funds	269,490	9,316,341	3,034,688	10,356,416					6,813,142	123,225		2,044,171	4,828,809
Equity investments	4,403,887	5,752,610	6,742,934	214,269	46,419,884		9,738,512	1,005,629	659,308	670,072		310,419	605,100
Other	390,285	1,451,398		704,914	6,836,967		140,794	147,233	356,278	58,747	23,311		
	$6,503,811	$21,374,062	$11,540,030	$11,275,599	$76,060,291	$6,743,702	$21,490,881	$1,775,050	$8,886,776	$1,834,516	$23,311	$3,649,657	$6,212,671

2009	Bluefield State College Foundation, Inc.	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
Cash and temporary investments	$ 45,000	$ 1,276,062	$ 635,714	$ -	$ -	$1,716,153	$ 1,458,306	$ -	$ -	$ 570,042	$ -	$ 370,882	$1,264,514
U.S. government securities	1,147,251	2,903,962				1,216,103	9,148,140	848,002	244,456	251,695		353,627	
Corporate and municipal bonds and notes	241,985	1,102,284	1,114,034		25,593,324	4,951,979	161,358		728,433	47,604		541,543	1,034,277
Mutual funds	119,847	7,746,851	4,005,274	8,959,759					4,914,866	115,429		1,570,266	2,630,674
Equity investments	4,038,530	4,998,775	3,697,823	209,692	38,729,426		8,931,547	863,890	1,578,036	612,804		381,996	466,822
Other	385,070	339,805	102,134	704,914	12,751,031		144,799	36,606	356,278	55,597	18,800		
	$5,977,683	$18,367,739	$9,554,979	$9,874,365	$77,073,781	$7,884,235	$19,844,150	$1,748,498	$7,822,069	$1,653,171	$18,800	$3,218,314	$5,396,287

sources of accounting principles and the framework for selecting the principles used in preparing financial statements in accordance with generally accepted accounting principles. Adoption of this statement did not have an impact on the separately issued component unit financial statements.

In September 2009, the FASB issued Accounting Standards Update (ASU) No. 2009-06, *Income Taxes (Topic 740): Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Nonpublic Entities*, effective for fiscal years ending after September 15, 2009. ASU No. 2009-06 provides clarification on accounting for uncertainty in income taxes as it relates to nonpublic entities and as was previously provided for in FASB Interpretation (FIN) No. 48, *Accounting for Uncertainty in Income Taxes — an interpretation of FASB Statement No. 109*. ASU No. 2009-06 also provides guidance on the disclosures required by nonpublic entities. See separately issued component unit financial statements for tax-related disclosures. Adoption of this statement did not have a material impact on the separately issued component unit financial statements.

PLEDGES RECEIVABLE

Pledges receivable represent amounts due to the foundations for legally enforceable pledges.

The component units' property, plant, and equipment at June 30, 2010 and 2009, consists of the following:

2010	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.
Land and land improvements	$ 499,365	$ -	$ -	$ 1,642,000	$ 1,734,683	$ -	$ -	$ -	$ 166,000
Buildings	4,714,694			10,820,563	76,700,360			2,285,211	1,276,425
Equipment	152,292	64,579	99,338	1,138,977	6,565,622	18,028	50,350	32,322	46,448
Accumulated depreciation	(667,386)	(63,045)	(66,760)	(303,505)	(5,459,894)	(13,630)	(49,705)	(723,712)	(559,105)
Net book value	$4,698,965	$ 1,534	$ 32,578	$13,298,035	$79,540,771	$ 4,398	$ 645	$1,593,821	$ 929,768

2009	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.
Land and land improvements	$ 499,365	$ -	$ 15,000	$1,357,000	$ 1,245,194	$ -	$ -	$ -	$ 166,000
Buildings	4,714,694		86,000	285,000	75,965,559			2,285,211	1,276,425
Equipment	145,941	64,579	97,701	218,204	6,750,833	16,019	50,350	28,088	46,448
Construction in progress				6,385,426					
Accumulated depreciation	(430,714)	(48,756)	(55,035)	(327,300)	(2,129,975)	(11,855)	(45,653)	(664,776)	(524,042)
Net book value	$4,929,286	$ 15,823	$143,666	$7,918,330	$81,811,611	$ 4,164	$ 4,697	$1,648,523	$ 964,831

20. SUBSEQUENT EVENT

During August 2010, the West Virginia Development Office issued approximately $162 million of Education, Arts, Science, and Tourism bonds. The Commission, as provided in the State Code, received 60%, or $97.2 million, of the proceeds to help fund various building and campus renewal projects. The West Virginia Development Office is responsible for repayment of the debt.

Also during August 2010, the Marshall University Board of Governors approved a resolution authorizing the refunding of all or a portion of the $40,690,000 outstanding principal amount of the State of West Virginia, Higher Education Interim Governing Board, Marshall University Facilities Revenue Bonds 2001 Series A and the possible financing of certain capital projects through the issuance of one or more series of bonds in a principal amount not to exceed $45,000,000.

21. SEGMENT INFORMATION

Under the auspices of the State of West Virginia and former governing boards, the Fund issued revenue bonds to finance certain of its auxiliary enterprise activities. Investors in those bonds rely solely on the revenues generated by the activities of the auxiliaries for repayment.

Descriptive information for each of the Fund's segments is shown below:

West Virginia University Board of Governors Auction Rate Certificates, Federally Taxable University Revenue Refunding, and Improvement Bonds 2004 Series A; University Revenue Refunding Bonds 2004 Series B; and the University Revenue Improvement Bonds 2004 Series C (Collectively, the "2004 Bonds") — On November 1, 2004, the West Virginia University Board of Governors (the "Board") issued $25,900,000 of the 2004 Series A Bonds. The 2004 Series A Bonds are being used (1) to advance refund the $13,710,000 State of West Virginia, University of West Virginia Board of Trustees, Dormitory Refunding Revenue Bond 1997 Series A, and the $3,250,500 State of West Virginia, University of West Virginia Board of Trustees, Refunding Revenue Bonds 1997 Athletic Facilities Series A; (2) to finance a portion of the costs of certain capital projects at West Virginia University, including reimbursement to West Virginia for certain capital expenditures made prior to the issuance of the 2004 Series A Bonds; and (3) to pay all or a portion of the costs relating to the issuance of the 2004 Series A Bonds.

On November 1, 2004, the Board also issued 2004 Series B and C Bonds in the amounts of $55,430,000. The 2004 Series B Bonds are being used (1) to advance refund the $4,250,000 State of West Virginia, University of West Virginia Board of Trustees, Revenue Bonds 1997 Athletic Facilities Series B; the $10,735,000 State of West Virginia, University of West Virginia Board of Trustees, Dormitory Revenue Bonds 1997 Series B; the $3,000,000 State of West Virginia, University of West Virginia Board of Trustees, Refunding Revenue Bonds 1997 Student Union Series A; and the $38,000,000 State of West Virginia, University of West Virginia Board of Trustees, Revenue Bonds 1997 Student Union Series B, and (2) to pay the costs of issuance of the 2004 Series B Bonds.

The 2004 Series C Bonds are being used to finance a portion of the costs of certain improvements at West Virginia University, including capitalized interest and reimbursement to West Virginia University for certain capital expenditures made prior to the issuance of the 2004 Series C Bonds, and to pay the cost of issuance.

The 2004 Bonds are limited obligations of the Board, payable from and secured by a pledge of Fees and Gross Operating Revenues received by the Board, any interest earnings thereon and on the funds and accounts held by the Bond Trustee, and the funds representing capitalized interest. Fees include Institutional Capital Fees, Auxiliary Fees, and Auxiliary Capital Fees. Gross Operating Revenues include all rent fees, charges, and other income received by or accrued to West Virginia University from the operation and use of the Auxiliary Facilities. The 2004 Bonds are also payable from (but not secured by) other moneys legally available to be used for such purposes.

State of West Virginia, Higher Education Interim Governing Board, Marshall University Facilities Revenue Bonds, 2001 Series A — In June 2001, the Board sold $46,610,000 of revenue bonds, Marshall University Facilities 2001 Series A (the "2001 Bonds"). The 2001 Bonds are secured by and payable from the revenues of the dormitories and parking facilities, and certain funds held under the Indenture. The proceeds of the 2001 Bonds are being used (1) to finance a portion of the costs of acquisition, construction and equipping of a new student housing complex and parking facilities at the University and renovations and improvements to existing dormitories at the University; (2) to fund capitalized interest on the 2001 Bonds; (3) to fund debt service reserves for the 2001 Bonds; and (4) to pay a portion of the costs of issuance of the 2001 Bonds.

The County Commission of Gilmer County, West Virginia, Commercial Development Revenue Bonds, Glenville State College Housing Corporation Project (the "Corporation"), Series 2000A — In September 2001, the Corporation sold $4,990,000 of revenue bonds, 2000 Housing Facilities Series A Bonds. The bonds are secured by and payable from the revenues of the student housing facilities and

certain funds held under the Indenture. The proceeds of the Bonds are being used (1) to pay all or part of the cost of constructing two ten-story apartment buildings, each containing four units to be used as student housing and (2) to pay a portion of the cost of issuing the bonds.

Board of Governors of Glenville State College, Facilities Improvement Revenue Bonds, Series 2006 — In November 2006, Glenville State College sold $1,500,000 of revenue bonds, 2006 Facilities Improvement Revenue Bonds, Series 2006. The bonds are secured by and payable from the revenues of Glenville State College's auxiliary and auxiliary capital fee and certain funds held under the Indenture. The proceeds of the 2006 Bonds are being used (1) to finance all or part of the cost of renovating the student center (Mollohan Campus Community Center), (2) to reimburse the Board for cash amounts previously expended to pay renovation costs, and (3) to pay the cost of issuing the bonds.

Board of Governors of Glenville State College, Student Fee Revenue Bonds, Glenville State College Science Building Project, Series 2007 — In December 2007, Glenville State College sold $4,125,000 of revenue bonds, 2007 Student Fee Revenue Bonds, Series 2007. The bonds are secured by and payable from the revenues of Glenville State College education and general capital fees and certain funds held under the Indenture. The proceeds of the bonds are being used (1) to finance all or part of the cost of renovating the science building, (2) to reimburse the Board for cash amounts previously expended to pay renovation costs, and (3) to pay the cost of issuing the bonds.

The County Commission of Gilmer Count, West Virginia, Commercial Development Revenue Bonds, Glenville State College Housing Corporation Project, Series 2009A — In December 2009, Glenville State College sold $255,000 of Commercial Development Revenue Bonds, Housing Facilities Series 2009 Bonds. The bonds are secured by and payable from the revenues of Glenville State College's student housing facilities and certain funds held under the Indenture. The proceeds of the bonds are being used (1) to pay all or part of the cost of constructing a 484-bed student residence hall and (2) to pay a portion of the cost of issuing the bonds.

Fairmont State College Facilities Revenue Bonds 2002 and 2003, Series A — On August 1, 2002, Fairmont State issued College Facilities Revenue Bonds 2002, Series A (the "2002A Bonds") amounting to $18,170,000. The 2002A Bonds were issued to (1) finance the costs of acquisition of student housing facilities, consisting of an existing 113-unit apartment complex, (2) to finance the costs of design, acquisition and construction of a new, approximately 1,000 space motor vehicle parking facility, (3) to establish a debt service reserve fund for the 2002A Bonds, (4) to capitalize interest on the 2002A Bonds, and (5) to pay the cost of issuance of the 2002A Bonds and related costs.

On March 1, 2003, Fairmont State issued College Facilities Revenue Bonds 2003, Series A (the "2003A Bonds") amounting $13,320,000. The 2003A Bonds were issued to (1) finance the costs of design, acquisition, construction, and equipping of a new dormitory facility anticipated to include approximately 400 units, (2) to make a deposit to the debt service reserve fund for the 2003A Bonds, (3) to capitalize interest on the 2003A Bonds, and (4) to pay the costs of issuance of the 2003A Bonds and related costs.

Fairmont State Infrastructure Revenue Bonds 2002, Series B — On August 1, 2002, Fairmont State issued Infrastructure Revenue Bonds 2002, Series B (the "2002B Bonds") amounting to $9,310,000. The 2002B Bonds were issued to (1) finance the costs of acquisition and construction of improvements to the campus infrastructure and utilities, including the entranceways to Fairmont State and the roads surrounding Fairmont State, and electrical, water and sewage systems, and (2) to pay the costs of issuance of the 2002B bonds and related costs.

Fairmont State Student Activity Revenue Bonds 2003, Series B — On March 1, 2003, Fairmont State issued student Activity Revenue Bonds (the "2003B Bonds") amounting to $22,925,000. The 2003B Bonds were issued to (1) finance the costs of designing, acquisition, construction and equipping a new student activities center (including demolition of an existing dining facility) to be located on the campus of Fairmont State, (2) to capitalize interest on the 2003B Bonds during reasonable time after the construction of the Project, and (3) to pay the costs of issuance of the 2003B Bonds and related costs.

Fairmont State Facilities Improvement Revenue Bonds, 2006 Series — On May 9, 2006, Fairmont State issued Facilities Improvement Revenue Bonds (the "2006 Bonds") amounting to $8,500,000. The 2006 Bonds were issued to (1) finance the design, acquisition, construction, and equipping of certain necessary improvements in the facilities of the main campus of Fairmont State University, including but not limited to a technology wing addition/renovation and elevator/HVAC improvements to infrastructure improvements, all of which will be owned by the Board and (2) pay the costs of issuance of the 2006 Bonds and related costs.

State of West Virginia, Shepherd University, Student Fee Revenue Bonds, Series 2003 — In January 2003, $5,990,000 of Shepherd University Student Fee Revenue Bonds, Series 2003 were sold. These bonds were issued to (1) finance the costs of planning, designing, acquiring equipment and constructing of certain capital improvements, including the Field House, the expansion and improvement of the Arts Center, a new parking lot and other capital renovations, repairs and improvements, (2) to establish a debt serve reserve fund, (3) to establish a capitalized interest fund to pay interest on these bonds due on December 1, 2003, and (4) to pay the costs of issuance of the bonds and related costs.

State of West Virginia, Shepherd University, Infrastructure Revenue Bonds, Series 2004 — In September 2004, $3,405,000 of Shepherd University Infrastructure Revenue Bonds, Series 2004 were sold. These bonds were issued to (1) finance the costs of planning, design, acquisition, construction, and equipping of certain capital improvements for Shepherd University, including certain roads, water and sewer system expansion, extensions and improvements and other infrastructure projects on the West Campus of Shepherd University and other capital renovations and improvements to Shepherd University's campus, and (2) to pay the costs of issuance of these bonds and related costs.

State of West Virginia, Shepherd University, Residence Facilities Revenue Bonds, Series 2005 — In May 2005, $22,925,000 of Shepherd University Revenue Bonds (Shepherd University Residence Facilities Projects) Series 2005 were sold. These bonds were issued to (1) finance the costs of planning, design, acquisition, construction, and equipping of a 300-bed apartment style residence complex on the West Campus of Shepherd University; (2) fund capitalized interest on the Series 2005 Bonds to January 1, 2007; (3) refund the Issuer's $1,865,000 University Facilities Revenue Notes, Series 2004A, which were issued to finance temporarily a portion of the costs of planning, design, acquisition, construction, and equipping of certain renovations and improvements to Shaw Hall and Thatcher Hall and other capital renovations and improvements to Shepherd University's residence facilities pending issuance of the Series 2005 Bonds; and (4) to pay the costs of issuance of the Series 2005 bonds.

State of West Virginia, Shepherd University, Wellness Center Facilities Revenue Bonds, Series 2007 — In October 2007, $20,090,000 of Shepherd University Wellness Center revenue bonds, Series 2007 were sold. The bonds were issued to finance the costs of planning, design, acquisition, construction, and equipping of a new wellness center on the Shepherd University's campus and other capital improvements for use by Shepherd University; and to pay the costs of issuance of the bonds and related costs.

Condensed financial information for the Fund's segments as of June 30, 2010 and 2009, is as follows (dollars in thousands):

2010	WVU 2004 Auxiliaries	Marshall 2001 Facilities Series A	Glenville 2000 Housing Series A	Glenville 2000 Facilities	Glenville 2007 Student Fees	Glenville 2009 Revenue	Fairmont Facilities 2002 and 2003 Series A	Fairmont Infrastructure 2002 Series B	Fairmont Student Activity 2003 Series B	Fairmont Improvement Series 2006	Shepherd 2003 Student Fee	Shepherd Infrastructure 2004	Shepherd Residence Facilities 2005	Shepherd Wellness Center 2007	WV State 2002 Student Union Series A	West Liberty Capital Improvements 2003 Series A, B & C
CONDENSED STATEMENT OF NET ASSETS:																
Assets:																
Current assets	$ 31,203	$ 8,391	$ -	$ 547	$ 648	$ -	$ 3,343	$ 1,082	$ 2,791	$ -	$ 1,102	$ 359	$ 6,566	$ 672	$ 154	$ 2,809
Noncurrent assets	437,318	44,733		9,190	9,633	16,604	30,966	8,630	23,331	8,641	4,404	2,626	21,751	19,782	5,876	12,887
Total assets	$ 468,521	$ 53,124	$ -	$ 9,737	$10,281	$16,604	$34,309	$ 9,712	$26,122	$ 8,641	$ 5,506	$3,015	$ 28,317	$ 20,454	$6,030	$15,696
Liabilities:																
Current liabilities	$ 39,336	$ 3,351	$ -	$ 62	$ 72	$ -	$ 891	$ 262	$ 709	$ 381	$ 147	$ 154	$ 1,635	$ 516	$ 257	$ 489
Noncurrent liabilities	200,780	40,304		1,264	3,845	16,604	26,946	7,567	20,170	6,977	5,161	2,444	22,103	18,221	3,549	10,880
Total liabilities	240,116	43,655	-	1,326	3,917	16,604	27,837	7,829	20,879	7,358	5,308	2,598	23,738	18,737	3,806	11,369
Net assets (deficit):																
Invested in capital assets — net of related debt	234,125	4,043		7,870	5,306	(1,222)	623	687	2,292	1,283	(1,435)	(39)	(1,280)	832	1,604	462
Restricted	8	82			410	1,299	5,849	1,196	2,951		531	66	284	288	479	1,109
Unrestricted	(5,728)	5,344		541	648	(77)				-	1,102	390	5,575	597	141	2,756
Total net assets	228,405	9,469	-	8,411	6,364	-	6,472	1,883	5,243	1,283	198	417	4,579	1,717	2,224	4,327
TOTAL	$ 468,521	$ 53,124	$ -	$ 9,737	$10,281	$16,604	$34,309	$ 9,712	$26,122	$ 8,641	$ 5,506	$3,015	$ 28,317	$ 20,454	$6,030	$15,696
CONDENSED STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS:																
Operating:																
Operating revenues	$ 125,188	$ 14,991	$ -	$ 276	$ 403	$ -	$ 5,388	$ 2,067	$ 5,999	$ 631	$ 458	$ 329	$ 14,608	$ 2,367	$ 933	$ 9,431
Operating expenses	(111,076)	(12,965)		(501)	(200)		(2,697)	(1,104)	(3,767)		(173)	(235)	(13,240)	(1,812)	(193)	(5,562)
Other																
Net operating income (loss)	14,112	2,026	-	(225)	203	-	2,691	963	2,232	631	285	94	1,368	555	740	3,869
Nonoperating:																
Transfers (to) from Institution	(7,257)	14														
Nonoperating revenues	13,435	179					53	20	5		12		16			10
Nonoperating expenses	(13,701)	(2,159)		(58)	(186)		(1,993)	(1,050)	(1,643)	(617)	(266)	(110)	(1,045)	(880)	(202)	(3,114)
INCREASE (DECREASE) IN NET ASSETS	6,589	60	-	(283)	17	-	750	(67)	594	14	31	(16)	339	(325)	538	765
NET ASSETS — Beginning of year	221,816	9,409	1,474	8,694	6,347		5,722	1,950	4,649	1,269	167	433	4,240	2,042	1,686	3,562
NET ASSETS — End of year	$ 228,405	$ 9,469	$1,474	$ 8,411	$ 6,364	$ -	$ 6,472	$ 1,883	$ 5,243	$ 1,283	$ 198	$ 417	$ 4,579	$ 1,717	$2,224	$ 4,327
CONDENSED STATEMENT OF CASH FLOWS:																
Net cash provided by operating activities	$ 20,292	$ 3,948	$ -	$ 104	$ 403	$ -	$ 2,569	$ 1,034	$ 2,030	$ -	$ 458	$ 329	$ 2,011	$ 1,242	$ 874	$ 3,868
Net cash (used in) provided by capital financing activities	(23,342)	(3,187)		(113)	(255)	1,299	(2,169)	(906)	(1,550)	(154)	(608)	(241)	(3,494) 1,029	(2,106)	(816)	(3,261)
Net cash provided by investing activities	118						9		5		266			865		
(DECREASE) INCREASE IN CASH	(2,427)	761		(9)	148	1,299	409	128	485	(154)	116	88	(404)	1	58	607
CASH — Beginning of year	33,288	* 10,660	* 231	* 546	* 500	*	4,765	* 1,074	* 2,065	* 154	* 982	296	5,768	654	95	2,202
CASH — End of year	$ 30,861	* $ 11,421	* $ 231	* $ 537	* $ 648	* $ 1,299	$ 5,174	* $ 1,202	* $ 2,550	* $ -	* $ 1,098	$ 384	$ 5,364	$ 655	$ 153	$ 2,809

* The cash of WVU, Marshall, Glenville, and Fairmont includes current and noncurrent cash.

State of West Virginia, West Virginia State College, Student Union Revenue Bonds, 2002 Series A — On August 1, 2002, the West Virginia State College issued Student Union Revenue Bonds 2002 Series A, of serial and term bonds in the amount of $5,500,000. The bonds were issued to (1) finance the costs of renovation of, construction of an addition to and acquisition of equipment for the College Union, (2) to establish a debt service reserve fund, and (3) to pay the costs of issuance of the Bonds and related costs.

Board of Governors of West Liberty State College, Capital Improvements, 2003 Series A, B and C — On September 3, 2003, the West Liberty State College issued Dormitory Revenue Bonds 2003 Series A, amounting to $8,870,000. The bonds were issued (1) to finance certain capital improvements consisting of repairs and renovations to West Liberty State College's (the "College") existing residence halls, including electrical upgrades, renovations of bathrooms, roof repairs, acquisition of new furniture, and upgrades to elevators, (2) to fund a Debt Service Reserve Fund for the 2003 Series A Bonds, and (3) to pay costs of issuance of the 2003 Series Bonds and related costs.

On September 3, 2003, the West Liberty State College issued College Union Revenue Bonds 2003 Series B, amounting to $1,145,000. The bonds were issued (1) to finance certain capital improvements consisting of improvements to the College's existing student union building located on the campus of the College known as the "College Union," including improvements to existing offices and meeting areas, the upgrading of entryways and façades, and parking lot and walking area upgrades, (2) to fund a Debt Service Reserve Fund for the 2003 Series B Bonds, and (3) to pay costs of issuance of the 2003 Series B Bonds and related costs.

On September 3, 2003, the West Liberty State College issued Capital Improvement Revenue Bonds 2003 Series C, amounting to $3,890,000. The bonds were issued (1) to finance certain capital improvements consisting of constructing a new communications wing and structural repairs to the roof and south façade of the College's Hall of Fine Arts, and to make certain improvements to roads, sidewalks and parking areas on the College's campus, (2) to fund a Debt Service Reserve Fund for the 2003 Series C Bonds, and (3) to pay costs of issuance of the 2003 Series C Bonds and related costs.

22. NATURAL CLASSIFICATIONS WITH FUNCTIONAL CLASSIFICATIONS

For the years ended June 30, 2010 and 2009, the following tables represent operating expenses within both natural and functional classifications (dollars in thousands):

	2010							
	Salaries and Wages	Benefits	Supplies and Other Services	Utilities	Scholarships and Fellowships	Depreciation	Other	Total
Instruction	$320,659	$124,354	$ 51,344	$ 374	$ 175	$ -	$ 1,859	$ 498,765
Research	74,897	36,737	48,518	1,374	22			161,548
Public service	49,932	16,026	30,063	230	63		31	96,345
Academic support	48,918	18,882	19,491	178	1		135	87,605
Student services	42,941	17,183	20,309	33	1,011		6	81,483
Operations and maintenance of plant	38,927	21,154	39,537	33,759	7		66	133,450
General institutional support	96,741	38,911	56,467	364	911		60	193,454
Total education and general	673,015	273,247	265,729	36,312	2,190	-	2,157	1,252,650
Student financial aid					115,175			115,175
Auxiliary enterprises	60,470	21,322	80,995	13,023			64	175,874
Depreciation						89,780		89,780
Other			203				3,839	4,042
Total	$733,485	$294,569	$346,927	$49,335	$117,365	$89,780	$ 6,060	$ 1,637,521

	2009														
	WVU 2004 Auxiliaries	Marshall 2001 Facilities Series A	Glenville 2000 Housing Series A	Glenville 2006 Facilities	Glenville 2007 Student Fees	Fairmont Facilities 2002 and 2003 Series A	Fairmont Infrastructure 2002 Series B	Fairmont Student Activity 2003 Series B	Fairmont Improvement Series 2006	Shepherd 2003 Student Fee	Shepherd Infrastructure 2004	Shepherd Residence Facilities 2005	Shepherd Wellness Center 2007	WV State 2002 Student Union Series A	West Liberty Capital Improvements 2003 Series A, B & C
CONDENSED STATEMENT OF NET ASSETS:															
Assets:															
Current assets	$ 27,050	$ 7,605	$ 35	$ 672	$ 500	$ 2,862	$ 1,095	$ 2,250	$ 14	$ 986	$ 301	$ 6,414	$ 673	$ 95	$ 2,203
Noncurrent assets	427,607	45,805	6,855	9,400	9,833	31,499	8,875	23,878	8,943	4,607	2,870	21,986	21,052	5,649	13,144
Total assets	$ 454,657	$ 53,410	$6,890	$10,072	$10,333	$34,361	$ 9,970	$26,128	$ 8,957	$ 5,593	$3,171	$ 28,400	$ 21,725	$5,744	$15,347
Liabilities:															
Current liabilities	$ 28,354	$ 3,084	$ 507	$ 57	$ 69	$ 947	$ 242	$ 711	$ 532	$ 142	$ 149	$ 1,372	$ 1,097	$ 263	$ 477
Noncurrent liabilities	204,487	40,913	4,909	1,321	3,917	27,692	7,778	20,768	7,306	5,284	2,589	22,688	18,586	3,795	11,308
Total liabilities	232,841	44,001	5,416	1,378	3,986	28,639	8,020	21,479	7,688	5,426	2,738	24,160	19,683	4,058	11,785
Net assets (deficit):															
Invested in capital assets — net of related debt	220,651	4,050	1,637	8,025	5,457	394	734	2,245		(1,386)	51	(1,623)	293	1,112	351
Restricted	1	92	292		410	5,328	1,216	2,406	1,346	566	81	298	1,224	511	1,109
Unrestricted	964	5,247	(365)	669	506				123	987	301	5,565	525	63	2,102
Total net assets	221,616	9,409	1,474	8,694	6,347	5,722	1,950	4,649	1,269	167	433	4,240	2,042	1,686	3,562
TOTAL	$ 454,657	$ 53,410	$6,890	$10,072	$10,333	$34,361	$ 9,970	$26,128	$ 8,957	$ 5,593	$3,171	$ 28,400	$ 21,725	$5,744	$15,347
CONDENSED STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS:															
Operating:															
Operating revenues	$ 120,233	$ 14,075	$ 706	$ 385	$ 416	$ 5,421	$ 990	$ 5,585	$ 651	$ 450	$ 317	$ 15,746	$ 1,892	$ 842	$ 8,268
Operating expenses	(108,203)	(12,005)	(337)	(338)	(200)	(2,525)	(10)	(3,555)	(65)	(136)	(235)	(12,155)	(371)	(722)	(5,223)
Other						(64)	(383)	48	348						
Net operating income (loss)	12,030	2,070	369	(143)	216	2,832	597	2,078	896	314	82	1,591	1,521	120	3,046
Nonoperating:															
Transfers to institution	(8,203)	(515)													
Nonoperating revenues	17,663	166	2	1	348	132	1	27	5	23		88	332	2	42
Nonoperating expenses	(12,930)	(2,206)	(315)	(64)	(189)	(2,592)	(1,146)	(1,859)	(639)	(270)	(113)	(1,002)	(896)	(211)	(2,589)
INCREASE (DECREASE) IN NET ASSETS	8,560	(485)	56	(203)	375	62	(548)	446	262	67	(31)	617	762	(89)	599
NET ASSETS — Beginning of year	213,256	9,894	1,418	8,897	5,972	5,660	2,498	4,203	1,007	100	464	3,623	1,280	1,775	2,963
NET ASSETS — End of year	$ 221,816	$ 9,409	$1,474	$ 8,694	$ 6,347	$ 5,722	$ 1,950	$ 4,649	$ 1,269	$ 167	$ 433	$ 4,240	$ 2,042	$1,686	$ 3,562
CONDENSED STATEMENT OF CASH FLOWS:															
Net cash provided by operating activities	$ 11,863	$ 2,982	$ 515	$ 85	$ 416	$ 2,620	$ 980	$ 1,905	$ -	$ 448	$ 316	$ 2,246	$ 1,534	$ 278	$ 3,046
Net cash (used in) provided by capital financing activities	(32,075)	(3,303)	(696)	(122)	(133)	(2,215)	(594)	(1,549)	(767)	(464)	(248)	(3,612)	(1,921)	(438)	(2,534)
Net cash provided by investing activities	478					39		26		270		1,172	876		
(DECREASE) INCREASE IN CASH	(19,734)	(221)	(181)	(37)	283	444	386	382	(767)	254	68	(194)	489	(160)	512
CASH — Beginning of year	53,022	* 10,881	* 412	* 583	* 217	* 4,321	* 688	* 1,683	* 921	* 728	228	5,962	165	255	1,690
CASH — End of year	$ 33,288	* $ 10,660	* $ 231	* $ 546	* $ 500	* $ 4,765	* $ 1,074	* $ 2,065	* $ 154	* $ 982	$ 296	$ 5,768	$ 654	$ 95	$ 2,202

* The cash of WVU, Marshall, Glenville, and Fairmont includes current and noncurrent cash.

ADDITIONAL INFORMATION

	2009							
	Salaries and Wages	Benefits	Supplies and Other Services	Utilities	Scholarships and Fellowships	Depreciation	Other	Total
Instruction	$307,311	$ 91,557	$ 49,667	$ 439	$ 214	$ -	$ 1,798	$ 450,986
Research	71,808	29,797	43,292	501	23		7,114	152,535
Public service	47,546	13,319	26,352	355	47		52	87,671
Academic support	45,713	13,284	19,385	162	13			78,557
Student services	40,071	13,020	18,414	30	767			72,302
Operations and maintenance of plant	37,527	15,001	39,888	33,234	7		234	125,891
General institutional support	91,228	28,644	61,150	324	373		85	181,804
Total education and general	641,204	204,622	258,148	35,045	1,444	-	9,283	1,149,746
Student financial aid					88,230		2	88,232
Auxiliary enterprises	57,463	16,790	81,682	12,820			66	168,821
Depreciation						82,113		82,113
Other			285				1,963	2,248
Total	$698,667	$221,412	$340,115	$47,865	$89,674	$82,113	$11,314	$1,491,160

* * * * * *

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING NET ASSETS INFORMATION
AS OF JUNE 30, 2010
(Dollars in thousands)

ASSETS	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
CURRENT ASSETS:			
Cash and cash equivalents	$ 454,455	$ 11,066	$ 465,521
Short-term investments		14,320	14,320
Appropriations due from Primary Government	15,867		15,867
Accounts receivable — net	82,241	4,437	86,678
Loans receivable — current portion	6,670	53	6,723
Other current assets	3,254	976	4,230
Inventories	5,992	11	6,003
Total current assets	568,479	30,863	599,342
NONCURRENT ASSETS:			
Cash and cash equivalents	103,701	340	104,041
Investments	151,222	163,012	314,234
Appropriations due from Primary Government	2,959		2,959
Loans receivable — net of allowance of $10,454	51,245	32	51,277
Other assets	18,156	26,758	44,914
Capital assets — net	1,941,703	100,895	2,042,598
Total noncurrent assets	2,268,986	291,037	2,560,023
TOTAL	$2,837,465	$321,900	$3,159,365

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING NET ASSETS INFORMATION
AS OF JUNE 30, 2010
(Dollars in thousands)

LIABILITIES	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
CURRENT LIABILITIES:			
Accounts payable	$ 56,223	$ 2,173	$ 58,396
Due to State of West Virginia	112		112
Accrued liabilities	43,980	4,219	48,199
Deferred revenue	85,530		85,530
Deposits/custodial/annuity liabilities	5,687	1,327	7,014
Other liabilities — current portion	162		162
Compensated absences — current portion	39,707		39,707
Notes payable — current portion	2,815	8,743	11,558
Capital lease obligations — current portion	13,925		13,925
Interest payable	4,997	364	5,361
Bonds payable — current portion	26,896	485	27,381
Total current liabilities	280,034	17,311	297,345
NONCURRENT LIABILITIES:			
Advances from federal sponsors	41,355		41,355
Compensated absences	3,142		3,142
Notes payable	30,302	2,009	32,311
Capital lease obligations	67,152		67,152
Deferred interest payable	29,917	1,338	31,255
Bonds payable	721,991	94,859	816,850
Other post employment benefit liability	113,543		113,543
Other noncurrent liabilities	28,608	13,278	41,886
Total noncurrent liabilities	1,036,010	111,484	1,147,494
Total liabilities	1,316,044	128,795	1,444,839
NET ASSETS (DEFICIT):			
Invested in capital assets — net of related debt	1,141,427	4,618	1,146,045
Restricted for:			
Expendable:			
Scholarships	12,775	26,123	38,898
Sponsored projects	78,599	12,937	91,536
Loans	25,720	302	26,022
Capital projects	66,869	5,593	72,462
Debt service	8,317		8,317
Other	3,881	4,450	8,331
Total restricted expendable	196,161	49,405	245,566
Nonexpendable	5,946	144,065	150,011
Unrestricted	177,887	(4,983)	172,904
Total net assets	1,521,421	193,105	1,714,526
TOTAL	$2,837,465	$321,900	$3,159,365

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING REVENUES, EXPENSES, AND CHANGES IN NET ASSETS INFORMATION
FOR THE YEAR ENDED JUNE 30, 2010
(Dollars in thousands)

	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
OPERATING REVENUES:			
Student tuition and fees — net of scholarship allowance of $134,763	$ 467,933	$ -	$ 467,933
Gift and contributions		13,334	13,334
Federal and local land grants	9,760		9,760
Contracts and grants:			
Federal	149,728	149	149,877
State	58,500	9	58,509
Local	1,455		1,455
Private	66,316	662	66,978
Interest on student loans receivable	1,154		1,154
Sales and services of educational activities	23,471		23,471
Auxiliary enterprise revenue — net of scholarship allowance of $18,657	195,447		195,447
Other operating revenues	22,983	11,077	34,060
Total operating revenues	996,747	25,231	1,021,978
OPERATING EXPENSES:			
Salaries and wages	733,485	3,412	736,897
Benefits	294,569	669	295,238
Supplies and other services	346,927	2,128	349,055
Utilities	49,335	929	50,264
Student financial aid — scholarships and fellowships	117,365	6,043	123,408
Depreciation	89,780	3,876	93,656
Other operating expenses	6,060	11,031	17,091
Total operating expenses	1,637,521	28,088	1,665,609
OPERATING LOSS	(640,774)	(2,857)	(643,631)

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING REVENUES, EXPENSES, AND CHANGES IN NET ASSETS INFORMATION
FOR THE YEAR ENDED JUNE 30, 2010
(Dollars in thousands)

	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
NONOPERATING REVENUES (EXPENSES):			
State appropriations	$ 449,305	$ -	$ 449,305
State fiscal stabilization funds (federal)	21,944		21,944
Federal Pell grants	133,211		133,211
Gifts	21,548		21,548
Investment income — net	10,947	12,129	23,076
Interest on indebtedness	(40,328)	(4,850)	(45,178)
Payments to other institutions	(14,915)		(14,915)
Other nonoperating expenses — net	(1,625)	322	(1,303)
Net nonoperating revenues	580,087	7,601	587,688
(LOSS) INCOME BEFORE OTHER REVENUES, EXPENSES, GAINS, OR LOSSES	(60,687)	4,744	(55,943)
CAPITAL GRANTS AND GIFTS	43,126	1,897	45,023
STATE CAPITAL GRANTS (FEDERAL)	4,242		4,242
(DECREASE) INCREASE IN NET ASSETS BEFORE CUMULATIVE EFFECT	(13,319)	6,641	(6,678)
NET ASSETS — Beginning of year	1,534,740	186,464	1,721,204
NET ASSETS — End of year	$ 1,521,421	$193,105	$ 1,714,526

(Concluded)

APPENDIX D

INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION

The Commission is the successor to the University of West Virginia Board of Trustees (the "Board of Trustees") and the Board of Directors of the State College System (the "Board of Directors"). The Commission and its successors have adopted resolutions concerning the issuance of the Prior Bonds, as discussed herein.

The Board of Trustees and the Board of Directors 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 university system became the agreements and obligations of the Board of Trustees. 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 (the "State University System") and 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").

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 Trustees and the Board of Directors, effective June 30, 2000, and replaced them 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 Trustees and the Board of Directors, respectively, and there was transferred to the Interim Governing Board each valid agreement and obligation previously transferred or invested in the Board of Trustees and the Board of Directors. S.B. 653 also created the Commission.

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 University or College under specific functions and responsibilities to meet its higher education needs, the duty to prepare and submit the respective University's or 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 University or College, subject to approval and limited oversight by the Commission.

On March 13, 2004, the West Virginia Legislature enacted legislation granting greater responsibility to the Council for Community and Technical College Education (the "Council") over community and technical college education offered by the public higher education institutions and separated the State's community and technical college institutions

from the baccalaureate and graduate institutions. The Commission and Council were directed to work collaboratively in many areas relating to the provision of community and technical college education and in the adoption of rules. Though the Council is now responsible for approving tuition and fees for institutions under its jurisdiction, the Commission remains responsible for debt repayment and capital project initiatives and all previous revenues pledged remain under the Commission's control.

On March 21, 2004, the West Virginia Legislature enacted House Bill 101 ("HB 101") which amended portions of the Act with respect to fees to be charged to students at Institutions of Higher Education in West Virginia (the "Institutions") and consolidated a variety of fees (including tuition and registration fees that are pledged as Revenues under the Resolution) into several discrete categories. Pursuant to HB 101, such fees are consolidated (along with other fees) into the required educational and general capital fees category, provided, however, that HB 101 requires that the registration and tuition fees previously charged by the Institutions to support the Prior Bonds that were issued prior to the effective date of HB 101 (March 21, 2004) remain in effect in amounts not less than the amounts in effect as of such effective date until such Prior Bonds are no longer outstanding. Under the Resolution, the Commission has amended the definition of Revenues to add all of that component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004.

Pursuant to the Act, each Governing Board is empowered to fix educational and general capital fees (of which a component portion represents fees previously classified as registration and tuition fees), from students at the State Public Institutions of Higher Education, which formerly constituted the State University System and the State College System. All required educational and general capital 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 (sometimes referred to herein as the "capital improvement funds") and the Commission has pledged an amount equal to the previously classified registration and tuition fee component of the required educational and general capital fee to the payment of the 2010 Series Bonds, any Additional Bonds and the Prior Bonds (collectively hereinafter sometimes referred to herein as the "Bonds") all as more particularly provided for in the General Resolution and further described herein.

Notwithstanding the foregoing (i) required educational and general capital fees comprising tuition fees collected at West Virginia University Health Sciences Center; (ii) required educational and general capital fees comprising tuition and registration fees collected from students enrolled in West Virginia University graduate level extension and graduate level off-campus courses for credit taught off the campus of West Virginia University; (iii) required educational and general capital fees comprising tuition fees collected at West Virginia University at Parkersburg, (iv) Potomac State College of West Virginia University; (v) Southern West Virginia Community and Technical College; (vi) Eastern West Virginia Community and Technical College; and (vii) West Virginia Northern Community and Technical College are not required to be deposited in the capital improvement funds and are therefore not pledged for the payment of the Bonds.

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 2010 Series Bonds other than with respect to a Series of Additional Bonds shall be issued and secured by the pledge of Revenues paid into the capital improvement funds.

On October 13, 2004, the West Virginia Legislature, by adoption of Senate Concurrent Resolution 1001, authorized the payment of debt service on revenue bonds for capital improvements for institutions of higher education from excess lottery revenues under Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "Lottery Act"). In accordance with the Concurrent Resolution, the Commission has pledged the funds deposited on or after July 1, 2004 in the higher education improvement fund created under the Lottery Act to the payment of the 2010 Series Bonds, any Additional Bonds and the Prior Bonds. Payment of debt service on Bonds from such funds shall, to the extent payable from excess lottery revenues, be junior and subordinate to the payment of debt service on those certain West Virginia Economic Development Authority State of West Virginia Excess Lottery Revenue Bonds (Federally Taxable) Series 2004. See "WEST VIRGINIA LOTTERY" and APPENDIX E – "WEST VIRGINIA LOTTERY" herein.

On March 13, 2010, the West Virginia Legislature enacted Senate Bill 612, which increased the amount deposited annually in the Higher Education Improvement Fund, created under the Lottery Act, from $10 million to $15 million. The Commission will pledge those funds toward the payment of the 2010 Bonds and the Prior Bonds.

The Commission and its predecessors, as applicable, have issued bonds pursuant to the following resolutions, all of which remain outstanding as of the date of this Official Statement:

(i) the General Resolution of the Board of Trustees adopted September 9, 1992 (the "University System General Resolution") authorizing the issuance of the State University System Revenue Bonds, Series 1992 (the "1992 University Bonds,") and the First Supplemental Resolution (the "First University Supplemental Resolution") of the Board of Trustees, adopted September 9, 1992 authorizing the issuance of the 1992 University Bonds;

(ii) the Second Supplemental Resolution (the "Second University Supplemental Resolution") of the Board of Trustees, adopted January 15, 1993, amending certain provisions of the First Supplemental Resolution;

(iii) the Third Supplemental Resolution (the "Third University Supplemental Resolution") of the Board of Trustees, adopted February 23, 1996, pursuant to which the Board of Trustees issued its Revenue Bonds, Series 1996 (Marshall University Library/Information Center) (the "1996 University Bonds");

(iv) the Fourth Supplemental Resolution (the "Fourth University Supplemental

Resolution") of the Board of Trustees, adopted October 31, 1997, pursuant to which the Board of Trustees issued its Revenue Bonds (University Improvement Projects) 1997 Series A (the "1997 University Bonds");

(v) the Fifth Supplemental Resolution (the "Fifth University Supplemental Resolution") of the Board of Trustees, adopted April 3, 1998, pursuant to which the Board of Trustees issued its University System Revenue Bonds (West Virginia University Projects) 1998 Series A (the "1998 University Bonds");

(vi) the Sixth Supplemental Resolution (the "Sixth University Supplemental Resolution") of the Board of Trustees, adopted May 22, 2000, pursuant to which the Board of Trustees issued its University System Revenue Bonds (West Virginia University Projects) 2000 Series A (the "2000 A University Bonds");

(vii) the Seventh Supplemental Resolution (the "Seventh University Supplemental Resolution") of the Board of Trustees, adopted May 22, 2000, pursuant to which the Board of Trustees issued its University System Revenue Bonds (Marshall University Medical Center) 2000 Series B (the "2000 B University Bonds");

(viii) the Eighth Supplemental Resolution (the "Eighth University Supplemental Resolution") of the Commission, adopted March 17, 2003, pursuant to which the Commission issued its Revenue Refunding Bonds (University Facilities) (the "2003 University Bonds");

(ix) the Ninth Supplemental Resolution (the "Ninth University Supplemental Resolution") of the Commission, adopted April 24, 2003, amending certain provisions of the University System General Resolution;

(x) the Tenth Supplemental Resolution (the "Tenth University Supplemental Resolution,") of the Commission, adopted June 5, 2003, amending certain provisions of the University System General Resolution;

(xi) the Eleventh Supplemental Resolution (the "Eleventh University Supplemental Resolution" of the Commission, adopted April 2, 2004, pursuant to which the Commission issued its Revenue Refunding Bonds (University Facilities) (the "2004 Bonds");

(xii) the Twelfth Supplemental Resolution (the "Twelfth University Supplemental Resolution" of the Commission, adopted June 4, 2004, pursuant to which the Commission issued its Revenue Bonds (University Facilities), 2004 Series A (the "2004A University Bonds");

(xiii) the General Resolution of the Board of Directors adopted September 9, 1992 (the "College System General Resolution") authorizing the issuance of the State College System Revenue Bonds, Series 1992 (the "1992 College Bonds") and the First Supplemental Resolution (the "First College Supplemental Resolution") of the Board of

Directors, adopted September 9, 1992 authorizing the issuance of the 1992 College Bonds;

(xiv) the Second Supplemental Resolution (the "Second College Supplemental Resolution") of the Board of Directors, adopted January 15, 1993, amending certain provisions of the First Supplemental Resolution;

(xv) the Third Supplemental Resolution (the "Third College 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 College Bonds");

(xvi) the Fourth Supplemental Resolution (the "Fourth College Supplemental Resolution") of the Commission, adopted March 17, 2003, pursuant to which the Commission issued its Revenue Refunding Bonds (State College Facilities) (the "2003 College Bonds");

(xvii) the Fifth Supplemental Resolution (the "Fifth College Supplemental Resolution,") adopted April 24, 2003, amending certain provisions of the College System General Resolution;

(xviii) the Sixth Supplemental Resolution (the "Sixth College Supplemental Resolution,") of the Commission, adopted June 5, 2003, amending certain provisions of the College System General Resolution;

(xix) the First Consolidated Supplemental Resolution (the "First Consolidated Resolution"), adopted June 4, 2004, pursuant to which the Commission issued its Revenue Bonds (Higher Education Facilities) 2004 Series B (the "2004 B Bonds");

(xx) the Second Consolidated Supplemental Resolution (the "Second Consolidated Resolution"), adopted by the Commission July 29, 2004, pursuant to which the Commission amended certain provisions of the Resolution;

(xxi) the Third Consolidated Supplemental Resolution (the "Third Consolidated Resolution"), adopted by the Commission August 20, 2004, pursuant to which the Commission increased the authorized maximum of 2004 B Bonds to $180,000,000; and

(xxii) the Fourth Consolidated Supplemental Resolution (the "Fourth Consolidated Resolution"), adopted by the Commission March 15, 2007, pursuant to which the Commission issued its Revenue Refunding Bonds, 2007 A Bonds.

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APPENDIX E

WEST VIRGINIA LOTTERY

The West Virginia Lottery ("Lottery") was constitutionally authorized on November 6, 1984. The Lottery Act was enacted during the 1985 legislative session of the West Virginia Legislature. The Lottery Act created the State Lottery Commission ("Lottery Commission"), which sets policy and direction for the Lottery. The Lottery sold its first scratch-off tickets on January 9, 1986, and sales for online games began in November of that same year. In 1989, as part of a general reorganization of the State's government, the Lottery Commission was made a part of the newly created Department of Revenue, presided over by a Cabinet Secretary.

The Lottery Commission

The Lottery Commission consists of seven commissioners appointed to staggered terms by the Governor. The Lottery Act provides that one commissioner shall be a lawyer, one shall be a certified public accountant ("CPA"), one shall be a computer expert, one shall have not less than five years experience in law enforcement and one shall be qualified by experience and training in the field of marketing. The two remaining commissioners shall be representative of the public at large. The Lottery Commission sets the policies and the direction for the State Lottery, including the adoption of rules and regulations. The current commissioners and their respective qualifying positions are:

Name	Qualifying Position	End of Term
Douglas Bicksler	CPA	June 30, 2014
Kenneth L. Greear, Chairman	Computer Expert	June 30, 2012
Michael A. Adams	Attorney	June 30, 2012
Roy E. Shrewsbury, II	Public Member At-Large	June 30, 2014
William I. Clayton, Vice Chairman	Public Member At-Large	June 30, 2010*
David Lemmon	Law Enforcement	June 30, 2011
David McCormick, Jr.	Marketing Expert	June 30, 2012

* Term continues until successor is selected and duly appointed.

The Lottery Act creates the position of Director of the Lottery Office (the "Director") and three divisions within the West Virginia Lottery – a Security and Licensing Division (now "Racetrack and Traditional Security"), a Personnel, Accounting and Administration Division ("Finance and Administration") and a Marketing, Education and Information Division ("Marketing"). Four additional divisions have been administratively created by the Lottery Commission to oversee the Racetrack Video Lottery, Limited Video Lottery and Table Games. They are the Video Lottery Division, the Licensing Division, the Limited Video Lottery Security Division and the Table Games Division. A description of senior management and key staff of the West Virginia Lottery is set forth below.

Director: John C. Musgrave has been Director of the State Lottery since April 1997 and directs the day-to-day operation of the agency that is comprised of approximately 170 employees, including all aspects of lottery operations (administration, marketing, security, licensing, sales, advertising and production of games). He is a graduate of the University of Charleston. Prior to his appointment as State Lottery Director, Mr. Musgrave was a city mayor, and later held several high-level positions with the U.S. Department of Agriculture. In addition he also served as regional director of the Rural Development Administration for the seven-state, Mideast Region. Mr. Musgrave is serving as Acting Cabinet Secretary of the State Department of Revenue and has served as President of the North American Association of State and Provincial Lotteries.

Assistant Director: John A. Myers has been Assistant Director of the State Lottery since May 2008, and is second in charge after the Director. Prior to his association with the West Virginia Lottery, Mr. Myers was Corporate Administration Manager for Toyota Motor Manufacturing, WV for eight years. Prior to his service with Toyota Motor Manufacturing, he spent seventeen years with American Electric Power in consumer marketing. Mr. Myers is a graduate of The Ohio State University.

Finance and Administration: James M. Toney, CPA/MBA, is the Chief Financial Officer and Deputy Director for Finance and Administration. Mr. Toney joined the West Virginia Lottery in October 2005. Prior to that time he was employed as a sole practitioner, and was the CFO for The Center for Rural Health Development. He is a graduate of Marshall University, West Virginia State University and the University of Charleston.

Marketing: Elizabeth (Nikki) Orcutt, Deputy Director for Marketing, joined the West Virginia Lottery in August 2008. Prior to joining the West Virginia Lottery, Mrs. Orcutt was employed by Eli Lilly and Company and previously served as the Public Affairs Leader, West Virginia Operations for Dow Chemical Company. She is a graduate of The Ohio State University.

Racetrack and Traditional Security: David R. Bradley, Deputy Director for Traditional Lottery Security, joined the West Virginia Lottery in January 1991. Prior to joining the West Virginia Lottery, Mr. Bradley was employed by Kanawha County Schools. He is a graduate of West Virginia University Institute of Technology.

Video Lottery: Tacy M. Donovan, CPA, Deputy Director for Video Lottery joined the West Virginia Lottery in July 1995. Prior to joining the West Virginia Lottery, Ms. Donovan was employed as a staff accountant with Gibbons and Kawash, CPAs. Ms. Donovan is a graduate of West Virginia University.

Limited Video Lottery Security: M. Alvin Rose, Deputy Director for Video Security joined the West Virginia Lottery in September 1997. Prior to joining the West Virginia Lottery, Mr. Rose served as sergeant with West Virginia State Police, retiring with twenty-five years service. He holds a Masters Degree from West Virginia University.

Licensing: Kristin Radford, Licensing Supervisor joined the West Virginia Lottery in March 2002. Prior to joining the West Virginia Lottery, Ms. Radford was employed as an

Administrative Assistant by the West Virginia Society of Certified Public Accountants.

Table Games: Dean W. Patrick, CPA/MBA, Deputy Director for Table Games joined the West Virginia Lottery in April 2007. Prior to joining the West Virginia Lottery, Mr. Patrick was employed as CFO with Boll Medical. He is a graduate of the University of Charleston.

Overview of Lottery Operations

The headquarters of the West Virginia Lottery is located in Charleston, West Virginia in two adjacent facilities with approximately 42,400 total square feet of space. The West Virginia Lottery currently has approximately 170 employees. The West Virginia Lottery contracts with GTECH Corporation, based in West Greenwich, Connecticut, for the operation of its instant and online games. GTECH owns and operates the central computer system for Traditional games at a nearby facility. The nearly 1,570 retailers selling Traditional games are connected to this system.

In June 2010, the West Virginia Lottery closed on the acquisition of a new office facility located in Charleston, West Virginia. The new facility is in the process of being redesigned and remodeled. The West Virginia Lottery expects to occupy the new facility sometime in 2011.

The West Virginia Lottery owns and operates a Scientific Games *Aegis Video* central system that controls all video lottery machines for both racetrack and limited video lottery.

The West Virginia Lottery's computer operations, instant and online game systems, the *Aegis Video* system and the Lottery's internal computing and email systems are duplicated and run parallel in real time at the West Virginia Lottery's Fairmont, West Virginia facility. The Fairmont, West Virginia facility contains approximately 6,500 square feet and is designed to function as a backup for computer operations when it is from time to time necessary, and as the business recovery site for the West Virginia Lottery's operations. The facility is located 135 miles north of the West Virginia Lottery's headquarters and is within a separate grid system from the Charleston, West Virginia headquarters for both telecommunications and electrical power.

Sales for Traditional games are collected via electronic funds transfer (sweep) on a weekly basis from each retailers account. Such collections are net of commissions, bonuses earned and any prizes that may have been paid by each retailer.

Racetrack Video Lottery sales (net of prizes) are swept on a daily basis each banking day from each of the four racetracks. The racetracks and others' shares are remitted to each entity on a weekly basis.

West Virginia's share of limited video lottery proceeds (net of prizes), as well as the 2% administrative fee, is collected from each owner of limited video lottery machines on a monthly basis. Invoices are mailed after the first day of the month for the preceding month's activity. The funds are then swept on the 10th day of the month.

Racetrack Table Games are currently operated at Mountaineer Casino Racetrack and Resort located in Chester, West Virginia, Wheeling Island Hotel-Casino-Racetrack located in

Wheeling, West Virginia, Mardi Gras Casino & Resort (formerly Tri-State Casino & Resort) in Nitro, West Virginia, and Hollywood Casino at Charles Town Races (formerly Charles Town Races and Slots) located in Charles Town, West Virginia.

The Lottery has a series of blanket bonds covering business defaults. Racetracks provide individual bonds to the West Virginia Lottery.

Lottery Games - General

The West Virginia Lottery currently operates all of its games out of its Charleston, West Virginia office. Six different types of games are offered: Instant games (scratch-off tickets), online numbers games, Racetrack Video Lottery Games, Racetrack Table Games, Limited Video Lottery Games and casino games at the Greenbrier Resort. Instant games have been offered since the start of the West Virginia Lottery in January 1986 and accounted for 7.2% of Lottery sales for the fiscal year ended June 30, 2010. Sales of online numbers games began later in 1986 and accounted for 6.2% of Lottery sales in fiscal year 2010.

Racetrack Video Lottery was first introduced in 1990 and later expanded to all four racetracks in the State after the passage of the Racetrack Video Lottery Act in March 1994. For the fiscal year ended June 30, 2010, Racetrack Video Lottery accounted for 54.95% of total Lottery sales. Mountaineer Casino Racetrack & Resort accounted for 23.24% of total Lottery sales, Wheeling Island Hotel-Casino-Racetrack accounted for 17.16% of total Lottery sales, Mardi Gras Casino & Resort accounted for 6.04% of total Lottery Sales, and Charles Town Races and Slots accounted for 53.56% of total Lottery sales.

Limited Video Lottery legislation was passed in the spring of 2001 and the game sales started in mid-December of that year. During fiscal year 2010, Limited Video Lottery accounted for 29.25% of total Lottery sales.

Racetrack Table Games legislation was passed in March 2007, and became effective as of June 6, 2007. In October 2007, Mountaineer Casino Racetrack & Resort and Wheeling Island Hotel-Casino-Racetrack opened poker only table games. In December 2007, both opened full table game operations. During fiscal year 2010, table games accounted for approximately 2.34% of total sales of the West Virginia Lottery. In October 2008, Mardi Gras Casino & Resort began table games operations. Racetrack Table Games became operational at Charles Town Races and Slots located in Charles Town, West Virginia on July 1, 2010.

Recent legislation recently enacted authorized and governs the operation of casino games at the Greenbrier Resort and provides that the State's share of net profits derived therefrom be deposited into the Historic Resort Hotel Fund. Slot machines and table game operations at the Greenbrier Resort are nearly identical to the gaming offered at the four racetrack casinos. A detailed description of Traditional Games, Racetrack Video Lottery Games, Limited Video Lottery Games and Racetrack Table Games follows.

Traditional Games

A variety of instant tickets are offered to the public. Instant tickets are sold at each West Virginia Lottery retailer, currently numbering 1,570. Instant games are introduced once a month, with approximately thirty-eight games being introduced in a single year. Twenty (20) to twenty-four (24) games are available for participation at any given time. The West Virginia Lottery believes that the constant change of games increases player interest. Instant lottery games offer overall payouts of between 67 percent and 68 percent. Instant tickets that are scratch-off tickets are manufactured by the Lottery's instant ticket vendor, Scientific Games Corporation.

Traditional online numbers games with periodic drawings are currently comprised of three and four digit daily games, Cash25 (a cash lotto game), POWERBALL®, a multi-state lotto game, with a guaranteed starting jackpot of $20 million, MEGA MILLIONS®, a multi-state lotto game, with a guaranteed starting jackpot of $12 million and HOT LOTTO SIZZLER®™, also a multi-state game, with a guaranteed starting jackpot of $1 million. In the fall of 2009, the state lotteries that sell the POWERBALL® game and the state lotteries that sell the MEGA MILLIONS® game agreed to a cross-selling agreement whereby every such state lottery was to sell both of the interstate large-jackpot games. West Virginia began selling the MEGA MILLIONS® game on January 31, 2010. TRAVEL/KENO is West Virginia's quick draw Keno, online lottery game. TRAVEL/KENO is played with numbers from 1 to 80. In each game, 20 of the 80 numbers are randomly selected by the State Lottery's computer from a computer number generator. Winning numbers are displayed on monitors at certain retailers located throughout the State. A new game is played every five minutes. TRAVEL/KENO has an average payout of approximately 60 percent. By statute, TRAVEL/KENO is limited to adult drinking establishments and retail liquor stores. The top prize in TRAVEL/KENO is $200,000.

Racetrack Video Lottery Games

Racetrack Video Lottery, consisting of slot machines and video lottery terminals, began in West Virginia in July 1990, with the placement of video lottery terminals at Mountaineer Park, a thoroughbred racetrack in Chester, West Virginia. By legislation passed in March of 1994, Racetrack Video Lottery was legalized at all four racing facilities in West Virginia. These locations include Mountaineer Casino Racetrack & Resort (thoroughbred horse racing), Wheeling Island Hotel-Casino-Racetrack (greyhound dog racing), Charles Town Races and Slots (thoroughbred horse racing) and Mardi Gras Casino & Resort (greyhound dog racing) located in Nitro, near Charleston, West Virginia. Before implementation, each county where a track is located must have a local referendum. Voters passed such a referendum for the three tracks other than Charles Town Races and Slots in May 1994. Racetrack Video Lottery sales in such tracks commenced in early September 1994. Voters approved video lottery gaming at the Charles Town Races and Slots at the November 1996 general election, and Racetrack Video Lottery sales began in October 1997. Under the Racetrack Video Lottery Act, subject to certain conditions, voters in a county previously approving Racetrack Video Lottery can petition for a new local option election to reconsider the matter.

During the 1996 legislative session, video lottery was enhanced through the addition of simulated reel games to video lottery machines. Coin drop and mechanical reels (slot machines)

were approved during the 1999 legislative session and the maximum bet was increased from $2 to $5 in the first extraordinary legislative session of 2001. As of June 30, 2010, 98.7% of the 9,938 terminals at the four tracks were ticket in ticket out (slot machines) and 69% of all machines permitted bets in excess of $2. Currently, the number of terminals that has been approved for the four tracks is a maximum aggregate amount of 13,900. The Lottery Act provides that an increase in approved terminals in later periods could occur as demand increases.

Racetrack Table Games

On March 8, 2007, the West Virginia Legislature enacted the West Virginia Lottery Racetrack Table Games Act (the "Table Games Act"), which became effective as of June 6, 2007. The Table Games Act authorizes the West Virginia Lottery Commission to issue up to four racetrack table games licenses to racetracks located in West Virginia that hold racetrack video lottery licenses and licenses to conduct horse or dog racing after the citizens of the respective counties in which the racetracks are located approve racetrack table games by referendum ("Racetrack Table Games"). Referenda for approving Racetrack Table Games were conducted in Jefferson, Hancock, Ohio and Kanawha Counties in West Virginia in 2007. In 2007, voters in Jefferson County rejected the referendum, while voters in Hancock, Ohio and Kanawha Counties approved the referenda. In December 2009, however, voters in Jefferson County approved a second referendum authorizing racetrack table games in Jefferson County. Accordingly, Racetrack Table Games are now authorized under the Table Games Act at Mountaineer Casino Racetrack & Resort in Chester, West Virginia, Wheeling Island Hotel-Casino-Racetrack in Wheeling, West Virginia, Mardi Gras Casino & Resort in Nitro, West Virginia and at Charles Town Races & Slots in Charles Town, West Virginia. The Lottery Commission has issued Racetrack Table Games licenses to Mountaineer Casino Racetrack & Resort, Wheeling Island Hotel-Casino-Racetrack, Mardi Gras Casino & Resort and Charles Town Races and Slots. Mountaineer Casino Racetrack & Resort and Wheeling Island Hotel-Casino-Racetrack began operating Racetrack Table Games in October 2007. Mardi Gras Casino & Resort began operating Racetrack Table Games in October 2008. Charles Town Races & Slots began operating table games on July 1, 2010. The tax rate for each racetrack participating in this new form of legal gaming is thirty five percent of adjusted gross receipts. Eighteen and 24/100% of a total rate of thirty-five percent is earmarked by statute for the reduction of state debt and unfunded liabilities.

NO REVENUES GENERATED FROM CASINO GAMING AT THE GREENBRIER RESORT OR FROM RACETRACK TABLE GAMES ARE DEPOSITED INTO THE STATE EXCESS LOTTERY REVENUE FUND OR THE STATE LOTTERY FUND. NO PORTION OF REVENUES GENERATED BY CASINO GAMING AT THE GREENBRIER RESORT OR BY RACETRACK TABLE GAMES WILL BE DEPOSITED INTO THE EXCESS LOTTERY HIGHER EDUCATION IMPROVEMENT FUND AND, THERFORE, ARE NOT PART OF THE PLEDGED REVENUES THAT SECURE THE 2010 SERIES BONDS.

A description of each of the racetracks follows:

Mountaineer Casino Racetrack & Resort (sometimes hereinafter referred to as "Mountaineer") located in the Northern Panhandle Region of West Virginia at Chester is a thoroughbred racing and gaming facility. The track's owner is MTR Gaming Group, Inc (NASDAQ: MNTG). The destination resort offers three hundred and fifty-nine rooms in a new luxury hotel with amenities that include a fitness center, spa, indoor and outdoor pools, gift shop, golf course, tennis courts, and basketball court. There is a total gaming area of 111,220 square feet with 2,645 video lottery gaming machines (currently approved for 3,500). The facility includes six gaming areas, eight restaurants, and five lounge areas. A conference center (52,750 square feet) and an entertainment center that seats an audience of 4,200 can accommodate large gatherings. 1,000 horses can be stabled on the property and race on a one-mile thoroughbred racetrack. 5,412 parking spaces are available for patrons. Mountaineer Casino Racetrack & Resort currently owns approximately 2,350 acres, of which 1,885 acres are available for future development.

Hollywood Casino at Charles Town Races (sometimes hereinafter referred to as "Charles Town") entertainment complex is a thoroughbred racetrack and gaming facility located in Charles Town, West Virginia. The facility is in the State's Eastern Panhandle and is located in the D.C. metropolitan area, which is also inclusive of the Northern Virginia suburbs and in close proximity to the Baltimore, Maryland area. The track's owner is Penn National Gaming, Inc. (NASDAQ: PENN). The facility includes a total gaming area of 151,450 square feet with 6,000 approved and 4,491 operating video lottery gaming machines and a 150,000 square feet of racing and support facilities for a total of 301,450 square feet. Included in the facility are seven gaming areas, four restaurants, five themed bars and one gift shop. The facility also includes The Inn at Charles Town, which offers one hundred fifty-five hotel rooms. 1,400 horses are stabled on the property and race on a ¾ mile thoroughbred racetrack. 6,048 parking spaces are available for patrons. Hollywood Casino at Charles Town Races currently owns a 300 acre parcel of which 114 acres is currently developed.

Wheeling Island Hotel-Casino-Racetrack (sometimes hereinafter referred to as "Wheeling" or "Wheeling Island Gaming") is a greyhound racing and gaming center located on an island in the Ohio River at Wheeling, West Virginia, also in the State's northern panhandle. The track's owner is Delaware North Companies Gaming and Entertainment, Inc., which is a wholly owned subsidiary of Delaware North Companies, Inc. a corporation privately owned and controlled by Jeremy Jacobs, Sr. and his family. A one hundred fifty-one room high-rise hotel is centrally located to the three gaming areas, eight restaurants, gift shop, and show room that has a capacity for an audience of over 1,000. There is a total gaming area of 61,412 square feet with 1,810 video lottery gaming machines (currently approved for 2,400). 1,368 greyhounds can be housed in the kennel and race on the ¼ mile racetrack. Parking is available for 2,880 vehicles. Wheeling Island Gaming currently owns an 87 acre tract of which 74 acres is currently developed.

Mardi Gras Casino & Resort (sometimes hereinafter referred to as "Mardi Gras") is a greyhound racing and gaming facility located approximately ten miles from the State Capitol in Charleston, West Virginia. The track's owner is Hartman and Tyner, Inc., owned by Bernard Hartman and Herbert Tyner and their children. The facility includes a total gaming area of 90,000 square feet with 1,272 video lottery gaming machines (currently approved for 2,000) and

132,000 square feet of racing and support areas. There are three gaming areas, two restaurants, seven bars, and a conference center that can accommodate 250 patrons. 1,440 greyhounds can be housed in the kennel and race on the 1,350-foot long racetrack. The facility has approximately 1,000 parking spaces for patrons. Mardi Gras Casino & Resort currently owns 132 acres of which 57 acres are currently developed. In connection with its deployment of Table Games, Mardi Gras remodeled its facility to include two gaming areas for Table Games and has constructed and opened a four-story, one hundred fifty-seven room hotel.

During the six calendar years ended December 31, 2009, the four racetracks had invested $110.6 million in capital expenditures for additions and improvements to the racetracks.

Patrons of Racetrack Video Lottery

Each of the tracks receives a substantial portion of its sales from out-of-state patrons. Legislative bodies in contiguous states are considering, have previously considered or recently implemented some form of legislation authorizing video lottery in their states. See "OTHER MATTERS" herein.

The percentage of patrons from all states with at least 5% participation for each of the tracks is indicated below:

West Virginia Racetrack Video Lottery
Patrons by State (%)

Mountaineer Park		Wheeling Island		**Mardi Gras**		Charles Town	
Pennsylvania	23%	Pennsylvania	42%	Ohio	22%	Pennsylvania	10%
Ohio	72%	Ohio	41%	Kentucky	9%	Maryland	38%
West Virginia	2%	West Virginia	5%	North Carolina	11%	Virginia	35%
Other	3%	Other	12%	Virginia	10%	Washington DC	4%
				West Virginia	38%	West Virginia	5%
				Other	10%	Other	8%

Source: West Virginia Lottery

Limited Video Lottery Games

The Limited Video Lottery Act was enacted to restrict (limit) and regulate video lottery machines that had been illegally operated for several years throughout the State. Limited Video Lottery is also a self-activated video version of lottery games, which were first placed in operation in December 2001. The games allow a player to use currency to place bets for the chance to receive free games or vouchers that may be redeemed for cash. The Limited Video Lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

The Limited Video Lottery Act has established specific requirements for Limited Video Lottery and imposed certain restrictions limiting the licensing for the operation of Limited Video Lottery games to 9,000 video lottery terminals placed in limited licensed retailer areas restricted for adult amusement. As of June 30, 2010, there were 7,940 machines operating in 1,613 locations. These licensed retailers must hold a qualifying license for the sale on premises of alcohol or non-intoxicating beer. The Limited Video Lottery Act limits the placement of no more than five (5) machines in licensed establishments (ten (10) machines in the case of veteran's and fraternal organizations). The Limited Video Lottery Act further provides that no person can own, directly or indirectly, more than 675 video terminals. The West Virginia Lottery has been charged with the administration, monitoring and regulation of these machines. The Limited Video Lottery Act further stipulates the distribution of revenues from the Limited Video Lottery games, and requires any licensed retailers to comply with all related rules and regulations of the lottery in order to continue its retailer status.

Existing Limited Video Lottery Permits expire on June 30, 2011. Bids are being solicited for the Limited Video Lottery Permits that will become effective on July 1, 2011.

There are currently Limited Video Lottery machines in 54 of the states 55 counties. The top 5 counties as of June 30, 2010 were Kanawha – 682, Wood – 611, Ohio – 481, Cabell – 472 and Hancock – 462. These five counties represent 34% of the total machines in the Limited Video Lottery - market; the remaining 49 counties represent 66% ranging from 5 to 459 machines.

The State Excess Lottery Revenue Fund

The Lottery Act creates the State Excess Lottery Revenue Fund as a special revenue fund in the State Treasury. The State Excess Lottery Revenue Fund receives the State's share of net profits from two sources: (1) Racetrack Video Lottery, and (2) Limited Video Lottery, as well as certain fees related to Limited Video Lottery.

Transfer of Racetrack Video Lottery Net Profits to the State Excess Lottery Revenue Fund

The Racetrack Video Lottery Act establishes two permanent benchmarks for each racetrack based on fiscal year ended June 30, 2001 results. The first of these two benchmarks is based on a track's gross terminal income, net of prizes (the "Gross Benchmark"). The aggregate Gross Benchmark for all tracks equals $438.1 million. The Racetrack Video Lottery Act also establishes a benchmark based on a track's net terminal income (the "Net Benchmark"). No deposit to the State Excess Lottery Revenue Fund occurs until the benchmarks for a given racetrack is exceeded during the fiscal year.

The Gross Benchmark and Net Benchmark for each of the racetracks are summarized below.

Track	Gross Benchmark ($ Millions)	Net Benchmark ($ Millions)
Mountaineer	161.9	160.3
Wheeling	97.9	96.9
Mardi Gras	44.8	44.4
Charles Town	133.5	132.2
	438.1	433.8

Source: West Virginia Lottery

The deposits to the State Excess Lottery Revenue Fund from Racetrack Video Lottery sales are comprised of four (4) calculations, which utilize either the Gross Benchmark or Net Benchmark. The calculations are provided below:

First, the State receives 4% of the Racetrack Video Lottery gross terminal income in excess of the Gross Benchmark (the "4% Receipt"). Gross terminal income in excess of the Benchmark was approximately $308 million for the fiscal year ended June 30, 2010.

Second, a 10% surcharge is applied to the net terminal income in excess of the Net Benchmark. 58% of the surcharge is allocated to the State Excess Lottery Revenue Fund with the remainder deposited for capital reinvestment at the tracks as described below.

Third, the State Excess Lottery Revenue Fund receives 41% of the net terminal income in excess of the Net Benchmark, after deducting the surcharge. This is known as the State share.

Fourth, the State Excess Lottery Revenue Fund receives revenues equal to the excess of allowed administrative costs ($8.3 million) over actual incurred administrative costs. Fiscal year 2010 actual incurred administrative costs were $6.3 million.

Racetrack Video Lottery profits not deposited to the State Excess Lottery Revenue Fund are allocated for a variety of purposes including, but not limited to, racing activities, providing funds to municipalities and counties, and providing funds to various State agencies. In particular, the remaining 42% of the surcharge is deposited into the racetrack capital reinvestment fund to encourage track improvements. If prescribed conditions are met, a racetrack may recoup part or all funds placed into its capital reinvestment fund. Any portion of the amounts deposited into a racetrack's capital reinvestment fund that does not qualify for reimbursement is also deposited into the State Excess Lottery Revenue Fund. To date, no funds have been transferred from the capital reinvestment fund to the State Excess Lottery Revenue Fund. The West Virginia Lottery does not currently expect funds to be transferred in such manner in the future.

For the fiscal year ended June 30, 2010, $136.1 million was transferred from the Racetrack Video Lottery into the State Excess Lottery Revenue Fund. The components of the fiscal year 2010 transfers from the Racetrack Video Lottery to the State Excess Lottery Revenue Fund are provided below.

	$ Millions
4% Receipt	$ 12.3
58% of Surcharge	16.4
41% State share	104.7
Interest/Other	.4
Excess Administrative Costs	2.3
Total Deposit to the State Excess Lottery Revenue Fund	$ 136.1

Transfer of Limited Video Lottery Net Profits to the State Excess Lottery Revenue Fund

The Limited Video Lottery Act sets forth the manner by which a portion of Limited Video Lottery net profits are transferred to the State Excess Lottery Revenue Fund. The State Excess Lottery Revenue Fund receives revenues from limited lottery operations in three ways.

The first is through the imposition of an administrative fee of two percent (2%) of gross terminal income (net of prizes) derived from video lottery terminals.

Second, the State's share of gross profits is transferred to the State Excess Lottery Revenue Fund. The State's share is determined by calculating the amount of aggregate average daily gross terminal income for the three-month period prior to the date of calculation and applying a percentage rate for transfer based on the gross terminal income. The State share rate is based on a sliding scale as provided in the Limited Video Lottery Act. The aggregate average daily gross income was first calculated in May 2002 and is calculated each August, November, February and May. The Limited Video Lottery Act provides that such percentage will not be less then 30% or more than 50%. The table below provides the State's share calculation as provided in the Limited Video Lottery Act.

STATE'S SHARE CALCULATION

Aggregate Average Daily Income	State's Share[1]
$60 or below	29%
above $60 to $80	33%
above $80 to $100	37%
above $100 to $120	41%
above $120 to $140	45%
Greater than $140	49%

[1] *Net of 2% distribution to counties and municipalities within the State.*

Two percent of the State's share is distributed to counties and municipalities in the manner prescribed for in the Limited Video Lottery Act. Since the inception of Limited Video Lottery the State share percentage has averaged 45%. Aggregate average daily gross terminal

income has averaged $126.54 with a high of $221.44 and a low of $96.36.

Third, the Limited Video Lottery Act also provides for all fees related to licensing and permitting of limited video terminals be deposited in the State Excess Lottery Revenue Fund. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Limited Video Lottery Act.

For the fiscal year ended June 30, 2010, $199.3 million was transferred from the Limited Video Lottery to the State Excess Lottery Revenue Fund. The components of the fiscal year 2010 transfers from the Limited Video Lottery to the State Excess Lottery Revenue Fund are provided below:

	$ Millions
2% Administrative Fee	$ 2.2[2]
State Share	186.9
Limited Video Lottery Fees	10.1
Interest Earned	.5
Total Deposit to the State Excess Lottery Revenue Fund	$ 199.3

State Excess Lottery Revenue Fund

The Lottery Act creates the "State Excess Lottery Revenue Fund" as a special revenue fund in the State Treasury. The State Excess Lottery Revenue Fund receives the State's share of net profits from two sources: (1) Racetrack Video Lottery, and (2) Limited Video Lottery, as well as certain fees related to Limited Video Lottery.

The Racetrack Video Lottery Act, as set forth in Chapter 29, Article 22A of the Code of West Virginia, 1931, as amended, and the Limited Video Lottery Act, as set forth in Chapter 29, Article 22B of the Code of West Virginia, 1931, as amended, together provide a system through which a portion of the net profits from Racetrack Video Lottery and from Limited Video Lottery, as well as Limited Video Lottery licensing, permit and other fees, are transferred to the State Excess Lottery Revenue Fund.

The Racetrack Video Lottery Act establishes two permanent benchmarks for each racetrack based on fiscal year ended June 30, 2001 results. The first of these two benchmarks is based on a track's gross terminal income, net of prizes (the "Gross Benchmark"). The aggregate Gross Benchmark for all tracks equals $438.1 million. The Racetrack Video Lottery Act also establishes a benchmark based on a track's net terminal income (the "Net Benchmark"). No deposit to the State Excess Lottery Revenue Fund occurs until the benchmarks for a given racetrack is exceeded during the respective fiscal year.

[2] 2% Administrative Fee is transferred to the Lottery's operating fund and is not available to be used to pay debt service on any bonds payable from revenues of the State Excess Lottery Revenue Fund. Accordingly, adjusted for the transfer of the 2% Administrative Fee to the Lottery's operating fund, $205.7 million was transferred from the Limited Video Lottery to the State Excess Lottery Revenue Fund to fund the transfers required by Section 18a of the Lottery Act.

Transfers from the State Excess Lottery Revenue Fund are prescribed by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the State Excess Lottery Revenue Fund is transferred to West Virginia Department of Revenue for the purpose of providing funding for a senior citizen tax credit for real estate taxes paid on the first $20,000 of assessed value of the taxpayer's owner-occupied dwelling (the "Refundable Credit"). The Refundable Credit totaled approximately $7,371,723 for the year ended June 30, 2009 and $8,370,988 for the year ended June 30, 2010. The Lottery Commission projects that the annual Refundable Credit will be $10,000,000 during the next three fiscal years.

Second Priority Transfers: Second, a portion of the State Excess Lottery Revenue Fund is then transferred to the following eight funds:[1]

General Purpose Account	$65 million
Education Improvement Fund (Promise Scholarship Fund)	$29 million
Economic Development Project Fund	$19 million
Excess Lottery School Building Debt Service Fund	$19 million
West Virginia Infrastructure Fund	$40 million
Higher Education Improvement Fund	$15 million
State Park Improvement Fund	$ 5 million
Thoroughbred Development Fund	$ 2 million

If, after funding the Refundable Credit, the remaining funds in the State Excess Lottery Revenue Fund are insufficient to fund all of the forgoing seven transfers, the remaining funds on deposit in the State Excess Lottery Revenue Fund, will be transferred in the following priority:

[1] Prior to the issuance of bonds payable from revenues of the State Excess Lottery Revenue Fund, the Lottery Act does not prescribe the timing or manner in which the Lottery Director must make the transfers to these seven funds in years when the revenues of the State Excess Lottery Revenue Fund are sufficient to make all such transfers. Following the issuance of bonds, however, the Lottery Act provides that the Lottery Director shall, on a monthly basis, first transfer to the Economic Development Project Fund one-tenth of the projected annual principal, interest and coverage requirements coming due on the EDA Excess Lottery Grant Bonds in a particular year, as certified to the Lottery Director, and second transfer to the fund or funds from which debt service is paid on bonds issued for the School Building Authority, infrastructure, Commission and park improvements in an amount equal to one-tenth of the projected annual principal, interest and coverage requirements coming due on those respective bonds in a particular year, as certified to the Lottery Director. Presently, this second required transfer is only made to the Higher Education Improvement Fund and the Excess Lottery School Building Debt Service Fund to pay such amounts coming due in a particular year. In years when revenues of the State Excess Lottery Revenue Fund are sufficient to make all of the transfers to these seven funds, the Lottery Act does not prohibit the Lottery Director from making transfers to funds from which debt service is not payable in the manner he deems appropriate following the one-tenth transfers referred to above. For a discussion of the priority in which transfers must be made from the State Excess Lottery Revenue Fund in years where revenues are insufficient to make all transfers required by the Lottery Act, see discussion in (2) of this section, below.

(1) First, a transfer of approximately $19 million to the Economic Development Project Fund to pay debt service on the $249,895,000 West Virginia Economic Development Authority State of West Virginia Excess Lottery Revenue Bonds (Federally Taxable), Series 2004 (the "EDA - Excess Lottery Grant Bonds") coming due in a particular year, as certified to the Lottery Director, which shall be transferred by the Lottery Director to the Economic Development Project Fund in one-tenth increments on a monthly basis.

(2) Second, transfers to such of the other six funds from which debt service is payable in amounts necessary to pay the respective debt service on such bonds coming due in a particular year, as certified to the Lottery Director, which shall be transferred to such funds in one-tenth increments on a monthly basis; provided that, to the extent that sufficient State Excess Lottery Revenues are not available to pay debt service on all such revenue bonds, transfers will be made on a pro rata, parity basis. Presently, the second-priority, parity transfers include a $15 million transfer to the Higher Education Improvement Fund to pay debt service on bonds issued by the Commission and a transfer to the Excess Lottery School Building Debt Service Fund of approximately $19 million to pay debt service on bonds issued by the School Building Authority of West Virginia. Additional second-priority, parity transfers may be required in the future as a result of the Authority's issuance of Additional Bonds and/or the issuance of revenue bonds the debt service on which is payable out of the West Virginia Infrastructure Fund or the State Park Improvement Fund.

(3) Third, transfers to the Education Improvement Fund.

(4) Fourth, transfers to the General Purpose Account.

(5) Last, transfers to the remaining Funds.

Third Priority Transfers: Last, the remaining funds on deposit in the State Excess Lottery Revenue Fund are required to be transferred to the State Lottery Fund in amount equal to those amounts that were transferred from the State Lottery Fund to the State Excess Lottery Revenue Fund to pay debt service on bonds payable from revenues of the State Excess Lottery Revenue Fund.

NO PORTION OF THE STATE EXCESS LOTTERY REVENUE FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. ONLY AMOUNTS ON DEPOSIT IN THE EXCESS LOTTERY HIGHER EDUCATION IMPROVEMENT FUND CONSTITUTE PLEDGED REVENUES.

State Lottery Fund

The Lottery Act creates the "State Lottery Fund" as a special revenue fund in the State Treasury. The State Lottery Fund receives the State's share of net profits from lottery tickets, materials and games (except the Veterans' Instant Lottery) and a portion of the net terminal income from the Racetrack Video Lottery.

A minimum annual average of forty-five percent of the gross amount received from each lottery is allocated and disbursed as prizes, and not more than fifteen percent of the gross amount received from each lottery can be allocated to and disbursed, as necessary, for fund operation and administrative expenses. The excess of the gross amount received from the lotteries described above over the sum of the amount distributed for prizes and administrative expenses shall be allocated as net profit. Thirty percent of net terminal income up to the Gross Benchmark from the Racetrack Video Lottery is also transferred to the State Lottery Fund each fiscal year.

Transfers from the State Lottery Fund are required by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the net profits of the State Lottery Fund is transferred monthly to the School Building Debt Service Fund established under the Lottery Act to pay the annual principal, interest and coverage requirement on all revenue bonds and refunding bonds issued, or to be issued after April 1, 1994, payable from revenues of the State Lottery Fund (the "SBA Lottery Bonds").

Second Priority Transfers: Second, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Education, Arts, Sciences and Tourism Debt Service Fund established under the Lottery Act as necessary to pay debt service on revenue bonds issued and payable from such source pursuant to the Lottery Act (the "EAST Lottery Bonds"). The maximum monthly amount cannot exceed $1,000,000 and the total allocation of net profits cannot exceed the lesser of the principal and interest required to be annually paid or $10,000,000. The EAST Lottery Bonds matured by their terms on July 1, 2010. Pursuant to HB 113 enacted by the State Legislature in the First Special Session of 2009 ("HB 113"), the authority to issue revenue bonds payable from funds deposited into the Education, Arts, Sciences and Tourism Debt Service Fund (the "EAST Fund") from the State Lottery Fund was transferred from the State Building Commission to the West Virginia Economic Development Authority. The West Virginia Economic Development Authority issued bonds payable from funds on deposit in the EAST Fund in August 2010 (the "New EAST Lottery Bonds"). The New EAST Lottery Bonds were issued in an amount that will fully leverage the $10,000,000 allocation of revenues deposited into the EAST Fund from the State Lottery Fund.

Third Priority Transfers: Third, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Community and Technical College Capital Improvement Fund to pay the annual principal, interest and coverage ratio requirements on all revenue bonds payable from the Community and Technical College Capital Improvement Fund pursuant to the Lottery Act (the "CTC Lottery Bonds"). The maximum monthly amount cannot exceed $500,000 and the total allocation cannot exceed the lesser of the principal and interest required to be annually paid or $5,000,000. The current annual principal and interest on the CTC Lottery Bonds is approximately $5,000,000 and these bonds mature by their terms in 2039. Upon the maturity of the CTC Lottery Bonds, the $5,000,000 allocated annually to the Community and Technical College Capital Improvement Fund shall become available for debt service on additional CTC Lottery Bonds ("Additional CTC Lottery Bonds"). The priority of the transfer of $5,000,000 from the State Lottery Fund to the Community and Technical College Capital Improvement Fund to pay debt service on Additional CTC Lottery Bonds, if issued, vis-à-vis the priority of the

transfer of up to $10,000,000 from the State Lottery Fund to the Education, Arts, Sciences and Tourism Debt Service Fund to pay debt service on any bonds payable therefrom shall be determined as provided in the Lottery Act at the time of issuance of the Additional CTC Lottery Bonds.

Fourth Priority Transfers: Fourth, after first satisfying the requirements for funds dedicated to retire the SBA Lottery Bonds, the EAST Lottery Bonds and the CTC Lottery Bonds or Additional CTC Lottery Bonds, as the case may be, the remaining net profits of the State Lottery Fund are then made available to pay debt service in connection with any bonds issued pursuant to Section 18a of the Lottery Act (that is bonds payable from revenues of the State Excess Lottery Revenue Fund) if and to the extent needed for such purpose from time to time.

Fifth Priority Transfers: Last, subject to certain limitations described in this paragraph, the remaining net profits of the State Lottery Fund may be appropriated by the West Virginia Legislature annually, in such proportions as it deems beneficial, to (i) the Lottery Education Fund; (ii) the School Construction Fund; (iii) the Lottery Senior Citizens Fund; and (iv) the Division of Natural Resources and West Virginia Development Office; provided, however, these fifth priority payments may only be made if: (i) a default does not exist with respect to the debt service on the bonds issued by the School Building Authority, the State Building Commission, the Higher Education Policy Commission, the Economic Development Authority, or bonds that are otherwise secured by lottery proceeds; and (ii) the net profits of the State Lottery Fund for the preceding twelve months is equal to at least 150% of the debt service on bonds issued by the School Building Authority, the State Building Commission or the Higher Education Policy Commission, which are secured by the net profits of the lottery.

NO PORTION OF THE STATE LOTTERY FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. AS DESCRIBED ABOVE, HOWEVER, REVENUES OF THE STATE LOTTERY FUND IN EXCESS OF THE AMOUNT OF REQUIRED TRANSFERS TO THE SCHOOL BUILDING DEBT SERVICE FUND, THE EDUCATION, ARTS, SCIENCES AND TOURISM DEBT SERVICE FUND AND THE COMMUNITY AND TECHNICAL COLLEGE CAPITAL IMPROVEMENT FUND TO PAY DEBT SERVICE ON BONDS SECURED THEREBY SHALL BE MADE AVAILABLE FOR TRANSFER TO THE STATE EXCESS LOTTERY REVENUE FUND TO PAY DEBT SERVICE ON BONDS REFERRED TO IN SECTION 18A OF THE LOTTERY ACT TO THE EXTENT THAT REVENUES IN THE STATE EXCESS LOTTERY REVENUE FUND ARE INSUFFICIENT TO PAY ALL SUCH DEBT SERVICE.

Historical, Estimated West Virginia Lottery Revenues

The following Table I displays historical lottery revenues for the last four fiscal years as well as projected lottery revenues for the five-year period beginning in fiscal year 2010 through fiscal year 2014. Table I shows sales and profits for each lottery game and into which lottery funds the State's share is deposited. For the period of July 1, 2009 through March 31, 2010, actual lottery revenues realized were approximately two percent (2%) below projected revenues for that same period based on the Lottery's unaudited financial statements.

Racetrack Video Lottery revenues are projected to decrease by six percent (6%) during fiscal year 2010 due to increased competition from Pennsylvania and soft economic conditions, and then decrease an additional fifteen percent (15%) during fiscal years 2011 through 2014 due to competition from Maryland and Ohio. Traditional sales (Instant and Online number games) are projected to decrease approximately five percent (5%) during fiscal year 2010 and then remain flat during fiscal years 2011 through 2014. Limited Video Lottery sales are projected to decrease nine percent (9%) in fiscal year 2010 and then remain flat during fiscal years 2011 through 2014. Limited Video Lottery fees are projected to decrease approximately three percent (3%) in fiscal year 2010, remain flat during fiscal year 2011, increase significantly in fiscal year 2012 as a result of the reissuance of ten-year limited video lottery licenses in fiscal year 2012, and then return to fiscal year 2011 levels during fiscal years 2013 and 2014. It is anticipated that the Lottery will re-evaluate these projections in the coming months as it continues to gather information regarding the effect that competition from surrounding states and soft economic conditions are having on the Lottery's overall revenues. The outcome of this re-evaluation is unknown, but could be material.

For purposes of calculating sales of racetrack video games and limited video lottery games, as represented on Table I, sales are reported net of prizes. This method of reporting video lottery was chosen due to the unusual volume of play and replay of winnings in these types of games.

Table I
Historical, Estimated and Projected Revenues*
(In Millions)

	Actual**					Projected			
	2006	2007	2008	2009	2010	2011	2012	2013	2014
Lottery Revenues [1]									
Instant games	$ 119.1	106.5	110.9	114.0	97.5	105.3	105.3	105.3	105.3
On-line games	99.0	86.2	87.1	84.1	83.7	82.8	82.8	82.8	82.8
Racetrack video lottery	942.2	972.6	898.0	848.2	746.2	680.7	680.7	680.7	680.7
Limited video lottery	362.2	397.0	411.6	412.4	397.3	369.3	369.3	369.3	369.3
Total Gross Revenues	**1,522.5**	**1,562.3**	**1,507.6**	**1,458.7**	**1,324.7**	**1,238.1**	**1,238.1**	**1,238.1**	**1,238.1**
Net Revenues [2]									
Instant games	23.6	30.5	13.6	17.7	13.9	12.4	12.4	12.4	12.4
On-line games	19.6	24.7	27.2	22.2	25.9	24.1	24.1	24.1	24.1
Sub-Total (Traditional)	43.2	55.2	40.8	39.9	39.8	36.5	36.5	36.5	36.5
Racetrack Video Lottery - State Lottery Fund	130.1	130.1	130.6	130.2	138.7	130.3	130.3	130.3	130.3
Racetrack Video Lottery - State Excess Lottery Revenue Fund	221.2	227.9	205.3	180.2	136.0	105.2	105.1	105.2	105.2
Limited Video Lottery - State Excess Lottery Revenue Fund	160.0	170.0	191.7	195.6	189.6	175.3	175.3	175.3	175.3
Limited Video Lottery Fees - State Excess Lottery Revenue Fund	10.2	9.6	10.7	10.1	9.8	9.8	36.8	9.8	9.8
Total Racetrack and Limited Video Lottery Net Revenues	**521.5**	**537.6**	**538.3**	**516.1**	**474.1**	**420.6**	**447.5**	**420.6**	**420.6**
Total Net Revenues Available for Appropriation	**564.7**	**592.8**	**579.1**	**556.0**	**513.9**	**457.1**	**484.0**	**457.1**	**457.1**
Available for Appropriation									
State Excess Lottery Revenue Fund	**391.4**	**407.5**	**407.7**	**385.9**	**335.4**	**290.3**	**317.2**	**290.3**	**290.3**
State Lottery Fund	**173.3**	**185.3**	**171.4**	**170.1**	**178.5**	**166.8**	**166.8**	**166.8**	**166.8**
Total	**564.7**	**592.8**	**579.1**	**556.0**	**513.9**	**457.1**	**484.0**	**457.1**	**457.1**

* Totals may not add due to rounding
** Based on audited financial statements
[1] Represents Total Sales
[2] Represents amount Available to State
Source: West Virginia Lottery

Revenues of State Excess Lottery Revenue Fund Available For Second-Priority Debt Service Transfers

The following Table II shows the amount of revenues of the State Excess Lottery Revenue Fund available for making the second-priority debt service transfers therefrom. See "State Excess Lottery Revenue Fund" above.

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Table II

Revenues of State Excess Lottery Revenue Fund Available For Second-Priority Debt Service Transfers*

(In Millions)

	Actual				Projected				
	2006	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Deposit to State Excess Lottery Revenue Fund ("SELRF")	391.4	407.5	407.7	385.9	335.4	290.3	317.2	290.3	290.3
Less: Refundable Credit	5.0	6.0	8.6	7.4	8.4	10.0	10.0	10.0	10.0
Less: First-Priority Debt Service Transfer* From SELRF - EDA Excess Lottery Grant Bonds	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0
Revenues of SELRF Available For Second-Priority Debt Service Transfers* From SELRF	**367.4**	**382.5**	**380.1**	**359.5**	**308.0**	**261.3**	**288.2**	**261.3**	**261.3**
Second-Priority Debt Service Transfers* From SELRF									
School Building Authority Excess Lottery Revenue Bonds	0.0	0.0	0.0	19.0	19.0	19.0	19.0	19.0	19.0
HEPC Higher Education Facilities Bonds	10.0	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0
Total Second-Priority Debt Service Transfers* From SELRF	10.0	10.0	10.0	29.0	29.0	34.0	34.0	34.0	34.0
Coverage of Second-Priority Debt Service Transfers* From SELRF Using Revenues of SELRF	**36.7**	**38.3**	**38.0**	**12.4**	**10.6**	**7.7**	**8.5**	**7.7**	**7.7**

Source: West Virginia Lottery

* For a complete discussion of the priority in which transfers are made from the SELRF to pay debt service on bonds, see "PLEDGED REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION - State Excess Lottery Revenue Fund" above. Debt service transfers are only prioritized to the extent of the monthly transfers of one-tenth of the debt service coming due on such bonds in a particular year.

Revenues of State Excess Lottery Revenue Fund and State Lottery Fund Available For Second-Priority Debt Service Transfers

The following Table III shows the combined amount of revenues of the State Excess Lottery Revenue Fund and the State Lottery Fund available for making the second-priority debt service transfers from the State Excess Lottery Revenue Fund. See "State Excess Lottery Revenue Fund" and "State Lottery Fund" above.

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Table III
Revenues of State Excess Lottery Revenue Fund and State Lottery Fund
Available For Second-Priority Debt Service Transfers* From State Excess Lottery Revenue Fund
(In Millions)

	Actual				Projected				
	2006	2007	2008	2009	2010	2011	2012	2013	2014
Deposit to State Excess Lottery Revenue Fund ("SELRF")	391.4	407.5	407.7	385.9	335.4	290.3	317.3	290.3	290.3
Less: Refundable Credit	5.0	6.0	8.6	7.4	8.4	10.0	10.0	10.0	10.0
Less: First-Priority Debt Service Transfer* From SELRF - EDA Excess Lottery Grant Bonds	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0
Revenues of SELRF Available For Second-Priority Debt Service Transfers* From SELRF	**367.4**	**382.5**	**380.1**	**359.5**	**308.0**	**261.3**	**288.3**	**261.3**	**261.3**
Deposit to State Lottery Fund ("SLF")	173.3	185.3	171.4	170.1	178.5	166.8	166.8	166.8	166.8
Less: First-Priority Debt Service Transfer From SLF - SBA Lottery Bonds	18.0	18.0	18.0	18.0	18.0	18.0	18.0	18.0	18.0
Less: Second-Priority Debt Service Transfer From SLF - EAST Lottery Bonds	10.0	10.0	10.0	10.0	8.2	10.0	10.0	10.0	10.0
Less: Third-Priority Debt Service Transfer From SLF - CTC Lottery Bonds	0.0	0.0	0.0	0.0	3.5	5.0	5.0	5.0	5.0
Revenues of SLF Available For Second-Priority Debt Service Transfers* From SELRF	**145.3**	**157.3**	**143.4**	**142.1**	**148.8**	**133.8**	**133.8**	**133.8**	**133.8**
Combined Revenues of SELRF and SLF Available For Second-Priority Debt Service Transfers* From SELRF	**512.7**	**539.8**	**523.5**	**501.6**	**456.8**	**395.1**	**422.1**	**395.1**	**395.1**
Second-Priority Debt Service Transfers* From SELRF									
School Building Authority Excess Lottery Revenue Bonds	0.0	0.0	0.0	19.0	19.0	19.0	19.0	19.0	19.0
HEPC Higher Education Facilities Bonds	10.0	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0
Total Second-Priority Debt Service Transfers* From SELRF	**10.0**	**10.0**	**10.0**	**29.0**	**29.0**	**34.0**	**34.0**	**34.0**	**34.0**
Coverage of Second-Priority Debt Service Transfers* From SELRF Using Combined Revenues of SELRF and SLF	**51.3**	**54.0**	**52.4**	**17.3**	**15.8**	**11.6**	**12.4**	**11.6**	**11.6**

Source: West Virginia Lottery

* For a complete discussion of the priority in which transfers are made from the SELRF to pay debt service on bonds, see "PLEDGED REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION - State Excess Lottery Revenue Fund" above. Debt service transfers are only prioritized to the extent of the monthly transfers of one-tenth of the debt service coming due on such bonds in a particular year.

APPENDIX F

FINANCIAL STATEMENTS OF THE WEST VIRGINIA LOTTERY

Audited Financial Statements

West Virginia Lottery

Years Ended June 30, 2010 and 2009

WEST VIRGINIA LOTTERY

Audited Financial Statements

Years Ended June 30, 2010 and 2009

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Gibbons & Kawash

INDEPENDENT AUDITORS' REPORT

West Virginia Lottery Commission
Charleston, West Virginia

We have audited the accompanying balance sheets of the West Virginia Lottery (the Lottery), a component unit of the State of West Virginia, as of and for the years ended June 30, 2010 and 2009, and the related statements of revenues, expenses and changes in fund net assets and cash flows for the years then ended. These financial statements are the responsibility of the Lottery's 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 and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits 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.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Lottery as of June 30, 2010 and 2009, and the respective changes in financial position and cash flows thereof for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 24, 2010, on our consideration of the Lottery's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through 12 be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in appropriate operational, economic, or historical context. We have applied certain

limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Gibbons & Kawash

September 24, 2010

Management's Discussion and Analysis

-Unaudited-

Our discussion of the West Virginia Lottery's (the Lottery) financial performance provides for an overview of the Lottery's financial activities for the fiscal years ended June 30, 2010 and 2009. In reading the Management's Discussion and Analysis (MD & A), the current year refers to fiscal year ending June 30, 2010, and the prior year refers to fiscal year ending June 30, 2009. This analysis is to be considered in conjunction with the financial statements, which begin on page 15.

Financial Highlights

The Lottery's operating income declined in 2010 and 2009. The revenue and related decreases are primarily the result of increased competition in neighboring states and the downturn in the overall economy. The following summary is provided below:

- Lottery revenues for the current year decreased $134.9 million or 9% compared to the prior year, which decreased $30.4 million or 2% over 2008.
- Commissions for the current year decreased $57.4 million or 8.3% compared to the prior year, which decreased $19.9 million or 2.8% over 2008.
- Gross profit for the current year decreased $67.8 million or 10.1% compared to the prior year, which decreased $8.6 million or 1.3% over 2008.
- Nonoperating expenses decreased $49.7 million or 7.8% compared to the prior year, which decreased $9.2 million or 1.4% over 2008. The predominant nonoperating expense is the distributions to the State of West Virginia, which decreased $47.7 million or 7.7% compared to the prior year, which decreased $14.5 million or 2.3% over 2008.

Using This Annual Report

The Lottery is a component unit of the State of West Virginia, and is accounted for as a proprietary type enterprise fund using the accrual basis of accounting much like a private business entity. As such, this report consists of a series of financial statements, along with explanatory notes to the financial statements. To assess the Lottery's financial position, the reader of these statements should pay particular attention to changes in the components of assets and liabilities as set forth in the Balance Sheets and changes in operating revenues, expenses and nonoperating distributions to the State of West Virginia as set forth in the Statements of Revenues, Expenses and Changes in Fund Net Assets.

Balance Sheets

As shown in Table 1, current assets increased $24.4 million or 9.3% compared to the prior year, which increased $41.7 million or 18.9% over 2008, due to the timing of distributions to the State of West Virginia at year-end.

Restricted assets decreased due to the acquisition of a Lottery headquarters building on June 30, 2010 and the accrued distribution of surplus funds from the revenue center construction fund. See Notes 11 and 12 to the financial statements for additional information on restricted assets and these special items.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Balance Sheets (Continued)

Capital assets, net of accumulated depreciation and amortization, increased in 2010 by $20 million or 606.3% and decreased by $1.9 million or 37% in 2009 due to the acquisition of a Lottery headquarters building on June 30, 2010, which is offset by continuing depreciation of capital assets. For additional information on capital assets, please refer to Note 4 to the financial statements.

Table 1
Assets
(in $000's)

	2010	2009	2008
Current assets	$ 286,297	$ 261,868	$ 220,215
Restricted assets	8,355	69,871	58,487
Capital assets, net of accumulated depreciation and amortization	23,349	3,306	5,251
Long-term portion of investments held in trust	-	-	126
Total assets	$ 318,001	$ 335,045	$ 284,079

As shown in Table 2, the Lottery's current liabilities increased $29.8 million or 11.8% compared to the prior year, which increased $32.3 million or 14.7% when compared to 2008 due to the timing of distributions that are reflected as accrued liabilities until actually paid.

Net assets – restricted decreased due to the acquisition of a Lottery headquarters building on June 30, 2010 and the accrued distribution of surplus funds from the revenue center construction fund. See Notes 11 and 12 to the financial statements for additional information on restricted net assets and special items.

Net assets - invested in capital assets increased in 2010 by $20 million or 606.3% due to the acquisition of a Lottery headquarters building on June 30, 2010. Refer to Note 4 to the financial statements for additional information on capital assets.

Net assets - unrestricted changed in fiscal years 2010, 2009 and 2008 as a result of Lottery Commission orders setting aside or distributing funds committed by the Commission for acquisition of capital assets. In 2010, with the purchase of a building and land to serve as Lottery headquarters, the unrestricted net assets set aside for this purpose by Lottery Commission orders were no longer needed and were accrued for distribution to the State of West Virginia.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Balance Sheets (Continued)

Table 2
Liabilities and Net Assets
(in $000's)

	2010	2009	2008
Current liabilities	$ 281,618	$ 251,857	$ 219,594
Net assets - restricted	8,355	69,871	58,487
Net assets - invested in capital assets	23,349	3,306	5,251
Net assets - unrestricted	4,679	10,011	747
Total net assets	36,383	83,188	64,485
Total liabilities and net assets	$ 318,001	$ 335,045	$ 284,079

The content of Table 3 is a summary of activities and is related to the discussion of Table 4.

Table 3
Revenues, Expenses and Changes in Fund Net Assets
(in $000's)

	2010	2009	2008
Revenues:			
On-line games	$ 83,741	$ 84,241	$ 87,177
Instant games	97,483	113,854	110,862
Racetrack video lottery	746,208	848,233	897,953
Limited video lottery	397,287	412,489	411,587
Table games	31,726	34,219	15,877
Historic resort	1,649	-	-
	1,358,094	1,493,036	1,523,456
Less:			
Commissions:			
On-line games	5,849	5,901	6,114
Instant games	6,824	7,970	7,763
Racetrack video lottery	414,988	463,649	487,276
Limited video lottery	194,671	202,120	205,637
Table games	12,473	13,458	6,249
Historic resort	847	-	-
	635,652	693,098	713,039

(Continued)

Management's Discussion and Analysis
(Continued)

-Unaudited-

Table 3 (Continued)
Revenues, Expenses and Changes in Fund Net Assets
(in $000's)

	2010	2009	2008
Prizes, ticket and vendor costs:			
On-line prize costs	41,818	42,451	44,544
Instant ticket prize costs	66,165	76,998	76,625
Ticket costs	1,511	1,528	1,676
Vendor fees and costs	7,744	5,935	5,928
	117,238	126,912	128,773
Gross profit	605,204	673,026	681,644
Administrative expenses:			
Advertising and promotions	7,349	7,160	8,658
Wages and related benefits	10,921	9,645	7,885
Telecommunications	648	2,208	2,275
Contractual and professional	4,741	5,030	4,099
Rental	697	727	685
Depreciation and amortization	1,840	1,988	732
Other administrative expenses	1,042	994	1,540
	27,238	27,752	25,874
Other operating income:	11,059	11,401	11,927
Operating income	589,025	656,675	667,707
Nonoperating income (expense):			
Investment income	390	2,720	9,572
Nonoperating income-OPEB	-	-	472
Interest expense	-	(1)	(13)
Distributions to municipalities and counties	(7,787)	(8,085)	(8,067)
Distributions to racetracks-capital reinvestment	(11,968)	(15,983)	(17,988)
Distributions to the State of West Virginia	(568,945)	(616,623)	(631,155)
	(588,310)	(637,972)	(647,179)
Net income before special item	715	18,703	20,528
Special item - restricted net assets accrued for distribution to the State of West Virginia	(40,000)	-	-
Special item - unrestricted net assets accrued for distribution to the State of West Virginia	(7,520)	-	-
Net income (loss)	(46,805)	18,703	20,528
Net assets, beginning of year, as restated*	83,188	64,485	43,957
Net assets, end of year	$ 36,383	$ 83,188	$ 64,485

* $468 adjustment to OPEB liability at beginning of year in 2008.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Sales and Prizes, Commissions, Ticket Costs and Vendor Fees

Table 4 compares sales (referred to as lottery revenues in financial statements), prizes, commissions, ticket printing costs, vendor fees and costs and gross profit for each lottery game category for fiscal years 2010, 2009 and 2008. Sales and gross profits fluctuated in certain categories, however, gross profit percentages remained consistent from year to year.

Table 4
Lottery Sales
(in $000's)

	Instant			On-Line*		
	2010	2009	2008	2010	2009	2008
Gross sales	$ 97,483	$ 113,854	$ 110,862	$ 83,741	$ 84,241	$ 87,177
Less direct costs:						
Prizes and bonuses	66,165	76,598	76,625	41,858	42,451	44,544
Commissions	6,824	7,970	7,765	5,849	5,911	6,114
Ticket printing costs	1,511	1,528	1,676	-	-	-
Vendor fees and costs	4,203	4,311	3,320	3,541	2,524	2,608
Total direct costs	76,703	89,907	89,386	51,208	50,876	53,266
Gross Profit	$ 15,780	$ 23,947	$ 21,476	$ 32,533	$ 33,365	$ 33,911
Gross profit percentage	19.39%	21.00%	19.40%	38.80%	39.60%	38.90%

	Racetrack Video Lottery			Limited Video Lottery		
	2010	2009	2008	2010	2009	2008
Gross sales	$ 746,208	$ 848,233	$ 897,953	$ 397,287	$ 412,459	$ 411,587
Less direct costs:						
Prizes and bonuses	-	-	-	-	-	-
Commissions	414,988	463,649	487,276	194,671	202,120	205,637
Ticket printing costs	-	-	-	-	-	-
Vendor fees and costs	-	-	-	-	-	-
Total direct costs	414,988	463,649	487,276	194,671	202,120	205,637
Gross Profit	$ 331,220	$ 384,584	$ 410,677	$ 202,616	$ 210,369	$ 205,950
Gross profit percentage	44.40%	45.30%	45.70%	51.00%	51.00%	50.00%

	Table Games			Historic Resort			Total		
	2010	2009	2008	2010	2009	2008	2010	2009	2008
Gross sales	$ 31,726	$ 34,219	$ 15,877	$ 1,649	$ -	$ -	$ 1,358,094	$ 1,493,036	$ 1,522,456
Less direct costs:									
Prizes and bonuses	-	-	-	-	-	-	107,983	119,049	121,169
Commissions	12,473	13,458	6,249	847	-	-	635,652	693,096	713,039
Ticket printing costs	-	-	-	-	-	-	1,511	1,528	1,676
Vendor fees and costs	-	-	-	-	-	-	7,744	5,935	5,928
Total direct costs	12,473	13,458	6,249	847	-	-	752,890	820,010	841,812
Gross Profit	$ 19,253	$ 20,761	$ 9,628	$ 802	$ -	$ -	$ 605,204	$ 673,026	$ 681,644
Gross profit percentage	60.7%	60.7%	60.6%	48.6%	0.0%	0.0%	44.6%	45.1%	44.7%

* On-line games include the results of Powerball® which is a significant component of the results described above.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Instant Sales

Instant ticket sales decreased in 2010 by $16.4 million or 14.4% compared to the 2009 increase of $3.0 million or 2.7% over 2008. Forty-two games were introduced in 2010 and approximately twenty-six game options were available for play in both years. The Lottery continues to implement the results of research and design efforts, including increased ticket font size for easier reading by players, simplified play styles for faster play and continued monitoring of the mix of play styles and colors more closely to create a better variety of game presentation available at one time. One ten-dollar and four five-dollar games were introduced in 2010, down from the previous year based on less demand from the public. There was an increase in the one-dollar and two-dollar game introductions, to meet player demand.

Instant prizes and commissions have a direct correlation to sales, therefore, as sales increase, so do the related prizes and commissions paid by the Lottery. Prize expenses for instant games are controllable by designing and printing a predetermined number and value of winning tickets. While each game has a designed prize payout structure, the overall amount paid as prize expense is consistent.

Vendor fees and costs are primarily 4.3% of instant and on-line ticket sales for 2010 and 3% for 2009 and 2008. The Lottery (as is the case with most lotteries located in North America) has elected to enter into a long-term contract to provide a central computer system, retailer terminals and related equipment to sell and cash all tickets for instant and on-line games.

Powerball® Sales

Powerball® is a multi-state lotto game offering larger jackpots with occasional jackpots in excess of $100 million. Sales decreased in 2010 by $2.4 million or 4.8% and decreased in 2009 by $3.0 million or 5.6%. Sales are generally driven by the jackpot size.

Prize costs are 50% of sales and over time such prize payouts generally reflect the design of the game and the related mathematical odds of winning.

Traditional retailers are those retailers licensed by the Lottery to sell instant and/or all or certain on-line games (which includes Powerball®) and by statute were paid 7% of such sales.

Mega Millions® Sales

Mega Millions sales began in January 2010 offering jackpots starting at $12 million and other prizes ranging from $2 to $250,000. Sales were $2.7 million in 2010.

Approximately 50% of every dollar wagered goes back to the players in prizes and approximately 7% goes to retailer commissions.

All Other On-line Games

All other on-line games consist of Daily 3, Daily 4, Cash 25, Travel Keno and the multi-state game Hot Lotto™. Sales decreased in 2010 by $755.9 thousand or 2.3% and increased slightly in 2009 by $100 thousand or 0.3%.

Management's Discussion and Analysis
(Continued)

-Unaudited-

All Other On-line Games (Continued)

In general, prize costs by game will increase or decrease from year-to-year in proportion to the sales for a particular game. Prizes and commissions have remained consistent as presented in Table 4.

Racetrack Video Lottery

Racetrack video lottery revenues are reported net of total wagers. Revenues decreased $102 million or 12% in 2010 and decreased $49.7 million or 5.5% in 2009.

A portion of racetrack video lottery sales, as prescribed by statute, are paid to racetracks and other private entities associated with the racing industry and are reported as commissions. See Note 6 to the financial statements for further discussion of racetrack video lottery distributions. The decreases in commissions of $48.7 million or 10.5% in 2010 and $23.6 million or 4.8% in 2009 was due to the economy as well as competition from neighboring states which recently legalized video lottery games. This competition has decreased the revenue at two of the state's four race tracks licensed to operate video lottery games and which border that state.

As noted in the accompanying tables, and in following with industry trends, "coin drop" machines are being phased out in favor of ticket in ticket out (TITO) machines. This increase in TITO machines has helped to lessen the decline in racetrack video lottery revenues from competition.

The changes in active machines are presented in Tables 5 through 8 below which illustrate the fluctuations during the last three fiscal years.

Table 5

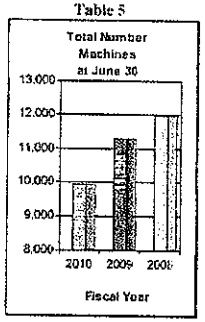
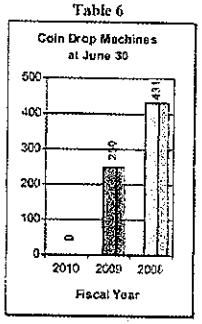


Table 6



Management's Discussion and Analysis
(Continued)

-Unaudited-

Racetrack Video Lottery (Continued)

Table 7

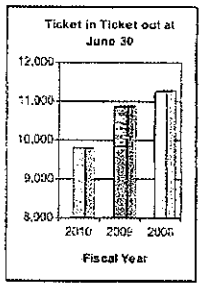
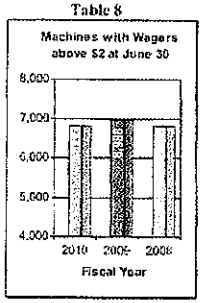


Table 8

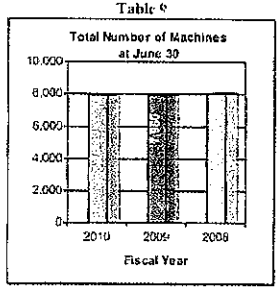


Limited Video Lottery

Sales decreased by $15.2 million or 3.7% in 2010 over 2009, which increased slightly by $902 thousand or 0.2% over 2008. The decrease in commissions of $7.4 million or 3.7% in 2010 over 2009 and the decrease of $3.5 million or 1.7% over 2008, are paid to operators and retailers as provided for by statute and have a direct correlation to changes in sales.

- Table 9 illustrates the decrease in machines by 20 in 2010 as compared to the decrease of 93 in 2009

Table 9



Management's Discussion and Analysis
(Continued)

-Unaudited-

Table Games

West Virginia Lottery table games were implemented at three of the state's four racetracks during fiscal year 2010 and 2009. Revenues from table games are calculated at a 35% privilege tax of adjusted gross receipts. Revenues for 2010 were $31.7 million and were $34.2 million in 2009.

All table games revenues are distributed according to statute. A portion of table games revenues are paid to entities associated with the racetracks and are reported as commissions. See Note 8 to the financial statements. Commissions were $12.5 million in 2010 and $13.5 million in 2009.

Historic Resort

On November 4, 2008 Greenbrier County voters passed a local referendum to allow The Greenbrier Resort (Historic Resort) to implement gaming at their facility. Video lottery and table games were implemented at The Greenbrier Resort during fiscal year 2010 at a temporary site. Revenues from video lottery are calculated as defined in Note 9 to the financial statements. Revenues from table games are calculated at a 35% privilege tax of adjusted gross receipts. Combined revenues for video lottery and table games in 2010 at the Greenbrier Resort were $1.6 million.

All revenues are distributed according to statute. A portion of revenues are paid to entities associated with the Historic Resort and are reported as commissions. Commissions were $847 thousand in 2010.

Other Operating Income

Refer to Table 3. Changes in other operating income are primarily related to fees collected for the permitting and licensure of manufacturers, operators, retailers and service technicians. Every May 1, a $1,000 permit fee is assessed on each limited video lottery permit held by operators and retailers. These permit fees comprise the most significant concentration of revenue in this financial statement category.

Nonoperating Income (Expense)

Refer to Table 3. Nonoperating expenses reflect a 2% distribution to counties and incorporated municipalities of net terminal income from limited video lottery operations. This distribution will fluctuate with any changes in limited video lottery revenues.

A portion of net revenue from racetrack video lottery is accrued and distributed to each racetrack for capital improvements.

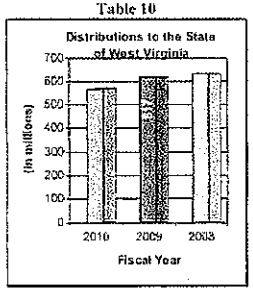
Refer to Table 10. The Lottery's payments to the State Lottery Fund and State Excess Lottery Revenue Fund decreased by $48 million for the current fiscal year compared to a decrease of $14 million in 2009.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Nonoperating Income (Expense) (Continued)

Table 10



Net Income (Loss) and Special Items

Effective June 30, 2006, the West Virginia Legislature directed the Lottery to set aside certain unexpended administrative funds of up to $20 million per year for six years into the Revenue Center Construction Fund. In fiscal year 2010 the Lottery purchased a building and land to serve as the Lottery headquarters and it was determined that unexpended excess funds set aside in restricted net assets for the purchase of capital assets were surplus funds and would be returned by distribution to the State of West Virginia. This distribution is reported as a special item.

In June 2010, the Lottery Commission approved the distribution of funds previously set aside as unrestricted net assets for future capital asset purchases to be returned by distribution to the State of West Virginia. This distribution is also reported as a special item. Refer to Notes 11 and 12 to the financial statements for additional information.

Other Currently Known Facts

On December 5, 2009 Jefferson County, West Virginia voters passed a local referendum which allows Charles Town Races and Slots to implement table games at their facility. Charles Town Races and Slots began table games operations in July 2010.

WEST VIRGINIA LOTTERY

BALANCE SHEETS
(In Thousands)

June 30, 2010 and 2009

ASSETS	2010	2009
Current assets:		
Cash and cash equivalents	$ 256,355	$ 225,354
Accounts receivable	26,986	33,311
Inventory	683	648
Other assets	2,273	2,555
Total current assets	286,297	261,868
Noncurrent assets:		
Restricted cash and cash equivalents	8,355	69,871
Capital assets	39,524	17,641
Less accumulated depreciation and amortization	(16,175)	(14,335)
	23,349	3,306
Total noncurrent assets	31,704	73,177
Total assets	$ 318,001	$ 335,045
LIABILITIES AND NET ASSETS		
Current liabilities:		
Accrued nonoperating distributions to the State of West Virginia	$ 241,039	$ 202,184
Estimated prize claims	13,128	12,938
Accounts payable	3,050	1,716
Other accrued liabilities	24,401	35,019
Total liabilities	281,618	251,857
Net assets:		
Restricted by enabling legislation	8,355	69,871
Invested in capital assets	23,349	3,306
Unrestricted	4,679	10,011
Total net assets	36,383	83,188
Total liabilities and net assets	$ 318,001	$ 335,045

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY

STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET ASSETS
(In Thousands)

Years Ended June 30, 2010 and 2009

	2010	2009
Lottery revenues:		
On-line games	$ 83,741	$ 84,241
Instant games	97,483	113,854
Racetrack video lottery	746,208	848,233
Limited video lottery	397,287	412,489
Table games	31,726	34,219
Historic resort	1,649	-
	1,358,094	1,493,036
Less commissions:		
On-line games	5,849	5,901
Instant games	6,824	7,970
Racetrack video lottery	414,988	463,649
Limited video lottery	194,671	202,120
Table games	12,473	13,458
Historic resort	847	-
	635,652	693,098
Less on-line prize costs	41,818	42,451
Less instant prize costs	66,365	76,998
Less ticket costs	1,511	1,528
Less vendor fees and costs	7,744	5,975
	117,238	126,912
Gross profit	605,204	673,026
Administrative expenses:		
Advertising and promotions	7,349	7,160
Wages and related benefits	10,921	9,645
Telecommunications	648	2,208
Contractual and professional	4,741	5,030
Rental	697	727
Depreciation and amortization	1,840	1,988
Other administrative expenses	1,042	994
	27,238	27,752
Other operating income	11,059	11,401
Operating income	589,025	656,675
Nonoperating income (expense):		
Investment income	390	2,720
Interest expense	-	(1)
Distributions to municipalities and counties	(7,787)	(8,085)
Distributions for capital reinvestment	(11,968)	(15,983)
Distributions to the State of West Virginia	(568,945)	(616,622)
	(588,310)	(637,972)
Income before special item	715	18,703
Special item - restricted net assets accrued for distribution to the State of West Virginia	(40,000)	-
Special item - unrestricted net assets accrued for distribution to the State of West Virginia	(7,520)	-
Net income (loss)	(46,805)	18,703
Net assets, beginning of year	83,188	64,485
Net assets, end of year	$ 36,383	$ 83,188

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY

STATEMENTS OF CASH FLOWS
(In Thousands)

Years Ended June 30, 2010 and 2009

	2010	2009
Cash flows from operating activities:		
Cash receipts from customers and other sources	$ 1,375,478	$ 1,507,972
Cash payments for:		
Personnel costs	(9,636)	(9,121)
Suppliers	(13,567)	(20,508)
Other operating costs	(760,068)	(819,997)
Cash provided by operating activities	592,207	658,346
Cash flows from noncapital financing activities:		
Nonoperating distributions to the State of West Virginia	(577,610)	(581,406)
Distributions to municipalities and counties	(7,797)	(8,108)
Distributions to racetracks from racetrack capital reinvestment fund	(15,822)	(15,369)
Interest paid on deferred jackpot prize obligations	-	(1)
Cash used in noncapital financing activities	(601,229)	(604,884)
Cash flows from capital and related financing activities		
Purchases of capital assets	(21,883)	(43)
Cash flows from investing activities:		
Maturities of investments held in trust	-	136
Investment earnings	390	2,720
Cash provided by investing activities	390	2,856
Increase (decrease) in cash and cash equivalents	(30,515)	56,275
Cash and cash equivalents (including restricted cash and cash equivalents), beginning of year	295,225	238,950
Cash and cash equivalents (including restricted cash and cash equivalents), end of year	$ 264,710	$ 295,225

(Continued)

WEST VIRGINIA LOTTERY

STATEMENTS OF CASH FLOWS
(In Thousands)
(Continued)

Years Ended June 30, 2010 and 2009

	2010	2009
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	$ 589,025	$ 656,675
Adjustments to reconcile operating income to cash provided by operating activities:		
Depreciation and amortization	1,840	1,988
Changes in operating assets and liabilities:		
(Increase) decrease in:		
Accounts receivable	6,325	3,535
Inventory	(35)	(347)
Other assets	282	40
Increase (decrease) in:		
Estimated prize claims	190	(29)
Accounts payable	1,334	(977)
Other accrued liabilities	(6,754)	(2,410)
Deferred jackpot prize obligations	-	(129)
Cash provided by operating activities	$ 592,207	$ 658,346

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS

1 - LEGISLATIVE ENACTMENT

The West Virginia Lottery (the Lottery) was established by the State Lottery Act (the Act) passed April 13, 1985, which created a fund in the State Treasury designated as the "State Lottery Fund." The purpose of the Act was to establish and implement a state-operated lottery under the supervision of a state lottery commission (the Commission) and a director. The Commission, consisting of seven members, and the Director are appointed by the Governor. Under the Act, the Commission has certain powers and the duty to establish rules for conducting games, to select the type and number of gaming systems or games, to enter into contracts and agreements, and to do all acts necessary or incidental to the performance of its duties and exercise of its power and duty to operate the Lottery in a highly efficient manner. The Act provides that a minimum annual average of 45% of the gross amount received from each lottery shall be allocated for prizes and also provides for certain limitations on expenses necessary for operation and administration of the Lottery. To the extent available, remaining net profits are to be distributed to the State of West Virginia (the State) and local governments as required by law. As the State is able to impose its will over the Lottery, the Lottery is considered a component unit of the State and its financial statements are presented in the comprehensive annual financial report of the State as a blended proprietary fund component unit.

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The West Virginia Lottery is accounted for as a proprietary fund special purpose government engaged in business type activities. In accordance with accounting principles generally accepted in the United States of America for governmental entities, the financial statements are prepared on the accrual basis of accounting which requires recognition of revenue when earned and expenses when incurred. As permitted by Governmental Accounting Standards Board (GASB) Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, the Lottery has elected not to adopt Financial Accounting Standards Board (FASB) statements, interpretations and Auditing Standards Updates issued after November 30, 1989, unless the GASB specifically adopts such FASB statements, interpretations or Auditing Standards Updates.

The Lottery is included in the State's basic financial statements as a proprietary fund and business type activity using the accrual basis of accounting. Because of the Lottery's presentation in these financial statements as a special purpose government engaged in business type activities, there may be differences in presentation of amounts reported in these financial statements and the basic financial statements of the State as a result of classification of balances and major fund determination.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain estimates and develop assumptions that affect the amounts reported in the financial statements and related notes to financial statements. Actual results could differ from management's estimates.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Lottery Game Operations

The West Virginia Lottery derives its revenues from four basic types of lottery games: instant, on-line, video type games, and table games. The Lottery develops multiple game themes and prize structures to comply with its enabling legislation, including aggregate annual minimum prize provisions. All bonded retailers and agents comprised principally of grocery and convenience stores serve as the primary distribution channel for instant and on-line lottery sales to the general public.

The Lottery has contracted with a private vendor to manufacture, distribute, and provide data processing support for instant and on-line lottery games. Under the terms of the agreements, the Lottery pays a percentage of gross revenues for the processing and manufacturing of the games.

Revenue from instant games is recognized when game tickets are sold to the retailers, and the related prize expense is recorded based on the specific game prize structure. Instant ticket sales and related prizes do not include the value of free plays issued for the purpose of increasing the odds of winning a prize.

Sales of on-line lottery tickets are made by licensed agents to the public with the use of computerized terminals. On-line games include POWERBALL®, a multi-state "jackpot" game; HOT LOTTO™, a multi-state "lotto" game; MEGA MILLIONS®, a multi-state lotto game; Cash25 "lotto" game; Daily 3 and 4 "numbers" games; and Travel, an online "keno" game. Revenue is recognized when the agent sells the tickets to the public. Prize expense is recognized on the basis of actual drawing results.

Commissions are paid to instant game retailers and on-line agents at the rate of seven percent of gross sales. A portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys. The amount paid from unclaimed prize moneys is credited against prize costs. In addition, retailers and agents are paid limited bonus incentives that include prize shares on winning tickets they sold and a ticket cashing bonus on winning tickets they cash. On a weekly basis, retailers and agents must remit amounts due to the Lottery. Retailers may not be able to order additional instant tickets if payment has not been made for the previous billing period, while an agent's on-line terminal may be rendered inactive if payment is not received. No one retailer or agent accounts for a significant amount of the Lottery's sales or accounts receivable. Historically credit losses have been nominal and no allowance for doubtful accounts receivable is considered necessary.

Racetrack video lottery is a self-activated video version of lottery games. The board-operated games allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The games allow a player to use coins, currency, tokens, or tickets, to place bets for the chance to receive coin, token, or ticket awards which may be redeemed for cash or used for replay in the games. The racetrack video lottery games' prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as racetrack video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private and local government entities are reported as commissions.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Lottery Game Operations (Continued)

Racetrack video lottery legislation has established specific requirements for racetrack video lottery and imposed certain restrictions limiting the licensing for the operation of racetrack video lottery games to horse and dog racetracks in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from racetrack video lottery games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Limited video lottery is also a self-activated video version of lottery games located in limited licensed retailer areas restricted for adult amusement. The games allow a player to use currency to place bets for the chance to receive free games or vouchers which may be redeemed for cash. The limited video lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as limited video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private entities are reported as commissions. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

Table games legislation has established specific requirements for table games and imposed certain restrictions limiting the licensing for operation of table games to horse and dog racetracks and a historic resort in West Virginia, subject to local county elections permitting the same. Each location licensed as an agent of the Commission to operate West Virginia table games shall have written rules of play for each table game it operates which must be approved by the Commission. All wagers and pay-offs of winning wagers shall be made according to those rules of play. For the privilege of holding a table games license, there is levied a privilege tax or thirty-five percent of each licensee's adjusted gross receipts from the operation of Lottery table games which the Lottery records as revenue. Amounts required by statute to be paid to private and local government entities are reported as commissions. The legislation further stipulates the distribution of revenues from West Virginia table games, and requires any licensed location to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Historic resort lottery games are a combination of self-activated video lottery games as well as table games which are located at a licensed historic resort hotel as defined by the WV Code. Video lotteries at the historic resort are board-operated games that allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The coin operated games allow a player to use coins, currency, or tokens to place bets for the chance to receive coin or token awards which may be redeemed for cash or used for replay in the coin operated games.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Lottery Game Operations (Continued)

The historic resort video lottery games' prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes video lottery revenue consisting of "gross terminal income" equivalent to all wagers, net of related prizes; and historic resort table games revenue consisting of a privilege tax of thirty-five percent of adjusted gross receipts for the operation of table game as historic resort lottery revenues.

Amounts required by statute to be paid to the private and local government entities are reported as commissions. The Lottery Act as amended has established specific requirements for historic resort video and table games lotteries and imposed certain restrictions limiting the licensing for operation of historic resort lottery games in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from historic resort lottery games, and requires the licensed historic resort to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Cash and Cash Equivalents

Cash and cash equivalents consist primarily of interest-earning deposits in a State internal investment pool maintained by the West Virginia Board of Treasury Investments (BTI). The BTI pool is a 2a-7-like pool carried at amortized cost which approximates the fair value of the underlying securities.

Inventory

Inventory consists of instant game tickets available for sale to approved Lottery retailers and are carried at cost as determined by the specific identification method.

Other Assets

Other assets consist of deposits restricted for payment of certain Multi-State Lottery Association activities and prepaid expenses.

Capital Assets

The Lottery has adopted a policy of capitalizing assets with individual amounts exceeding $25,000 and a useful life greater than one year. These assets include leasehold improvements and purchased equipment comprised principally of technology property, office furnishings and equipment necessary to administer lottery games, and are carried at cost. Depreciation is computed by the straight-line method using useful lives of three to ten years.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Capital Assets (Continued)

The Lottery leases, under a cancelable operating lease, its office and warehouse facilities. The Lottery also leases various office equipment under agreements considered to be cancelable operating leases. Rental expense for the years ended June 30, 2010 and 2009, was $697,279 and $727,138, respectively.

Accrued Employee Benefits

The Lottery has accrued $500,740 and $467,815 of vacation at June 30, 2010 and 2009, respectively, for estimated obligations that may arise in connection with compensated absences at the current rate of employee pay. Employees fully vest in all earned but unused vacation. In accordance with State personnel policies, employees hired prior to July 1, 2001, vest in unused sick leave only upon retirement, at which time such unused leave can be converted into post-retirement health care coverage or additional periods of credited service for purposes of determining retirement benefits. To the extent that eligible conversion benefits are determined, a liability has been accrued as a result of the Lottery's participation in the State's post-employment benefits plan, in accordance with GASB Statement No. 45 (See Note 14).

Net Assets

Net assets are presented as either unrestricted, restricted by enabling legislation, as amended, or invested in capital assets which represents the net book value of all property and equipment of the Lottery. When an expense is incurred for purposes for which both restricted and unrestricted net assets are available, restricted resources are applied first.

Operating Revenues and Expenses

Operating revenues and expenses for proprietary funds such as the Lottery are revenues and expenses that result from providing services and producing and delivering goods and/or services. Operating revenues for the Lottery are derived from providing various types of lottery games. Operating expenses include commissions, prize costs, other direct costs of providing lottery games, and administrative expenses. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

Advertising and Promotions

The Lottery expenses the costs of advertising and promotions as they are incurred.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

3 - CASH AND CASH EQUIVALENTS

At June 30, 2010 and 2009, the carrying amounts of deposits (overdrafts) with financial institutions were ($60) thousand and ($23) thousand, respectively, with bank balances of $6 and $29 thousand, respectively, which is covered by federal depository insurance. It is the Lottery's policy to require any balances over the insured amount be collateralized with securities held by the State of West Virginia's agent in the State's name.

At June 30, 2010 and 2009, the carrying amounts of deposits with financial institutions, the State Treasurer, and the West Virginia Board of Treasury Investments (BTI) were as follows (in thousands):

	2010	2009
Deposits with financial institutions	$ (60)	$ (23)
Cash on hand at the Treasurer's Office	40,006	22,110
Investments with BTI reported as cash equivalents	224,764	273,138
	$ 264,710	$ 295,225

The State Treasurer has statutory responsibility for the daily cash management activities of the State's agencies, departments, boards and commissions and transfers funds to the BTI for investment in accordance with West Virginia statutes, policies set by the BTI and by provisions of bond indentures and trust agreements when applicable. The Lottery's cash balances are invested by the BTI in the BTI's West Virginia Money Market Pool.

The deposits with the BTI are part of the State of West Virginia's consolidated money market pool. Investment income is pro-rated to the Lottery at rates specified by the BTI based on the balance of the deposits maintained in relation to the total deposits of all state agencies participating in the pool. Such funds are available to the Lottery with overnight notice.

Credit risk - Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The West Virginia Money Market Pool has been rated AAAm by Standard & Poor's. A fund rated "AAAm" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAm" is the highest principal stability fund rating assigned by Standard & Poor's. The BTI itself has not been rated for credit risk by any organization.

The BTI limits the exposure to credit risk in the West Virginia Money Market Pool by requiring all corporate bonds to be rated AA- by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated A-1 by Standard & Poor's and P1 by Moody's. Additionally, the pool must have at least 15% of its assets in United States Treasury issues.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

3 - CASH AND CASH EQUIVALENTS (Continued)

The following table provides information on the credit ratings of the West Virginia Money Market Pool's investments (in thousands):

Security Type	Credit Rating Moody's	Credit Rating S&P	Carrying Value	Percent of Assets
Commercial paper	P1	A-1	$ 855,844	29.75%
Corporate bonds and notes	Aa1-Aa2	AA	20,000	.70
U.S. agency bonds	Aaa	AAA	246,990	8.59
U.S. Treasury notes*	Aaa	AAA	65,153	2.26
U.S. Treasury bills *	Aaa	AAA	476,670	16.57
Negotiable certificates of deposit	P1	A-1	281,000	9.77
U.S. agency discount notes	P1	A-1	606,048	21.07
Money market funds	Aaa	AAA	150,026	5.21
Repurchase agreements, with Underlying U.S. agency and Treasury notes	Aaa	AAA	174,980	6.08
			$ 2,876,711	100.00%

* U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

Interest rate risk - Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The weighted average maturity of the investments of the West Virginia Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides the weighted average maturities for the various asset types in the West Virginia Money Market Pool.

Security Type	Carrying Value (In Thousands)	Weighted Average Maturity In Days
Commercial paper	$ 855,844	18
US Treasury bills	476,670	35
US Treasury notes	65,153	140
Repurchase agreements	174,980	1
U.S. Agency bonds	246,990	55
Corporate bonds and notes	20,000	19

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

3 - CASH AND CASH EQUIVALENTS (Continued)

Interest rate risk (Continued)

Security Type	Carrying Value (In Thousands)	Weighted Average Maturity In Days
U.S. Agency discount notes	606,048	52
Certificates of deposit	281,000	45
Money market funds	150,026	1
Total assets	$ 2,876,711	

The combined weighted average maturity of the investments of the West Virginia Money Market Pool as of June 30, 2010, is 33 days.

Concentration of credit risk - West Virginia statutes prohibit the West Virginia Money Market Pool from investing more than 5% of its assets in securities issued by one corporate name or corporate issue. At June 30, 2010, the pool did not have investments in any one private corporation or association that represented more than 5% of assets.

Custodial credit risk - At June 30, 2010, the West Virginia Money Market Pool held no securities that were subject to custodial credit risk. Repurchase agreements are collateralized at 102%, and the collateral is held in the name of the BTI. Securities lending collateral that is reported in the BTI's audited Statement of Assets and Liabilities is invested in the lending agent's money market fund.

Foreign currency risk - The West Virginia Money Market Pool has no securities that are subject to foreign currency risk.

4 - CAPITAL ASSETS

A summary of capital asset activity is as follows (in thousands):

	Historical cost at June 30, 2008	Additions	Deletions	Historical cost at June 30, 2009	Additions	Deletions	Historical cost at June 30, 2010
Building	$ -	$ -	$ -	$ -	$ 20,174	$ -	$ 20,174
Construction in progress	285	-	(285)	-	-	-	-
Land	-	-	-	-	1,434	-	1,434
Improvements	1,120	50	-	1,170	-	-	1,170
Equipment	16,193	278	-	16,471	275	-	16,746
	$ 17,598	$ 328	$ (285)	$ 17,641	$ 21,883	$ -	$ 39,524

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

4 - CAPITAL ASSETS (Continued)

	Accumulated depreciation at June 30, 2008	Additions	Deletions	Accumulated depreciation at June 30, 2009	Additions	Deletions	Accumulated depreciation at June 30, 2010
Building	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Improvements	1,002	78	-	1,080	51	-	1,131
Equipment	11,345	1,910	-	13,255	1,789	-	15,044
	$ 12,347	$ 1,988	$ -	$ 14,335	$ 1,840	$ -	$ 16,175

5 - PARTICIPATION IN THE MULTI-STATE LOTTERY

The Lottery is a member of the Multi-State Lottery (MUSL), which operates the semi-weekly POWERBALL® jackpot lotto game, the HOT LOTTO™ game, and MEGA MILLIONS® jackpot game on behalf of other participating lotteries. MUSL is currently comprised of 33 member state lotteries, including the District of Columbia and the United States Virgin Islands. MUSL is managed by a Board of Directors, which is comprised of the lottery directors or their designee from each of the party states. The Board of Directors' responsibilities to administer the Multi-State Lottery POWERBALL®, HOT LOTTO™, and MEGA MILLIONS® games are performed by advisory committees or panels staffed by officers and independent contractors appointed by the board. These officers and consultants serve at the pleasure of the board and the board prescribes their powers, duties and qualifications. The Executive Committee carries out the budgeting and financing of MUSL, while the board contracts the annual independent audit. A copy of the audit may be obtained by writing to the Multi-State Lottery Association, 1701-48th Street, Suite 210, West Des Moines, Iowa 50266-6723.

Each MUSL member sells game tickets through its agents and makes weekly wire transfers to the MUSL in an amount equivalent to the total prize pool less the amount of prizes won in each state. Lesser prizes are paid directly to the winners by each member lottery. The prize pool for POWERBALL®, HOT LOTTO™, and MEGA MILLIONS® is 50% of each drawing period's sales, with minimum jackpot levels.

Revenues derived from the Lottery's participation in the MUSL POWERBALL® jackpot game were $48,593,678 and $51,016,100 for the years ended June 30, 2010 and 2009, respectively, and related prize costs were $24,299,364 and $25,510,333, respectively.

Revenues derived from the Lottery's participation in the HOT LOTTO™ game were $6,447,315 and $4,881,127 for the years ended June 30, 2010 and 2009, respectively, and related prize costs were $3,224,120 and $2,440,802, respectively.

Revenues derived from the Lottery's participation in the MEGA MILLIONS® game were $2,678,674 for the year ended June 30, 2010, and related prize costs were $1,384,136.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

5 - PARTICIPATION IN THE MULTI-STATE LOTTERY (Continued)

MUSL places a percentage of game sales from each game in separate prize reserve funds that serve as a contingency reserve to protect the respective MUSL Product Groups from unforeseen prize liabilities. These funds can only be used at the discretion of the respective MUSL Product Group. Once the prize reserve funds exceed the designated limit, the excess becomes part of that particular prize pool. Prize reserve fund monies are refundable to MUSL Product Group members if the MUSL disbands or, after one year, if a member leaves the MUSL. The applicable sales percentage contribution as well as the reserve fund limit for the MUSL games is as follows:

	POWERBALL®	HOT LOTTO™	MEGA MILLIONS®
Required Contribution (% of sales)	2%	3%	1%
Reserve Fund Cap	$125,000,000	$9,000,000	-

The Lottery's share of the prize reserve fund balances with MUSL as of June 30, were as follows:

	2010		2009	
	Total Prize Reserve	Lottery Share	Total Prize Reserve	Lottery Share
POWERBALL®	$ 113,399,532	$ 2,385,173	$ 112,776,975	$ 2,380,055
HOT LOTTO™	6,491,541	392,458	5,443,110	324,177
MEGA MILLIONS®	(629,706)	(11,044)	-	-
	$ 119,261,367	$ 2,766,587	$ 118,220,085	$ 2,704,232

Lottery prize reserves held by the MUSL are invested according to a Trust agreement the Lottery has with MUSL outlining investment policies. The policies restrict investments to direct obligations of the United States Government, perfected repurchase agreements, and obligations issued or guaranteed as to payment of principal and interest by agencies or instrumentalities of the United States Government, and mutual funds of approved investments. The average portfolio maturity is never more than one year, except that up to one third of the portfolio may have an average maturity of up to two years. The maximum maturity for any one security does not exceed five years.

The interest earned on prize reserve fund monies is used to pay MUSL operating expenses and any amounts over and above that are credited to an unreserved fund. The Lottery records this as interest when earned. This fund had a balance of $15,991,948 and $19,968,618 at June 30, 2010 and 2009, of which the Lottery's share was $1,752,719 and $1,775,925, respectively.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

6 - RACETRACK VIDEO LOTTERY

The racetrack video lottery legislation stipulates the distribution of racetrack video lottery revenues. This legislation has been amended since inception to restate revenue distribution based on revenue benchmarks. Initially, four percent (4%) of gross terminal revenue is allocated for lottery administrative costs. Sixty-six percent (66%) of net terminal revenue (gross less 4%) is allocated in lieu of commissions to: the racetracks (47%); other private entities associated with the racing industry (17%); and the local county and municipal governments (2%). The remaining thirty-four percent (34%) of net terminal revenue is allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 10 titled "Nonoperating Distributions to the State of West Virginia."

The first benchmark occurs when the current year net terminal revenue meets the fiscal year 1999 net terminal revenue. The counties and incorporated municipalities split 50/50 the two percent (2%) net terminal revenue.

The second benchmark occurs when the current year gross terminal revenue meets the fiscal year 2001 gross terminal revenue. The four percent (4%) is no longer allocated for lottery administrative costs; instead the State receives this for distribution as specified by legislation or the State budget.

The final benchmark occurs when the current year net terminal revenue meets the fiscal year 2001 net terminal revenue. At this point a 10% surcharge is applied to net terminal revenue, with 58% of the surcharge allocated for distribution to the State as specified by legislation or the State budget, and 42% of the surcharge allocated to separate capital reinvestment funds for each licensed racetrack. After deduction of the surcharge, 55% of the net terminal revenue is allocated in lieu of commissions to: the racetracks (42%); other private entities associated with the racing industry (11%); and the local county and incorporated municipality governments (2%). The remaining net terminal revenue (45%) is allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 10.

Amounts from the capital reinvestment fund may be distributed to each racetrack if qualifying expenditures are made within the statutory timeframe; otherwise amounts accumulated in the fund revert to the state excess lottery revenue fund. The Lottery, along with the Rhode Island and Delaware state lotteries, participate in Multi-Jurisdictional Wide Area Progressive (MWAP) video games. This allows each of the lotteries to offer a higher progressive jackpot than they could generate alone. MUSL manages the progressive games and charges each participant a MWAP contribution fee of 4% of the amount wagered.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

6 - RACETRACK VIDEO LOTTERY (Continued)

A summary of racetrack video lottery revenues for the years ended June 30, 2010 and 2009, follows (in thousands):

	2010	2009
Total credits (bets) played	$ 8,188,573	$ 8,690,994
Credits (prizes) won	(7,372,586)	(7,838,424)
Promotional credits played	(66,022)	-
MWAP Contributions	(3,757)	(4,337)
Gross terminal income	746,208	848,233
Administrative costs	(17,524)	(17,524)
Net terminal income	728,684	830,709
Commissions	(414,988)	(463,649)
Racetrack video lottery revenues available for distribution	$ 313,696	$ 367,060

A summary of racetrack video lottery revenues paid or accrued for certain State funds to conform with the legislation follows (in thousands):

	2010	2009
State Lottery Fund	$ 129,799	$ 130,125
State Excess Lottery Revenue Fund	133,462	178,902
Capital Reinvestment Fund	11,915	15,983
Tourism Promotion Fund	9,460	10,673
Development Office Promotion Fund	2,580	2,911
Research Challenge Fund	3,440	3,881
Capitol Renovation and Improvement Fund	4,730	5,557
Parking Garage Fund	930	985
Cultural Facilities and Capitol Resources Fund	1,500	1,500
Capitol Dome and Capitol Improvements Fund	4,880	5,763
Workers Compensation Debt Reduction Fund	11,000	11,000
Total nonoperating distributions	$ 313,696	$ 367,060

7 - LIMITED VIDEO LOTTERY

The limited video lottery legislation established specific requirements imposing certain restrictions limiting the licensing for the operation of limited video lottery games to 9,000 terminals placed in licensed retailers. These licensed retailers must hold a qualifying permit for the sale and consumption on premises of alcohol or non-intoxicating beer. The Lottery has been charged with the administration, monitoring and regulation of these machines. The legislation further stipulates the distribution of revenues from limited gross terminal income be deposited into the state lottery fund for administrative costs. Then, the state share percentage of gross profit is to be transferred to the State Excess Lottery

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

7 - LIMITED VIDEO LOTTERY (Continued)

Revenue Fund. Such percentage is between 30 and 50 percent and is subject to change on a quarterly basis. Two percent is distributed to counties and incorporated municipalities in the manner prescribed by the statute. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Act and is recorded as limited video lottery commissions in the financial statements. Municipal and county distributions are accounted for as nonoperating expenses. A summary of limited video lottery revenues for the years ended June 30, 2010 and 2009 follows (in thousands):

	2010	2009
Total credits played	$ 4,659,212	$ 4,925,431
Credits (prizes) won	(4,261,925)	(4,512,942)
Gross terminal income	397,287	412,489
Administrative costs	(7,946)	(8,249)
Gross profit	389,341	404,240
Commissions	(194,671)	(202,120)
Distributions to municipalities and counties	(7,787)	(8,085)
Limited video lottery revenues available for distribution	$ 186,883	$ 194,035

8 - TABLE GAMES

The passage of table games legislation allowed local referendums in each of the four counties in which a race track is located to approve table games. Three of the four race tracks were authorized to operate table games and the fourth will begin operating table games in fiscal year 2011.

Table games include blackjack, roulette, craps, and various types of poker. The Lottery receives a privilege tax of 35% of adjusted gross receipts, from each licensed racetrack, which is deposited weekly into the Lottery's racetrack table games fund.

From the gross amounts deposited into the table games fund, the Lottery, on a monthly basis retains 3% of the adjusted gross receipts for administrative expenses of which at least $100,000 and not more than $500,000 annually will be transferred to the Lottery's compulsive gambling treatment fund.

The Lottery then transfers 2.5% of adjusted gross receipts from all thoroughbred and greyhound racetracks participating in licensed table games to the special funds established by each racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee. A transfer of 2% of the adjusted gross receipts is made from all licensed racetracks to the thoroughbred development fund and the greyhound breeding development fund to be divided pro rata among the development funds.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

8 - TABLE GAMES (Continued)

A transfer of 1% of the adjusted gross receipts is made from each licensed racetrack to the county commissions of the counties where racetracks participating in licensed table games are located to be divided pro rata among the counties. A transfer of 2% of the adjusted gross receipts is made from each licensed racetrack to the governing bodies of municipalities within counties where racetracks participating in licensed table games are located as prescribed by statute. Finally, a transfer of .5% of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located is to be divided equally among the municipalities. The Lottery, in accordance with the enabling legislation, will distribute the remaining amounts hereinafter referred to as the net amounts in the racetrack table games funds as follows:

- A transfer of 4%, into a special fund to be established by the West Virginia Racing Commission to be used for payment into the pension plan for all employees of each licensed racing association.
- A transfer of 10%, to be divided and paid in equal shares, to each county commission in the state where table games are not located.
- A transfer of 10%, to be divided and paid in equal shares, to the governing bodies of each municipality in the state where table games are not located.
- A transfer of 76%, to the state debt reduction fund.

The transfer to the state debt reduction fund is included in Note 10 - Nonoperating Distributions to the State of West Virginia. The table games adjusted gross receipts for the year ended June 30, 2010 and 2009 was $90,644,781 and $97,768,861, respectively. A summary of table games revenues for the year ended June 30, 2010 and 2009 follows (in thousands):

	2010	2009
Table games privilege tax	$ 31,726	$ 34,219
Interest on table games fund	3	22
Administrative costs	(2,720)	(2,933)
Total available for distribution	29,009	31,308
Less distributions:		
Racetrack purse funds	2,266	2,444
Thoroughbred & greyhound development funds	1,813	1,955
Racing commission pension plan	870	939
Municipalities/counties	7,524	8,120
Total distributions	12,473	13,458
Table games distribution to the state debt reduction fund	$ 16,536	$ 17,850

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

9 – HISTORIC RESORT HOTEL

In 2009, the Legislature passed Senate Bill 575 which permits video lottery and table games at a licensed historic resort hotel which is defined as "a resort hotel registered with the United States Department of the Interior as a national historic landmark in its National Registry of Historic Places having not fewer than five hundred guest rooms under common ownership and having substantial recreational guest amenities in addition to the gaming facility."

Historic Resort Video Lottery

According to Senate Bill 575, thirty six percent (36%) of gross terminal income is allocated to Historic Resort Hotel Fund and seventeen percent (17%) of gross terminal income is allocated to the Human Resource Benefit Fund. The remaining forty-seven percent (47%) of gross terminal income is then subject to a ten percent (10%) surcharge which is allocated to separate capital reinvestment funds for the licensed historic resort hotel. After deduction of the surcharge, the remaining forty-two and three-tenths percent (42.3%) of gross terminal income is retained by the historic resort hotel. A summary of historic resort hotel video lottery revenues for year ended June 30, 2010 follows (in thousands):

	2010
Total credits played	$ 11,333
Credits (prizes) won	(10,175)
Promotional credits played	(25)
Gross terminal income	1,133
Capital reinvestment	(53)
Administrative costs	(61)
Hotel commissions	(479)
Net terminal income	$ 540
Historic Resort Hotel Fund	$ 347
Human Resource Benefit Fund	193
Total	$ 540

Historic Resort Table Games

Each historic resort hotel licensee is subject to a privilege tax of thirty five percent (35%) of adjusted gross receipts, of which thirty percent (30%) is deposited directly into the Historic Resort Hotel Fund and five percent (5%) is deposited directly into the Human Resource Benefit Fund. The historic resort hotel table games adjusted gross receipts for the year ended June 30, 2010 was $1,475,617.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

9 – HISTORIC RESORT HOTEL (continued)

The following table shows the month and year -to- date totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	2010
Table games privilege tax	$ 516
Administrative costs	(66)
Total available for distribution	$ 450
Historic Resort Hotel Fund	376
Human Resource Benefit Fund	74
Total distributions	$ 450

Historic Resort Hotel Fund

Historic Resort Hotel Fund deposits are allocated after a fifteen percent (15%) lottery administrative cost. The remaining Historic Resort Hotel Fund net income (gross deposits less 15%) are distributed as follows:

- 64% is paid to the State of West Virginia General Revenue Fund;
- 19% is paid to the State Debt Reduction Fund;
- 3% is paid to the State of West Virginia Tourism Promotion Fund;
- 4% is paid to the county where the gaming facility is located;
- 2.5% is paid to the municipality where the gaming facility is located as prescribed by statute;
- 2.5% is divided and paid in equal shares to the remaining municipalities in the county where the gaming facility is located;
- 2.5% is divided and paid in equal shares, to each county commission in the state where the gaming facility is not located;
- 2.5% is divided and paid in equal shares, to each municipality in the State not already receiving a distribution.

A summary of Historic Resort Hotel Fund revenues and related distributions is as follows (in thousands):

	2010
Historic Resort Hotel video lottery	$ 347
Historic Resort table games	376
Historic Resort Hotel Fund net income	$ 723
Municipalities/ Counties	101
State General Revenue Fund	463
State Debt Reduction Fund	137
State Tourism Promotion Fund	22
Total distributions	$ 723

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

10 - NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA

The Lottery periodically distributes surplus funds, exclusive of amounts derived from limited video lottery and a portion of racetrack video lottery funds, to the State of West Virginia in accordance with the current governing legislation. For the years ended June 30, 2010 and 2009, the State Legislature budgeted $164,503,245, and $168,151,542 respectively of estimated profits of the Lottery for distributions to designated special revenue accounts of the State of West Virginia. With regard to the State Lottery Fund, legislation stipulates that debt service payments be given a priority over all other transfers in instances where estimated profits are not sufficient to provide for payment of all appropriated distributions. Debt service payments of $1,800,000 and $1,000,000 per month for the first ten months of each fiscal year currently have such priority. Transfers made pursuant to the State Excess Lottery Revenue Fund have similar requirements; currently debt service payments are $3,920,843 per month for the first ten months of each fiscal year. In addition, Legislation provides that, if in any month, there is a shortage of funds in the State Excess Lottery Revenue Fund to make debt service payments, the necessary amount shall be transferred from the State Lottery Fund to cover such shortfall, after the State Lottery Fund debt service payments have been made. Repayments to the State Lottery Fund are required to be made in subsequent months as funds become available. During the years ended June 30, 2010 and 2009, the Lottery made or accrued all budgeted distributions and accrued additional distributions of $43,420,445 and $29,970,243, respectively. The Lottery does not have a legally adopted annual budget.

Since the enactment of the Racetrack Video Lottery Act, the Lottery is also statutorily required to distribute income from racetrack video lottery operations as described in Note 6. As of June 30, 2010 and 2009, the Lottery accrued additional distributions relating to racetrack video lottery operations in the amounts of $228,319 and $766,085, respectively.

Note 7 describes the Limited Video Lottery Act and the statutory distributions required to be made from limited video lottery operations. Note 8 describes the Table Games Act and the statutory distributions required to be made from table games operations. As of June 30, 2010 and 2009, the Lottery accrued additional distributions relating to table games operations in the amounts of $1,387,400 and $1,521,375, respectively. Note 9 describes the Historic Resort Hotel statutory distributions to be made from historic resort operations. As of June 30, 2010 the Lottery accrued additional distributions relating to Historic Resort operations of $73,228.

A summary of the cash distributions made to certain state agencies to conform with the various legislation follows (in thousands):

	2010	2009
Budgetary distributions:		
State Lottery Fund:		
Bureau of Senior Services	$ 57,187	$ 58,815
Department of Education	34,343	36,636
Library Commission	11,195	11,554
Higher Education - Central Office	13,916	13,449
Tourism	7,606	7,961
Natural Resources	3,450	3,492
Division of Culture & History	5,881	5,880
Department of Education & Arts	1,192	1,213
Building Commission	8,240	9,997

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

10 - NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA (Continued)

	2010	2009
School Building Authority	17,997	18,000
Community and Technical College	3,497	5,000
Total State Lottery Fund	164,504	171,997
State Excess Lottery Revenue Fund:		
General Purpose Account	65,000	65,000
Education Improvement Fund	29,000	27,000
WV Infrastructure Council Fund	40,000	40,000
Higher Education Improvement Fund	10,000	10,000
State Park Improvement Fund	5,000	5,000
School Building Authority	19,000	19,000
Economic Development Fund	19,000	19,000
Refundable Credit - General Revenue Fund	8,371	7,372
Department of Education	45,530	-
Division of Finance (ERP)	25,000	-
Department of Environmental Protection	2,000	-
Division of Corrections	5,375	-
Racing Commission	2,300	-
Excess Lottery Surplus (General Fund)	69,588	62,900
Excess Lottery Surplus (Capitol Complex)	-	18,200
Excess Lottery Surplus (OPEB)	-	46,600
Excess Lottery Surplus (School Safety)	-	8,000
Public Defender Services	11,000	21,000
Total State Excess Lottery Revenue Fund	356,364	349,072
Total Budgetary Distributions	520,868	521,069
Veterans Instant Ticket Fund	467	862
Other racetrack video lottery distributions:		
Tourism Promotion Fund	9,645	10,668
Development Office Promotion Fund	2,630	2,910
Research Challenge Fund	3,507	3,879
Capitol Renovation and Improvement Fund	4,822	5,334
Parking Garage Funds	939	985
Cultural Facilities and Capitol Resources Fund	1,500	1,500
Capitol Dome and Capitol Improvements Fund	5,014	5,759
Workers Compensation Debt Reduction Fund	11,000	11,000
	39,057	42,035
Table games state reduction fund	16,670	17,440

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

10 - NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA (Continued)

	2010	2009
Historic resort hotel distributions:		
State General Revenue Fund	408	-
State Debt Reduction Fund	121	-
Tourism Promotion Fund	19	-
Total	548	-
Total nonoperating distributions to the State of West Virginia (cash basis)	577,610	581,406
Accrued nonoperating distributions, beginning of year	(202,184)	(166,967)
Accrued nonoperating distributions, end of year	241,039	202,184
Special item – restricted net assets accrued for distribution to State of West Virginia	(40,000)	-
Special item – unrestricted net assets accrued for distribution to State of West Virginia	(7,520)	-
Total nonoperating distributions to the State of West Virginia	$ 568,945	$ 616,623

11 - RESTRICTED NET ASSETS

On June 14, 2006, House Bill 106 was enacted by the West Virginia State Legislature to set aside unexpended administrative expenses of the Lottery up to the limits for such expenses established by the enabling legislation of traditional, racetrack video lottery, and limited video lottery games in an amount not to exceed $20,000,000 beginning in fiscal year 2006 and each year through fiscal year 2012. These assets are to be set aside in the revenue center construction fund for the design and construction of a building in the West Virginia Capitol Complex for the use of the Lottery and certain other State of West Virginia governmental entities. The Lottery set aside interest income of $91,452 for the year ended June 30, 2010 and $10,817,391 with related interest income of $566,293 for the year ended June 30, 2009.

Restricted net asset activity is as follows for the years ending June 30, 2010 and 2009 (in thousands):

	2010	2009
Begininng restricted net assets	$ 69,871	$ 58,487
Enabling legislation additions to net assets	-	10,817
Interest earned on restricted net assets	92	567
Aquisition of capital assets in accordance with enabling legislation	(21,608)	-
Accrued distributions of surplus restricted net assets to the State of West Virginia	(40,000)	-
Ending restricted net assets	$ 8,355	$ 69,871

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

12 – SPECIAL ITEMS

On June 30, 2010, the Lottery purchased a building to serve as its new headquarters. Coinciding with the building purchase, the Lottery determined that certain restricted net assets and other unrestricted net asset funds previously set aside for the construction or purchase of capital assets (described in Note 11) were surplus funds and accordingly, were to be distributed to the State of West Virginia. The return of these surplus funds is recorded as a special item accrued for distribution to the State of West Virginia and represents an expense of the Lottery for the year ending June 30, 2010.

13 - RETIREMENT BENEFITS

All full-time Lottery employees are eligible and required to participate in the State of West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer defined benefit public employee retirement system. The PERS is one of several plans administered by the West Virginia Consolidated Public Retirement Board (CPRB) under the direction of its Board of Trustees, which consists of the Governor, State Auditor, State Treasurer, Secretary of the Department of Administration, and nine members appointed by the Governor. CPRB prepares separately issued financial statements for each retirement system it administers, which can be obtained from Consolidated Public Retirement Board, 4101 MacCorkle Avenue S.E., Charleston, West Virginia 25304-1636 or by calling 1-800-654-4406.

Employees who retire at or after age sixty with five or more years of contributory service or who retire at or after age fifty-five and have completed twenty-five years of credited service with age and credited service equal to eighty or greater are eligible for retirement benefits as established by State statute. Retirement benefits are payable monthly for life, in the form of a straight-line annuity equal to two percent of the employee's final average salary, multiplied by the number of years of the employee's credited service at the time of retirement.

Covered employees are required to contribute 4.5% of their salary to the PERS. The Lottery is required to contribute 11% of covered employees' salaries to the PERS. The required employee and employer contribution percentages have been established and changed from time to time by action of the State Legislature. The required contributions are not actuarially determined; however, actuarial valuations are performed to assist the Legislature in determining appropriate contributions. The Lottery and employee contributions, which equaled the required contributions for the three years ended June 2010, 2009, and 2008, were as follows (in thousands):

	2010	2009	2008
Lottery contributions	$ 832	$ 666	$ 556
Employee contributions	312	290	237
Total contributions	$ 1,144	$ 956	$ 793

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

14 - OTHER POSTEMPLOYMENT BENEFITS (OPEB)

The GASB has issued Statement No. 43, "*Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*", and Statement No. 45, "*Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*" (OPEB). The GASB statements are based on the premise that the "costs" of employee services should be reported during the periods when the services are rendered. The State implemented accounting and financial reporting requirements as an employer under GASB Statement No. 45. The financial statements report OPEB funded status and funding progress and any "premium subsidy" resulting from the pooling of retiree participants with active employees in the health benefit plans. For "employer" OPEB reporting the State will report "expense" on an accrual basis in the amount of the "annual required contribution" and a "liability" for the amount of the "annual required contribution" that was not actually paid.

In response to the GASB statements, the Legislature made statutory changes to create the West Virginia Retiree Health Benefit Trust Fund (RHBT), an irrevocable trust fund, in which employer contributions for future retiree health costs may be accumulated and invested, and which facilitates the separate financial reporting of OPEB. The legislation requires the RHBT to determine through an actuarial study, as prescribed by GASB Statement No. 43, the Annual Required Contribution (the ARC) which shall be sufficient to maintain the RHBT in an actuarially sound manner. The ARC shall be allocated to respective employers including the Lottery who are required by law to remit at least the minimum annual premium component of the ARC. Revenues collected by RHBT shall be used to fund current OPEB healthcare claims and administrative expenses with residual funds held in trust for future OPEB costs.

Plan Description

The Lottery participates in the West Virginia Other Postemployment Benefits Plan (OPEB Plan) of the West Virginia Retiree Health Benefit Trust Fund, a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the West Virginia Public Employee Insurance Agency (WVPEIA). The OPEB Plan provides retiree post-employment health care benefits for participating state and local government employers. The provisions of the Code of West Virginia, 1931, as amended (the Code), assigns the authority to establish and amend benefit provisions to the WVPEIA board of trustees. The WVPEIA issues a publicly available financial report that includes financial statements and required supplementary information for the OPEB Plan. That report may be obtained by writing to Public Employees Insurance Agency, 601 57th Street, S.E., Suite 2, Charleston, West Virginia, 25304-2345, or by calling 1-888-680-7342.

Funding Policy

The Code requires the OPEB Plan bill the participating employers 100% of the annual required contribution (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) of the plan over a period not to exceed thirty years. State of West Virginia plan employers are billed per active health policy per month.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

14 - OTHER POSTEMPLOYMENT BENEFITS (OPEB) (Continued)

Funding Policy (Continued)

The ARC rate is $901 and $388 per employee per month for the years ending June 30, 2010 and 2009, respectively. The Lottery's ARC was $1,458,892, $620,360, and $608,599 and the Lottery has paid premiums of $226,212, $185,563, and $98,625, which represent 15.5%, 29.9%, and 16.2% of the ARC, respectively, for the years ending June 30, 2010, 2009, and 2008. The State of West Virginia, on the Lottery's behalf, contributed $472,247 of the 2008 ARC. As of June 30, 2010 and 2009 the Lottery has recorded a liability of $1,484,546 and $251,867, respectively, for OPEB.

15 - RISK MANAGEMENT

The Lottery is exposed to various risks of loss related to torts; theft of, or damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Lottery participates in several risk management programs administered by the State of West Virginia and other providers. Each of these risk pools have issued separate audited financial reports on their operations. Those reports include the required supplementary information regarding the reconciliation of claims liabilities by type of contract and ten-year claim development information. Complete financial statements of the individual insurance enterprise funds can be obtained directly from their respective administrative offices.

Public Employees' Insurance Agency (PEIA)

The Lottery participates in the Public Employees Insurance Agency (PEIA) which provides an employee benefit insurance program to employees. PEIA was established by the State of West Virginia for State agencies, institutions of higher education, Boards of Education and component units of the State. In addition, local governmental entities and certain charitable and public service organizations may request to be covered by PEIA. PEIA provides a base employee benefit insurance program which includes hospital, surgical, major medical, prescription drug and basic life and accidental death. Underwriting and rate setting policies are established by PEIA. The cost of all coverage, as determined by PEIA shall be paid by the participants. Premiums are established by PEIA and are paid monthly, and are dependent upon, among other things, coverage required, number of dependents, state vs. non state employees and active employees vs. retired employees and level of compensation. Coverage under these programs is limited to $1 million for lifetime for health and $10,000 of life insurance coverage.

The PEIA risk pool retains all risks for the health and prescription features of its indemnity plan. PEIA has fully transferred the risks of coverage of the Managed Care Organization (MCO) Plan to the plan provider, and has transferred the risks of the life insurance coverage to a third party insurer. PEIA presently charges equivalent premiums for participants in either the indemnity plan or the MCO Plan. Altogether, PEIA insures approximately 205,000 individuals, including participants and dependents.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

15 - RISK MANAGEMENT (Continued)

Board of Risk and Insurance Management (BRIM)

The Lottery participates in the West Virginia Board of Risk and Insurance Management (BRIM), a common risk pool currently operating as a common risk management and insurance program for all State agencies, component units, and other local governmental agencies who wish to participate. The Lottery pays an annual premium to BRIM for its general insurance coverage. Underwriting and rate setting policies are established by BRIM. The cost of all coverage as determined by BRIM shall be paid by the participants. The BRIM risk pool retains the risk of the first $1 million per property event and purchases excess insurance on losses above that level. Excess coverage through an outside insurer under this program is limited to $200 million per event, subject to limits on certain property. BRIM has $1 million per occurrence coverage maximum on all third-party liability claims.

Workers Compensation Insurance

The Lottery carries workers compensation insurance coverage through a commercial insurance carrier. The commercial insurance carrier is paid a monthly rated premium to provide compensation for injuries sustained in the course of employment.

16 - COMMITMENTS

The Lottery Commission has designated unexpended administrative funds for the acquisition of capital assets. As of June 30, 2010 and 2009, $5,921,057 and $12,817,601, respectively, are included in unrestricted net assets and invested in capital assets for this purpose.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

West Virginia Lottery Commission
Charleston, West Virginia

We have audited the financial statements of the West Virginia Lottery (the Lottery), a component unit of the State of West Virginia, as of and for the year ended June 30, 2010, and have issued our report thereon dated September 24, 2010. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Lottery's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Lottery's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Lottery's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Lottery's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those

provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain other matters that we reported to management of the Lottery in a separate letter dated September 24, 2010.

This report is intended solely for the information and use of the Lottery Commission, members of management, and the State of West Virginia, and is not intended to be and should not be used by anyone other than these specified parties.

Gibbons & Kawash

September 24, 2010

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APPENDIX G

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, and (ii) the General Resolution adopted by the University of West Virginia Board of Trustees on September 9, 1992 (collectively, the "General Resolution"), as amended and supplemented from time to time, including as supplemented by the Fifth Consolidated Supplemental Resolution adopted by the Higher Education Policy Commission (the "Commission") on December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General Resolution, 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.

"2010 Bond Fund (Higher Education Facilities)" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds" means the Commission's Revenue Bonds (Higher Education Facilities), 2010 Series, in such aggregate principal amount not to exceed $90,000,000 as shall be set forth in the Certificate of Determination.

"2010 Bonds (Higher Education Facilities) Proceeds Fund" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Costs of Issuance Fund" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Interest Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Principal Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Redemption Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Projects" means any of the capital improvement projects at the higher education facilities identified on Exhibit A to the Fifth Consolidated Supplemental Resolution, with the final determination as to which of the 2010 Projects will be funded by the proceeds of the 2010 Bonds to be made by the Chancellor of the Commission.

"Act" means, collectively Chapter 18B, Article 10, Chapter 29, Article 22, Section 18a and Chapter 13, Article 4 of the Code of West Virginia, 1931, and as the same have been and may from time to time be amended, and the Senate Concurrent Resolution 41.

"Additional Bonds" means any Bonds issued, executed, authenticated and delivered pursuant to the General Resolution, 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.

"Authorized Officer" means the Chairman and Vice Chairman, the Chancellor, the Vice Chancellor of Administration, and the Chief Financial Officer of the Commission, whether acting jointly or severally, as Authorized Officers of the Commission with respect to the 2010 Bonds.

"Board of Directors" 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.

"Board of Trustees" means the University of West Virginia Board of Trustees, 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 2010 Bonds, the Prior 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 Documents" means the documents described in the recitals to the Fifth Consolidated Supplemental Resolution.

"Bond Purchase Agreement" means the Bond Purchase Agreement between the Commission and the Original Purchasers pertaining to the sale of the 2010 Bonds.

"Bond Year" means, with respect to the 2010 Bonds, the period commencing July 1 in each year and ending on June 30 of each subsequent calendar year during the term of the 2010 Bonds, except that the first Bond Year shall commence on the Closing Date and end on June 30, 2011 (unless a different period is permitted or required by the Code).

"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.

"Certificate of Determination" means the certificate executed by an Authorized Officer setting forth the final terms and provisions of the Bonds (including, but not limited to, the form of the 2010 Bonds), the Bond Purchase Agreement and the other Bond Documents as provided in Section 2.03 of the Fifth Consolidated Supplemental Resolution.

"Closing Date" means the date upon which the 2010 Bonds are delivered to the Original Purchaser upon payment of the purchase price set forth in the Bond Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

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

now 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 of Directors and the Board of Trustees.

"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, and (ii) 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.

"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.

"Fifth Consolidated Supplemental Resolution" means the Fifth Consolidated Supplemental Resolution adopted by the Commission on December 3, 2010, 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.

"Government Agency Obligations" means bonds, votes 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.

"Higher Education Improvement Fund" means the special revenue fund created and existing in the State Treasury pursuant to Section 18a of the Lottery Act.

"Institutions" means those state institutions of higher education under the jurisdiction of the Commission.

"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 2010 Bonds, "Interest Payment Date" means each April 1 or October 1 commencing April 1, 2011.

"Interest Subsidy Reserve Requirement" means an amount equal to thirty-five percent (35%) of the maximum amount of interest which shall be payable during the current or any succeeding Bond Year on any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

"Lottery Act" means Chapter 29, Article 22 of the Code of West Virginia, 1931, as the same has been and may from time to time be amended

"Municipal Bond Commission" means the West Virginia Municipal Bond Commission or its successor, to serve as fiscal agent for the 2010 Bonds.

"Original Purchasers" means, collectively, Citigroup Global Markets Inc., acting on behalf of itself, Raymond James & Associates, Inc. and Crews & Associates, Inc.

"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 or its successors, or a banking institution with offices within or without West Virginia or its successors, designated as a paying agency or place of payment for the 2010 Bonds in the Certificate

of Determination.

"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 other than a date for optional or mandatory redemption of Bonds (other than redemption from Sinking Fund Payments).

"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 2010 Bonds.

"Recovery Act" means the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009).

"Registrar" means such banking institution with offices in West Virginia or its successors, designated as registrar for the 2010 Bonds in the Certificate of Determination.

"Revenues" means, collectively

> (i) all tuition and registration fees collected at Institutions under the jurisdiction of the Commission and earnings thereon, except tuition collected at Southern West Virginia Community and Technical College, Eastern West Virginia Community and Technical College, West Virginia University at Parkersburg, West Virginia University Health Sciences Center, West Virginia University graduate level extension and graduate level off-campus courses for credit taught off the campus of West Virginia University, 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 Institutions under the jurisdiction of 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 and Universities previously governed by the Board of Directors and the Board of Trustees, respectively, and now supervised by the Commission and earnings thereon.

(vi) all tuition and registration fees in effect on March 21, 2004, and pledged under the General Resolution, which after such date are a component part of the general capital fees of the Institutions.

"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.

"Senate Concurrent Resolution 41" means the Senate Concurrent Resolution 41 adopted by the West Virginia Legislature on March 13, 2010, authorizing the payment of debt service on revenue bonds for capital improvements for higher

education facilities from the excess lottery revenues under West Virginia Code § 29-22-18a in an annual amount equal to Fifteen Million Dollars ($15,000,000).

"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.

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

"Subsidy Receipt" means an amount equal to thirty-five percent (35%) of the amount of interest which shall be payable on any interest payment date on any series of bonds issued by the Commission as Build America Bonds (Direct Payment), as claimed by the Commission on a Form 8038-CP filed by the Commission with the Internal Revenue Service for any such interest payment date.

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

"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.

"Universities" means, collectively, the State institutions of higher education formerly under the supervision, management and control of the Board of Trustees and now under the supervision, management and control of the Commission.

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

THE GENERAL 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.

Bonds are Limited Obligations. The 2010 Bonds issued under the General Resolution are limited obligations of the Commission payable solely from the Revenues, excess lottery revenues deposited into the Higher Education Improvement Fund pursuant to the Lottery Act, and the Subsidy Receipts. 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 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 such coverage requirement 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 or a Trustee, as the case may be:

(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 or 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 excess lottery revenues deposited into the Higher Education Improvement Fund as provided for in the Lottery Act, and the Commission pledges said funds 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. 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, 2004, 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 Institution 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 Institution and will only release funds for such Institution's use in excess of the Institution'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 Institutions to the Municipal Bond Commission or 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 Institution as its Semi-Annual Debt Service Requirements for each Annual Payment Period prior to September 1 of such Annual Payment Period.

The Director of the State Lottery Commission agrees to commence transferring the excess lottery proceeds allocated to the Higher Education Improvement Fund by W.Va. Code Section 29-22-18a (the "Excess Lottery Act") to the aforementioned capital improvement funds held by the Treasurer on a monthly basis on July 28, 2011 (or as soon thereafter as the determination described in the last sentence of the following paragraph has been made) and on the 28th day of each month thereafter until the amount required by the "Excess Lottery Act", to be deposited therein in each fiscal year has been deposited to the capital improvement funds.

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, 2004, 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 Institution 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 Institution and will release funds for such Institution's use in excess of the Institution's allocable share of the Semi-Annual Debt Service Requirement. Such ability of the Treasurer to release funds for each Institution's use in excess of the Institution'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 the State Treasury or a Trustee, may be invested an 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, the State Treasury or a Trustee shall be continuously invested and reinvested or deposited and redeposited by the Municipal Bond Commission, the State Treasury or a Trustee in the highest yield Permitted Investments that may be reasonably known to the Municipal Bond Commission the State Treasury or a Trustee, 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, the State Treasury or a Trustee to, or in the absence of direction, the Municipal Bond Commission, the State Treasury or a Trustee 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, the State Treasury or a Trustee and shall be deemed at all times to be part of

such fund or account, and the Municipal Bond Commission, the State Treasury or a Trustee 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 Funs 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 on 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 Article VIII of the General Resolution 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 Article VIII of the General Resolution 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 bankrupt 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 statue 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 thereunder other than as permitted by the foregoing section, in any particular, may be made by a Supplemental Resolution, with the written consent (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 Section 10.02 of the General Resolution.

(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 Section

10.02 of the General Resolution, 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.

FIFTH CONSOLIDATED SUPPLEMENTAL RESOLUTION

Authorization for Issuance of Bonds. The Fifth Consolidated Supplemental Resolution authorizes the issuance of not to exceed $90,000,000 in aggregate principal amount of the Commission's 2010 Bonds to finance the 2010 Projects, to fund the Interest Subsidy Reserve Fund, and to pay the costs associated with the issuance of the 2010 Bonds.

Pledge of Excess Lottery Proceeds. Pursuant to the authorization contained in Senate Bill 612 and under the provisions of Section 2.09 of the Fifth Consolidated Supplemental Resolution, the Commission confirmed its pledge of the excess lottery revenues under WV Code § 29-22-18a deposited on or after July 1, 2004 in the Higher Education Improvement Fund created under WV Code § 29-22-18a to the payment of the 2010 Bonds and the Prior Bonds. The Treasurer shall deposit such funds described in Section 2.09 of the Fifth Consolidated Supplemental Resolution into the capital improvement funds held for State Institutions of Higher Education.

Pledge of Refundable Interest Credit. Pursuant to the authorization contained in Chapter 13, Article 4 of the West Virginia Code and Section 2.10 of the Fifth Consolidated Supplemental Resolution, the Commission agreed that in the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment),

it pledged, to the extent permissible by law, for the benefit of the respective holders from time to time of any such federally taxable Build America Bonds (Direct Payment), all right, title and interest of the Commission in and to any refundable interest credit.

Funds and Accounts. The Fifth Consolidated Supplemental Resolution creates the following funds and accounts to be established with the Trustee (if any), Registrar and Paying Agent in connection with the 2010 Bonds;

(i) A 2010 Bond Fund (Higher Education Facilities), and therein:

(a) A 2010 Bonds (Higher Education Facilities) Interest Account; and

(b) A 2010 Bonds (Higher Education Facilities) Principal Account; and

(c) A 2010 Bonds (Higher Education Facilities) Redemption Account.

The Fifth Consolidated Supplemental Resolution creates the following funds to be established with the Trustee (if any), Registrar and Paying Agent in connection with the 2010 Bonds:

(i) A 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund; and

(ii) A 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; and

(iii) A 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund.

Application of 2010 Proceeds. The net proceeds of the sale of the 2010 Bonds shall initially be deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund to be held by the Trustee (if any), and if none by the Municipal Bond Commission. Thereafter, such proceeds or portions thereof shall be applied by the Trustee (if any), and if none by the Municipal Bond Commission, as follows:

(i) All amounts, if any, paid as accrued interest on the 2010 Bonds from their date to the date of delivery of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest Account;

(ii) A sum equal to the Interest Subsidy Reserve Requirement shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest

Subsidy Reserve Fund;

(iii) A sum equal to the Costs of Issuance of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; and

(iii) The balance of the proceeds of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund (which Fund shall contain separate subaccounts for each series of bonds in the event that there are multiple series of 2010 Bonds).

As set forth more particularly in the Certificate of Determination, the 2010 Bonds (Higher Education Facilities) Bonds Proceeds Fund subaccounts established by the Commission for each series of 2010 Bonds shall contain one or more project subaccounts.

Flow of Funds. So long as any 2010 Bonds are Outstanding, amounts deposited and to be deposited in the funds and accounts established by Section 3.01 of the Fifth Consolidated Supplemental Resolution shall be applied by the Trustee (if any), and if none by the Municipal Bond Commission in the manner and order of priority as set forth in the Fifth Consolidated Supplemental Resolution and in Article VII of the General Resolution

Disbursements. The proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund (or the subaccounts therein for each series of 2010 Bonds and the separate project subaccounts thereunder) shall be disbursed by the Trustee, if any, or if none by the Treasurer upon proper requisition by an Authorized Officer for payment of costs of the 2010 Projects. The proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund shall be disbursed by the Trustee, if any, or if none by the Treasurer upon requisition by an Authorized Officer. Any funds remaining in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund 180 days after the initial issuance of the 2010 Bonds shall be transferred to the 2010 Bonds (Higher Education Facilities) Interest Account.

Interest Subsidy Reserve Fund. The Fifth Consolidated Supplemental Resolution establishes an Interest Subsidy Reserve Fund in accordance with the following terms:

(A) So long as any series of Build America Bonds (Direct Payment) are outstanding, the Commission shall maintain with the Trustee (if any), Registrar and Paying Agent the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund established by Section 3.01 hereof. On the date of issuance of any series of Build America Bonds (Direct Payment), there shall be deposited to the credit of the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not

received by the Commission in connection with any series of Build America Bonds (Direct Payment) on or before any interest payment date of April 1 or October 1 of each year, the Trustee (if any), Registrar and Paying Agent shall transfer to the Commission an amount on deposit in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date as claimed by the Commission on its Form 8038-CP. The amounts paid to the Commission pursuant to the terms of Section 3.05 of the Fifth Consolidated Supplemental Resolution shall be restored to the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Account by the Commission immediately upon receipt of any Subsidy Receipt. If, at any time, the balance in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund is greater than the Interest Subsidy Reserve Requirement, the Trustee (if any), Registrar and Paying Agent shall transfer the excess to the 2010 Bond Fund (Higher Education Facilities) for payment of Debt Service on any series of Build America Bonds (Direct Payment). Any balance on hand on the last interest payment date on the Build America Bonds (Direct Payment) shall be transferred to the Commission and applied to the payment of Debt Service on such date.

(B) All monies on deposit in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund shall be invested solely in any of the following:

(i) cash (insured at all times by the Federal Deposit Insurance Corporation); or

(ii) interest bearing accounts, demand deposits, including interest bearing money market accounts, time deposits, trust deposits, overnight bank deposits or certificates of deposit which are fully secured by obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, whether such obligations are backed by the full faith and credit of the U.S., or which are issued by banks or trust companies organized under the laws of the United States of America or any state thereof, which have combined capital and surplus of at least $25,000,000.

Build America Bond Covenants. The Commission has covenanted in the Fifth Consolidated Supplemental Resolution as follows:

(A) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission covenants to do and perform all acts and things permitted by law and necessary or desirable in order to assure that any series of Build America Bonds (Direct Payment) issued by the Commission shall qualify for designation as "Build America Bonds" under the Recovery Act.

(B) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission covenants to comply with all conditions set forth in the Recovery Act necessary to maintain its right to receive and retain Subsidy Receipts with respect to any series of bonds issued by the Commission as

Build America Bonds (Direct Payment).

(C) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), each Authorized Officer is authorized to sign and file or cause to be filed with the Internal Revenue Service a "Return for Credit Payments to Issuers of Qualified Bonds," Form 8038-CP at least forty-five (45) days but not more than ninety (90) days prior to each April 1 and October 1, with respect to any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

General Resolution. The Fifth Consolidated 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 2010 Bonds, the Fifth Consolidated Supplemental Resolution and matters relating thereto as if set forth verbatim therein. In the event of any conflict between the General Resolution and the Fifth Consolidated Supplemental Resolution, the Fifth Consolidated Supplemental Resolution shall control. The Fifth Consolidated Supplemental Resolution, the General Resolution 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.

OTHER AMENDMENTS TO THE GENERAL RESOLUTION

Consolidation of Financings. Under the provisions of Section 2.10 of the First Consolidated Supplemental Resolution adopted by the Commission on June 4, 2004, the Commission consolidated the financings previously issued by the Board of Trustees and the Board of Directors and the Commission as the successor thereto, as authorized by Section 10.08 of the General Resolution.

Amendment to Definition of "Revenues". Pursuant to Section 1.01 of the Second Consolidated Supplemental Resolution adopted by the Commission on July 29, 2004, the Commission amended the General Resolution by adding to the definition of "Revenues" a new clause (vi) to read as follows:

(vi) all of the tuition and registration fees in effect as of March 21, 2004, and pledged under the General Resolution, which after such date are a component part of the required education and general capital fees of the Institutions.

Further, pursuant to the provisions of Section 1.02 of the Second Consolidated Supplemental Resolution, the Commission covenanted and agreed that the Revenues described in clause (vi) of the definition thereof may not be reduced until all the Bonds payable from such Revenues are no longer Outstanding under the General Resolution.

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APPENDIX H

PROPOSED FORM OF OPINIONS OF BOND COUNSEL

[LETTERHEAD OF SPILMAN THOMAS & BATTLE, PLLC]

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

December __, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $_____ Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), dated December __, 2010 (the "2010 Series A Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series A Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution," and collectively with the Higher Education Policy Commission Act, and the State Lottery Act, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series A 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,(ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series A Bonds when due. Proceeds of the 2010 Series A Bonds will be used to pay for a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series A Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Purchase Contract dated December __, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Purchase Contract") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Purchase Contract and the General Resolution, and (iii) the binding effect and enforceability of the Purchase Contract and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Without undertaking to verify the same by independent investigation, we have relied on certifications by representatives of the Issuer with respect to certain facts relevant to both our opinion and the requirements of the Internal Revenue Code of 1986, as amended (the "Code"). The Issuer has covenanted to comply with the provisions of the Code regarding, among other matters, the use, expenditure and investment of the proceeds of the 2010 Series A Bonds, and the timely payment to the United States of any arbitrage rebate amounts with respect to the 2010 Series A Bonds, all as set forth in the proceedings and documents providing for the issuance of the 2010 Series A Bonds (the "Covenants").

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series A Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series A Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series A Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series A Bonds. The 2010 Series A Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series A Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series A Bonds is excludable from gross income for federal income tax purposes under Section 103 of the Code, and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The preceding opinion is subject to the condition that all requirements of the Code that must be satisfied subsequent to the issuance of the 2010 Series A Bonds in order that interest on the 2010 Series A Bonds be, or continue to be, excludable from gross income for federal income tax purposes are so satisfied, and therefore failure by the Issuer to comply with the Covenants, among other things, could cause interest on the 2010 Series A Bonds to be included in gross income for federal income tax purposes retroactively to their date of issuance. Except as set forth in this Section 8, we express no opinion regarding any other tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series A Bonds. Furthermore, we express no opinion as to the effect on the excludability of the interest on the 2010 Series A Bonds from gross income of (a) any event for which the General Resolution requires the obtaining of an opinion of bond counsel or (b) any amendment of the General Resolution or waiver of the terms thereof.

It is to be understood that the rights of the holders of the 2010 Series A Bonds and the enforceability of the 2010 Series A Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series A Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act.

Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series A Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. AR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

[LETTERHEAD OF SPILMAN THOMAS & BATTLE, PLLC]

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE - ISSUER SUBSIDY - BUILD AMERICA BONDS)

December __, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $_____ Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds), dated December __, 2010 (the "2010 Series B Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series B Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended (the "Federal Subsidy Bonds Act"), Senate Concurrent Resolution 41 (the "Concurrent Resolution") and the American Recovery and Reinvestment Act of 2009 ("ARRA" and together with the Higher Education Policy Commission Act, the State Lottery Act, the Federal Subsidy Bonds Act and the Concurrent Resolution, collectively, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted on December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised

of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series B 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, (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (collectively, the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series B Bonds when due. Proceeds of the 2010 Series B Bonds will be used to pay for a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series B Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Purchase Contract dated December __, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Purchase Contract") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Purchase Contract and the General Resolution, and (iii) the binding effect and enforceability of the Purchase Contract and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Based on the foregoing, we are of the opinion that:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series B Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series B Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series B Bonds are limited obligations of the Issuer payable solely out

of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series B Bonds. The 2010 Series B Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series B Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series B Bonds is included in gross income for Federal income tax purposes. Except as set forth in this Section 8, we express no opinion regarding other Federal tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series B Bonds.

It is to be understood that the rights of the holders of the 2010 Series B Bonds and the enforceability of the 2010 Series B Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series B Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series B Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. BR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

[LETTERHEAD OF SPILMAN THOMAS & BATTLE, PLLC]

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

December __, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $_____ Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable), dated December __, 2010 (the "2010 Series C Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series C Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution," and collectively with the Higher Education Policy Commission Act, and the State Lottery Act, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series C 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, (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series C Bonds when due. Proceeds of the 2010 Series C Bonds will be used to pay for all or a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series C Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Purchase Contract dated December __, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Purchase Contract") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Purchase Contract and the General Resolution, and (iii) the binding effect and enforceability of the Purchase Contract and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series C Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series C Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series C Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or

interest on the 2010 Series C Bonds. The 2010 Series C Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series C Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series C Bonds is included in gross income for Federal income tax purposes. Except as set forth in this Section 8, we express no opinion regarding other Federal tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series C Bonds.

It is to be understood that the rights of the holders of the 2010 Series C Bonds and the enforceability of the 2010 Series C Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series C Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series C Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. CR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

APPENDIX I

FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this "Agreement") dated as of December 23, 2010, is by and between the West Virginia Higher Education Policy Commission (the "Commission") and _____ (the "Dissemination Agent"), in connection with the issuance of the $16,040,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), $50,160,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) and $10,090,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (collectively, the "2010 Series Bonds"). Capitalized terms used in this Agreement shall have the respective meanings specified above or in Article IV hereof. The Commission agrees as follows:

SECTION 1. Purpose of Agreement. This Agreement is being executed and delivered by the Commission and the Dissemination Agent for the benefit of the holders and beneficial owners of the 2010 Series Bonds and in order to assist the Underwriters in complying with SEC Rule 15c2-12(b)(5).

SECTION 2. Definitions. In addition to the definitions set forth in the Indenture and the Bond Purchase Agreement, which apply to any capitalized term used in this Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP")) and operating data with respect to the Lottery, provided at least annually, of the type included in those sections of the final official statement with respect to the 2010 Series Bonds entitled "Revenues, Debt Service Coverage and Select Financial Information," and Appendix F, which Annual Financial Information shall include Audited Financial Statements if available on the due date set forth herein, and, if not then available, unaudited financial statements.

"Audited Financial Statements" means the Lottery's annual financial statements, prepared in accordance with GAAP, which financial statements shall have been audited by a firm of independent certified public accountants.

"Beneficial Owner" shall mean any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any 2010 Series Bonds (including persons holding 2010 Series Bonds through nominees, depositories or other intermediaries).

"Dissemination Agent" shall initially mean _____ and any later appointed Dissemination Agent or any successor Dissemination Agent designated in writing by the Commission and which has filed with the Commission a written acceptance of such designation.

"EMMA" means the Electronic Municipal Market Access system described in 1934 Act Release No. 59062 and maintained by the Municipal Securities Rulemaking Board for purposes of the Rule.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Agreement.

"Lottery" shall mean the West Virginia Lottery.

"National Repository" shall mean the Municipal Securities Rulemaking Board, Washington, D.C., the sole Nationally Recognized Municipal Securities Information Repository for purposes of the Rule.

"Participating Underwriters" shall mean the original underwriters of the 2010 Series Bonds who are required to comply with the Rule in connection with offering of the 2010 Series Bonds.

"Purchase Contract" shall mean the Bond Purchase Agreement dated December 15, 2010, among Citigroup Global Markets Inc., on behalf of Crews & Associates, Inc., Raymond James & Associates, Inc. and itself (collectively, the "Underwriters"), and the Commission, by which the Underwriters agreed to purchase the 2010 Series Bonds from the Commission upon the terms set forth therein.

"Repository" shall mean each National Repository and the State Repository.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"2010 Series Bonds" shall mean the $__,___,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), $__,___,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) and $__,___,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable).

"State" shall mean the State of West Virginia.

"State Repository" shall mean any public or private repository or entity designated by the State as the state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Agreement, there is no State Repository.

SECTION 3. Provision of Annual Reports.

(a) The Commission shall, or shall cause the Dissemination Agent to, not later than 270 days after the end of the Lottery's fiscal year (presently June 30), commencing with the report for the Fiscal Year ending June 30, 2011, provide to each Repository Annual Financial Information and Audited Financial Statements, which are consistent with the requirements of Section 4 of this

Agreement. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Agreement. The Commission shall provide the Dissemination Agent with a copy of each report filed under this Agreement. If the Lottery's fiscal year changes, the Commission shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to said date, the Commission shall provide the Annual Financial Information and Audited Financial Statements to the Dissemination Agent (if other than the Commission). If the Commission is unable to provide to the Repositories the Annual Financial Information and Audited Financial Statements by the date required in subsection (a), the Commission shall send a notice to the Repositories, in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall file a report with the Commission certifying that the Annual Financial Information and Audited Financial Statements have been provided to EMMA pursuant to the Agreement and the date provided.

(d) All documents provided to EMMA shall be provided in a searchable, electronic formant and shall be accompanied by identifying information as prescribed by the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

SECTION 4. Content of Annual Financial Information and Audited Financial Statements. Within one hundred eighty (180) days of the Commission's 2010 Fiscal year-end, and each subsequent fiscal year, the Dissemination Agent shall submit to EMMA information and data of the Commission for the prior fiscal year, including the Audited Financial Statements, prepared in accordance with generally accepted accounting principles in effect from time to time.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Commission or related public entities, which have been submitted to EMMA or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Commission shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Commission shall give, or cause to be given, notice of the occurrence of any of the following events, if applicable, with respect to the 2010 Series Bonds, if material:

1. principal and interest payment delinquencies;

2. non-payment related defaults, if material;

3. unscheduled draws on debt service reserves reflecting financial difficulties;

4. unscheduled draws on credit enhancements reflecting financial difficulties;

5. substitution of credit or liquidity providers, or their failure to perform;

6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2010 Series Bonds, or other events affecting the tax status of the 2010 Series Bonds;

7. modifications to rights of security holders, if material;

8. bond calls, if material, and tender offers;

9. defeasances;

10. release, substitution, or sale of property securing repayment of the 2010 Series Bonds;

11. rating changes;

12. bankruptcy, insolvency, receivership, or similar event of the Commission[1];

13. the consummation of a merger, consolidation or acquisition involving the Commission, or the sale of all or substantially all of the assets of the Commission, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its term, if material; and

14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the Commission promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

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[1] For the purposes of the event identified in Section 5(a)(12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Commission in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Commission, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Commission.

(c) Whenever the Commission obtains knowledge of the occurrence of a Listed Event, classified under Section 5(a) (2), (7), (8), (10), (13) or (14), because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Commission shall as soon as possible determine if such event would be material under applicable federal securities laws, in any event such determination must be made and submitted to the Dissemination Agent within two (2) business days.

(d) If the Commission determines that knowledge of the occurrence of any of the Listed Events, classified under Section 5(a) (2), (7), (8), (10), (13) or (14), would be material under applicable federal securities laws pursuant to subsection (b) or the Commission received notice of any Listed Event that does not require a finding of materiality classified under Section 5(a) (1), (3), (4), (5), (6), (9), (11) or (12), the Commission shall promptly file with the Dissemination Agent a notice of such occurrence to be provided to EMMA.

(e) If in response to a request under subsection (b), the Commission determines that the Listed Event, classified under Section 5(a) (2), (7), (8), (10), (13) or (14), would not be material under applicable federal securities laws, the Commission shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the Commission to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with EMMA with a copy to the Commission. The Dissemination Agent must file such notice with EMMA within ten (10) business days of the occurrence of such Listed Event.

SECTION 6. Termination of Reporting Obligation. The Commission's obligations under this Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the 2010 Series Bonds. If such termination occurs prior to the final maturity of the 2010 Series Bonds, the Commission shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

SECTION 7. Dissemination Agent. _____ is hereby appointed as Dissemination Agent. The Commission may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under the Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Commission pursuant to the Agreement.

SECTION 8. Amendment, Waiver. Notwithstanding any other provision of this Agreement, the Commission and the Dissemination Agent may amend this Agreement, and any provision of this Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal

requirements, change in law, or change in the identity, nature or status of the Commission with respect to the 2010 Series Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the 2010 Series Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the 2010 Series Bonds in the same manner as provided in the Indenture for amendments to the Indenture, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the 2010 Series Bonds.

In the event of any amendment or waiver of a provision of this Agreement, the Commission shall describe such amendment in the next Annual Financial Information and Audited Financial Statements, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for any of the Listed Events under Section 5(a), and (ii) the Annual Financial Information and Audited Financial Statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Agreement shall be deemed to prevent the Commission from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events, in addition to that which is required by this Agreement. If the Commission chooses to include any information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events in addition to that which is specifically required by this Agreement, the Commission shall have no obligation under this Agreement to update such information or include it in any future Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events.

SECTION 10. Default. In the event of a failure of the Commission to comply with any provision of this Agreement (and, at the request of the Original Purchaser), any Holder or Beneficial Owner of the 2010 Series Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Commission to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Agreement in the event of any failure of the Commission to comply with this Agreement shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination. The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement, and, to the extent permitted by law, the Commission agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's gross negligence or willful misconduct. The obligations of the Commission under this Section shall survive resignation or removal of the Dissemination Agent and payment of the 2010 Series Bonds.

SECTION 12. Notices. Any notices or communications to or among any of the parties to the Agreement may be given as follows:

To the Commission: West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, East, Suite 700
Charleston, WV 25301

To the Dissemination Agent: _____
_____
_____

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 13. Beneficiaries. This Agreement shall inure solely to the benefit of the Commission, the Dissemination Agent, the Underwriters and holders and beneficial owners from time to time of the 2010 Series Bonds, and shall create no rights in any other person or entity.

SECTION 14. Counterparts. The Agreement 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 15. Fees. The Commission agrees to pay all fees and expenses of the Dissemination Agent including, without limitation, all reasonable expenses, charges, costs, attorney's fees and other disbursements in the administration and performance of the Dissemination Agent's duties.

SECTION 16. Right to Resign. The Dissemination Agent may resign at any time by providing thirty (30) days' written notice to the Commission.

SECTION 17. Right to Counsel. The Dissemination Agent shall have the right to consult with counsel in carrying out its duties under the Agreement and to rely upon an opinion of counsel.

IN WITNESS WHEREOF, the Commission and the Dissemination Agent have caused this Agreement to be executed by its duly authorized representatives, all as of the date first above written.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Chancellor

_____, as Dissemination Agent

By: _____

Its: _____

Date: December 23, 2010

EXHIBIT A

NOTICE TO REPOSITORIES
OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: West Virginia Higher Education Policy Commission

Name of Bond Issues: $16,040,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax – Exempt);
$50,160,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds); and
$10,090,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable)

Name of Borrower: West Virginia Higher Education Policy Commission

Date of Bond Issue: December 23, 2010

NOTICE IS HEREBY GIVEN that the Commission has not provided an Annual Report with respect to the above-named Series 2010 Bonds as required by Section 3(b) of this Continuing Disclosure Agreement dated as of December 23, 2010, to be provided. The Commission anticipates that the Annual Report will be filed by _____, 20__.

Dated: _____, 20__

_____, as Dissemination Agent
on behalf of the Commission

cc: Commission

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APPENDIX J

BOOK-ENTRY ONLY SYSTEM

DTC Supplied Disclosure of Book Entry Only System

The following information about the book-entry-only system applicable to the 2010 Series Bonds has been supplied by The Depository Trust Company ("DTC"), New York, New York. DTC. Neither the Issuer, the Registrar nor Paying Agent makes any representations, warranties or guarantees with respect to its accuracy or completeness.

1. DTC will act as securities depository for the 2010 Series Bonds. 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 Bond certificate will be issued for each maturity of the 2010 Series Bonds, in the aggregate principal amount of the 2010 Series Bonds and will be deposited with DTC.

2. DTC, the world's largest securities 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 100 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, Fixed Income Clearing Corporation and Emerging Markets Clearing Corporation (NSCC, FICC, 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 and www.dtc.org.

3. Purchases of 2010 Series Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2010 Series Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("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 2010 Series Bonds 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 2010 Series Bonds, except in the event that use of the book-entry system for the 2010 Series Bonds is discontinued.

4. To facilitate subsequent transfers, all 2010 Series Bonds 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 2010 Series Bonds 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 2010 Series Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2010 Series Bonds 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 the 2010 Series Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2010 Series Bonds, such as redemptions, tenders, defaults, and proposed amendments to the bond documents. For example, Beneficial Owners of 2010 Series Bonds may wish to ascertain that the nominee holding the 2010 Series Bonds 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 2010 Series Bonds 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 the 2010 Series Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. 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 2010 Series Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and interest payments on the 2010 Series Bonds 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 the Issuer or the Paying Agent, on the 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 2010 Series Bonds 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, the Registrar or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Paying 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. DTC may discontinue providing its services as securities depository with respect to the 2010 Series Bonds at any time by giving reasonable notice to the Issuer or the Registrar. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

10. The Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

11. The information in this exhibit concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

No Assurances Regarding DTC Practices

The Issuer, the Paying Agent and the Registrar cannot and do not give any assurances that the DTC, the Direct Participants or the Indirect Participants will distribute to the Beneficial Owners of the 2010 Series Bonds (1) payments of principal of or interest and premium, if any on the 2010 Series Bonds, (2) confirmations of beneficial interest in the 2010 Series Bonds, or (3) redemption or other notices sent to DTC or Cede & Co., its nominee, as registered owner of the 2010 Series Bonds, or that they will do so on a timely basis, or that DTC, DTC participants or Indirect Participants will serve and act in the same manner as described in this Official Statement. The current "rules" applicable to DTC are on file with the Securities and Exchange Commission, and the current procedures of the DTC to be followed in dealing with Direct Participants are on file with DTC.

Neither the Issuer, the Paying Agent nor the Registrar shall have any authority or obligation to any Direct Participant, Indirect Participant, Beneficial Owner or other person with respect to (1) the accuracy of any records maintained by the DTC or any Participant; (2) the payment by DTC or any Participant of any amount due to any Beneficial Owner in respect of the principal amount or redemption price or interest on the 2010 Series Bonds; (3) the delivery by DTC or any Participant of any notice to any Beneficial Owner which is required or permitted

under the terms of the 2010 Series Bonds Resolution to be given to the Bondholders; or (4) the selection of the Beneficial Owners to receive payment in excess of any partial redemption of the 2010 Series Bonds.

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Printed by:
DigitalMuni

NEW ISSUE – Book-Entry-Only **(See "RATINGS" herein)**

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 2010 Series A Bonds is excludable 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 2010 Series A 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 of certain corporations for purposes of calculating the federal corporate alternative minimum taken into account in determining the taxable income. In the further opinion of Bond Counsel, interest on the 2010 Series B and 2010 Series C Bonds will be included in gross income of the owners thereof for purposes of federal income taxation. In addition, under the Act, the 2010 Series Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof. See "TAX MATTERS" herein for a description of certain provisions of the Code which may affect the tax treatment of interest on the 2010 Bonds for certain bondholders.

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

$16,520,000
Revenue Bonds
(Higher Education Facilities)
2010 Series A
(Tax-Exempt)

$50,265,000
Revenue Bonds
(Higher Education Facilities)
2010 Series B
(Federally Taxable - Issuer Subsidy - Build America Bonds)

$10,080,000
Revenue Bonds
(Higher Education Facilities)
2010 Series C
(Taxable)

Dated: Date of Delivery **Due: April 1, as shown on the inside cover**

The State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt) (the "2010 Series A Bonds"), Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) (the "2010 Series B Bonds"), and Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (the "2010 Series C Bonds" and, together with the 2010 Series A Bonds and the 2010 Series B Bonds, the "2010 Series Bonds") are issued to provide funds to acquire, construct, improve and equip certain higher education facilities. The 2010 Series Bonds are being issued by the West Virginia Higher Education Policy Commission (the "Commission") pursuant to the Prior General Resolution, the Fifth Consolidated Supplemental Resolution, the provisions of Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), Senate Concurrent Resolution 41 adopted on March 13, 2010, Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended (the "Lottery Act") and Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended, as applicable.

The Commission has elected to designate the 2010 Series B Bonds as "Build America Bonds" for purposes of the American Recovery and Reinvestment Act of 2009 and to receive a cash subsidy from the United States Treasury equal to 35% of the interest payable on the 2010 Series B Bonds. See "THE 2010 SERIES BONDS - Build America Bonds." The Commission expects to receive cash subsidy payments from the United States Treasury equal to 35% of the interest payable on the 2010 Series B Bonds. Bondholders will not be eligible to receive tax credits with respect to the 2010 Series B Bonds. The 2010 Series B Bonds are additionally payable from and secured by the cash subsidy payments to be received by the Commission with respect to such 2010 Series B Bonds, as applicable, from the United States Treasury pursuant to the Internal Revenue Code of 1986, as amended.

The 2010 Series Bonds will be issued as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the 2010 Series Bonds. Purchases of the 2010 Series 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 2010 Series Bonds will be made to purchasers. Unless otherwise provided herein, payments of the principal, interest and premium, if any, will be made to purchasers by DTC through its participants. See "The 2010 Series Bonds - Book-Entry Only System." The West Virginia Municipal Bond Commission, Charleston, West Virginia, will act as the Paying Agent, and Wells Fargo Bank, Pittsburgh, Pennsylvania, will act as the Registrar.

The maturities, interest rates and yields of the 2010 Series Bonds are shown on the inside cover hereof. Interest on the 2010 Series Bonds will be payable on each April 1 and October 1, commencing April 1, 2011. **The 2010 Series Bonds are subject to redemption prior to maturity in the manner set forth herein and are subject to adjustment and reallocation within each series.**

The 2010 Series Bonds Debt Service is payable solely from the Revenues (as described herein). The 2010 Series Bonds are secured ratably by a first lien on all Revenues, which is on parity as to lien and source of payment with the Prior Bonds and Additional Bonds issued under the General Resolution. The 2010 Series B Bonds are also secured by the Interest Subsidy Reserve Fund (as hereinafter defined). See "Security for the 2010 Series Bonds."

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED TO SECURE THE 2010 SERIES BONDS. THE COMMISSION HAS NO TAXING POWER.

This cover page contains certain summary information regarding the 2010 Series Bonds and is not a complete summary of the 2010 Series Bonds or the security pledged therefor. Investors should read the entire Official Statement, particularly "Investment Considerations" (including the Appendices), to obtain information necessary to make an informed decision. The capitalized terms not otherwise defined in this cover page have the same meaning as that meaning assigned to them elsewhere in this Official Statement.

The 2010 Series Bonds will be 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 Bruce R. Walker, Esq., Charleston, West Virginia, general counsel to the Commission and by Goodwin & Goodwin, LLP, Charleston, West Virginia, counsel to the Underwriters. It is expected that the 2010 Series Bonds will be available for delivery to The Depository Trust Company in New York, New York, on or about December 23, 2010.

Citi **Crews & Associates, Inc.** **Raymond James & Associates, Inc.**

Dated: December 17, 2010

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

MATURITIES, AMOUNTS, INTEREST RATES AND PRICE OR YIELDS

$16,520,000 Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax-Exempt)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield	CUSIP No.**
2018	$235,000	3.500%	3.680%	95639RDV8
2019	1,735,000	3.750%	3.980%	95639RDS5
2020	1,800,000	4.000%	4.250%	95639RDT3

$12,750,000 5.000% 2010 Series A Term Bond due April 1, 2026 at a yield of 5.100% CUSIP No. 95639RDU0**

$50,265,000 Revenue Bonds (Higher Education Facilities)
2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds)

$10,800,000 7.450% 2010 Series B Term Bond due April 1, 2030 at a price of 100% CUSIP No. 95639RDW6**
$39,465,000 7.650% 2010 Series B Term Bond due April 1, 2040 at a price of 100% CUSIP No. 95639RDX4**

$10,080,000 Revenue Bonds (Higher Education Facilities)
2010 Series C (Taxable)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield	CUSIP No.**
2012	$1,340,000	2.140%	100%	95639RDY2
2013	1,370,000	2.740%	100%	95639RDZ9
2014	1,405,000	3.330%	100%	95639REA3
2015	1,455,000	3.930%	100%	95639REB1
2016	1,510,000	4.390%	100%	95639REC9
2017	1,580,000	4.840%	100%	95639RED7
2018	1,420,000	5.280%	100%	95639REE5

** CUSIP numbers have been assigned by an independent company not affiliated with the Commission and are included on this cover page solely for the convenience of the Owners of the 2010 Series Bonds only at the time of issuance of the 2010 Series Bonds. Neither the Underwriters nor the Commission makes any representation with respect to the accuracy of such CUSIP numbers as indicated in the above table or undertakes any responsibility for the selection of the CUSIP numbers or their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the 2010 Series Bonds.

REGARDING THE USE OF THIS OFFICIAL STATEMENT

THE UNDERWRITERS HAVE PROVIDED THE FOLLOWING SENTENCE FOR INCLUSION IN THIS OFFICIAL STATEMENT: THE UNDERWRITERS HAVE REVIEWED THE INFORMATION IN THIS OFFICIAL STATEMENT IN ACCORDANCE WITH, AND AS PART OF, THEIR RESPONSIBILITIES TO INVESTORS UNDER THE FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITERS DO NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

CERTAIN STATEMENTS CONTAINED IN THIS OFFICIAL STATEMENT DO NOT REFLECT HISTORICAL FACTS, BUT REFLECT FORECASTS AND "FORWARD-LOOKING STATEMENTS" WITHIN THE MEANING OF THE UNITED STATES PRIVATE SECURITIES LITIGATION ACT OF 1995, THE UNITED STATES SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. IN THIS RESPECT, THE WORDS "ESTIMATE," "PROJECT," "ANTICIPATE," "EXPECT," "INTEND," "BELIEVE" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. ALL PROJECTIONS, FORECASTS, ASSUMPTIONS, EXPRESSIONS OF OPINIONS, ESTIMATES AND OTHER FORWARD-LOOKING STATEMENTS ARE EXPRESSLY QUALIFIED IN THEIR ENTIRETY BY THE CAUTIONARY STATEMENTS SET FORTH IN THIS OFFICIAL STATEMENT.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE COMMISSION DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS CHANGE, OR UNFORSEEN EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

THE INFORMATION UNDER THE HEADINGS "THE COMMISSION" AND "WEST VIRGINIA HIGHER EDUCATION" HAS BEEN OBTAINED FROM THE COMMISSION. OTHER INFORMATION SET FORTH HEREIN HAS BEEN OBTAINED FROM THE STATE LOTTERY COMMISSION ("LOTTERY COMMISSION"), PUBLIC DOCUMENTS, RECORDS AND OTHER SOURCES THAT ARE DEEMED TO BE RELIABLE, BUT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS BY, AND IS NOT TO BE CONSTRUED AS A REPRESENTATION BY THE COMMISSION OR THE UNDERWRITERS. THE INFORMATION AND EXPRESSIONS OF OPINIONS HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE, AND NEITHER DELIVERY OF THIS OFFICIAL STATEMENT NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMMISSION, THE WEST VIRGINIA LOTTERY OR THE LOTTERY COMMISSION SINCE THE DATE HEREOF. STATEMENTS CONTAINED IN THIS OFFICIAL STATEMENT WHICH INVOLVE ESTIMATES, FORECASTS, OR MATTERS OF OPINION, WHETHER OR NOT

EXPRESSLY DESCRIBED HEREIN, ARE INTENDED SOLELY AS SUCH AND ARE NOT TO BE CONSTRUED AS REPRESENTATIONS OF FACTS.

NO DEALER, BROKER, SALESPERSON OR ANY OTHER PERSON HAS BEEN AUTHORIZED BY THE COMMISSION OR THE UNDERWRITERS TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THOSE CONTAINED IN THIS OFFICIAL STATEMENT, IN CONNECTION WITH THE OFFERING OF THE 2010 SERIES BONDS, AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE FOREGOING. THIS OFFICIAL STATEMENT DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY, NOR SHALL THERE BE ANY SALE OF THE 2010 SERIES BONDS BY ANY PERSON IN ANY STATE IN WHICH IT IS UNLAWFUL FOR SUCH PERSON TO MAKE SUCH OFFER, SOLICITATION OR SALE. THE INFORMATION HEREIN IS SUBJECT TO CHANGE WITHOUT NOTICE, AND NEITHER THE DELIVERY OF THIS OFFICIAL STATEMENT NOR THE SALE OF ANY OF THE 2010 SERIES BONDS HEREUNDER SHALL UNDER ANY CIRCUMSTANCES CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE COMMISSION, THE WEST VIRGINIA LOTTERY, THE LOTTERY COMMISSION, THE PROJECTS OR OTHER MATTERS DESCRIBED HEREIN SINCE THE DATE HEREOF.

THE 2010 SERIES BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXEMPTION CONTAINED IN SUCH ACT. THE GENERAL RESOLUTION (AS DEFINDED HEREIN) HAS NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON AN EXEMPTION CONTAINED IN SUCH ACT. THE REGISTRATION OR QUALIFICATION OF THE 2010 SERIES BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE SECURITIES LAWS OF THE STATES, IF ANY, IN WHICH THE 2010 SERIES 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 2010 SERIES 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 COMMISSION, THE WEST VIRGINIA LOTTERY, THE LOTTERY COMMISSION AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED.

IN CONNECTION WITH THE OFFERING OF THE 2010 SERIES BONDS, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF SUCH 2010 SERIES BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

MEMBERS OF THE WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

DAVID K. HENDRICKSON, ESQ. –Chairman

DR. BRUCE BERRY – Vice Chairman

KATHY G. EDDY – Secretary

JENNY ALLEN

BOB BROWN, Ex-Officio, Chair, West Virginia Council for Community and Technical College Education

JOHN ESTEP

KAY H. GOODWIN, Ex-Officio, Secretary of Education and the Arts

DR. JOHN LEON

DR. STEVEN L. PAINE, Ex-Officio, State Superintendent of Schools

DAVID RICHARD TYSON, ESQ.

ADMINISTRATIVE OFFICERS

DR. BRIAN NOLAND, Chancellor of Higher Education for West Virginia

DR. KEVIN WALTHERS, Vice Chancellor for Administration

RICHARD B. DONOVAN, Director of Finance & Facilities

TERRY L. HESS, Assistant Director of Finance & Facilities

BRUCE RAY WALKER, General Counsel

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SUMMARY

The Summary is only intended to provide a brief summary of certain information contained in the Official Statement. It does not purport to be a complete description or explanation of the information contained in the Official Statement. Investors should read the entire Official Statement (including the cover page and Appendices) to obtain information necessary to make an informed decision. The capitalized terms not otherwise defined in this Summary have the same meaning as that meaning assigned to them elsewhere in this Official Statement.

The Issuer

West Virginia Higher Education Policy Commission (the "Commission"). See "The Commission."

The Offering

The Commission is offering its (i) State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), in an aggregate principal amount of $16,520,000 (the "2010 Series A Bonds"), (ii) Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds), in an aggregate principal amount of $50,265,000 (the "2010 Series B Bonds"), and (iii) Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable), in an aggregate principal amount of $10,080,000 (the "2010 Series C Bonds" and, together with the 2010 Series A Bonds and the 2010 Series B Bonds, the "2010 Series Bonds"). See "THE 2010 SERIES BONDS."

Authority

The Commission adopted its Fifth Consolidated Supplemental Resolution on December 3, 2010, which authorized the issuance of the 2010 Series Bonds (the "2010 Series Resolution"). The 2010 Series Resolution supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Prior General Resolution, as supplemented by the 2010 Series Resolution, is collectively referred to herein as the "General Resolution." The 2010 Series Bonds are being issued pursuant to the General Resolution and under Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), Chapter 29, Article 22 of the Code of West Virginia, as amended (the "Lottery Act"), Senate Concurrent Resolution 41, Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended, as applicable, and other applicable provisions of law. A list of the various resolutions that comprise the General Resolution, as well as a list of the bonds that were respectively issued

thereunder, is included in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION."

Ratings

Moody's: "Aa3"
Standard & Poor's: "A+" See "RATINGS."

Plan of Finance

The 2010 Series Bonds are being issued to provide funds to (i) fund the 2010 Projects, as more fully described in Appendix B hereto, (ii) fund an interest subsidy reserve fund for the benefit of the 2010 Series B Bonds, and (iii) pay the costs associated with the issuance of the 2010 Series Bonds.

Security and Source of Payment

The principal of, premium, if any, and interest on the 2010 Series Bonds (the "2010 Series Bonds Debt Service") is payable solely from the Revenues. The 2010 Series Bonds are secured ratably by a first lien on Revenues, which is on parity as to lien and source of payment with the 1998 University Bonds, the 2000A University Bonds, the 2003 University Bonds, the 2003 College Bonds, the 2004 B Bonds and the 2007 Series A Bonds (collectively, the "Prior Bonds"), as such Prior Bonds are individually defined in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION," and any Additional Bonds issued under the General Resolution. See "PLAN OF FINANCE" and "SECURITY FOR THE 2010 SERIES BONDS."

Pursuant to Senate Bill 612, effective March 13, 2010, the legislature increased the amount deposited annually in the Higher Education Improvement Fund, created under the Lottery Act, as hereinafter defined, from $10 million to $15 million, and the Commission will pledge the entire $15 million amount toward the payment of the 2010 Bonds and the Prior Bonds.

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED TO SECURE THE 2010 SERIES BONDS. THE COMMISSION HAS NO TAXING POWER.

Additional Bonds

Under the terms of the General Resolution, the Commission may issue Additional Bonds on parity as to lien and source of payment

with the 2010 Series Bonds and the Prior Bonds, collectively referred to as the "Bonds," assuming certain conditions are met. See APPENDIX G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS." The Commission may also issue other obligations subordinate as to lien and source of payment with the Bonds.

Revenue Covenant

The Commission has covenanted to fix and otherwise provide for the collection of Revenues, including Subsidy Receipts for the 2010 Series B Bonds, in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period, as those terms are defined in the General Resolution and the 2010 Series Resolution. See APPENDIX G - "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS."

Redemption of Bonds:

The 2010 Series Bonds are subject to optional, mandatory and extraordinary optional redemption prior to their stated maturities as set forth in "THE 2010 SERIES BONDS – Redemption."

Tax Matters

In the opinion of Bond Counsel, under existing law and assuming compliance with certain covenants, interest on the 2010 Series A Bonds is excluded from gross income for federal income tax purposes, is not treated as an item of tax preference for purposes of the alternative minimum income tax imposed on individuals and corporations under the Code and shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof. Interest on the 2010 Series B and 2010 Series C Bonds is <u>not</u> excluded from gross income for federal income tax purposes, but shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof. See "TAX MATTERS."

Continuing Disclosure

Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended, generally prohibits an underwriter from purchasing or selling municipal securities in an initial offering unless it has determined that the issuer of such securities has committed to provide, annually, certain information, including audited financial information, and notice of various events, if material. To enable the Underwriters to comply with the provisions of Rule 15c2-12, the Commission will enter into a Continuing Disclosure Agreement to provide continuing disclosure regarding the 2010 Series Bonds. See "CONTINUING DISCLOSURE."

General

This Official Statement speaks only as of its date, and the information contained herein is subject to change. All summaries of documents and agreements in this Official Statement are qualified in their entirety by reference to such documents and

agreements, copies of which are available from the Commission. The offering of the 2010 Series Bonds is made only by the entire Official Statement, including all of its Appendices. No person is authorized to make offers to sell, or solicit offers to buy, the 2010 Series Bonds unless the entire Official Statement is delivered in connection therewith.

Information

Information regarding the 2010 Series Bonds is available by contacting the West Virginia Higher Education Policy Commission, 1018 Kanawha Blvd., East, Suite 700, Charleston, WV 25301, (304) 558-2101, or the Representative of the Underwriters, Citigroup Global Markets Inc., 390 Greenwich Street, 2nd Floor, New York, NY 10013, (212) 723-7093, Attention: Municipal Syndicate.

OFFICIAL STATEMENT

Relating to

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

$16,520,000	$50,265,000	$10,080,000
Revenue Bonds	**Revenue Bonds**	**Revenue Bonds**
(Higher Education Facilities)	**(Higher Education Facilities)**	**(Higher Education Facilities)**
2010 Series A	**2010 Series B**	**2010 Series C**
(Tax-Exempt)	**(Federally Taxable - Issuer Subsidy - Build America Bonds)**	**(Taxable)**

INTRODUCTION

The Introduction is furnished solely to provide limited introductory information about the 2010 Series Bonds. It is not a summary of the Official Statement. Terms used in this Introduction and not otherwise defined shall have the respective meanings assigned to them elsewhere in this Official Statement.

This Official Statement of the Commission, including the cover page and appendices, is provided for the purpose of furnishing information concerning the Commission and 2010 Series Bonds.

The Commission adopted the 2010 Series Resolution on December 3, 2010. The 2010 Series Resolution supplemented the Prior General Resolution.

The 2010 Series Bonds are being issued pursuant to the General Resolution, the Act, the Lottery Act and other applicable provisions of law. A list of the various resolutions that comprise the General Resolution, as well as a list of the bonds that were respectively issued thereunder, is included in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION."

The proceeds of the 2010 Series Bonds will be used, together with other available funds, to: (i) fund the 2010 Projects, (ii) fund an interest subsidy reserve fund, and (iii) pay the costs associated with the issuance of the 2010 Series Bonds.

The principal of, premium, if any, and interest on the 2010 Series Bonds ("the 2010 Series Bonds Debt Service") is payable solely from the Revenues and, for the 2010 Series B Bonds only, the Interest Subsidy Reserve Fund.

The Revenues are comprised of: (i) 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; (ii) the component part of the required

educational and general capital fees of the Institutions, as listed in Appendix A, that constituted registration and tuition fees in effect as of March 21, 2004 (the "Pledged Educational and General Capital Fees"); (iii) excess lottery revenues deposited into the higher education improvement fund as provided for in the Lottery Act, as hereafter defined (the "Pledged Excess Lottery Revenues"); and (iv) Subsidy Receipts received from the United States Treasury contemporaneously with each interest payment date for the 2010 Series B Bonds ("Subsidy Receipts"). See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION." Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended is referred to herein as the "Lottery Act."

Following revisions to the Act that reclassified the fees that Institutions could charge to their students, the registration and tuition fees included in clause (i) of the description of Revenues above are no longer separately collected, but are now designated and imposed as Pledged Educational and General Capital Fees. Nevertheless, these registration and tuition fees remain pledged as security for the Bonds. The Commission is unaware of any plans by any West Virginia Institutions of Higher Education (each an "Institution" and collectively, the "Institutions") to impose any registration and tuition fees in the future. The current practice of not imposing registration and tuition fees does not, however, affect the legal validity of the pledge of such fees as security for the Bonds. Accordingly, if registration and tuition fees are imposed in the future, they will constitute a source of funds available for payment of debt service on the Bonds in addition to the fees currently being imposed. Nevertheless, the Pledged Educational and General Capital Fees, the Pledged Excess Lottery Revenues and, for the 2010 Series B Bonds only, the Subsidy Receipts, are presently the sole sources of funds available for payment of debt service on the Bonds.

The 2010 Series Bonds are secured ratably by a first lien on Revenues, which is on parity as to lien and source of payment with the Prior Bonds, as previously defined, and with the 2010 Series Bonds and any Additional Bonds, the "Bonds") as such Prior Bonds are individually defined in APPENDIX D – "INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION." See also "PLAN OF FINANCE", "SECURITY FOR THE 2010 SERIES BONDS" and "THE COMMISSION – History and Experience of Commission in the Issuance of Bonds."

The Commission is the successor to the University of West Virginia Board of Trustees (the "Board of Trustees") and the Board of Directors of the State College System (the "Board of Directors"). The Commission is responsible for developing, overseeing and implementing a higher education public policy agenda and other duties as specifically set forth in the Act. The Commission has the authority to assess each State Institution of Higher Education for payment of the debt service on the Bonds, including the 2010 Series Bonds. See "THE COMMISSION."

Pursuant to Senate Bill 448, effective March 13, 2004, the Legislature separated the State's community and technical college institutions from the baccalaureate and graduate institutions, created independent, accredited community and technical colleges in every region of the State, and directed the universities, colleges and community and technical colleges to have focused missions, individual points of distinction and quality and strong links with the educational, economic and social revitalization of their regions and provide greater access and capacity to deliver technical education, workforce development and other higher education services to place-bound adults to improve the general levels of post-secondary educational attainment and literacy.

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED TO SECURE THE 2010 SERIES BONDS. THE COMMISSION HAS NO TAXING POWER.

All capitalized terms used in this Official Statement that are defined in the General Resolution shall have the respective meanings set forth therein. See APPENDIX G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS" herein. The references to and summaries and descriptions of the Act, The Lottery Act, the General Resolution, the 2010 Series Bonds, and the other statutes, instruments and documents which are included in this Official Statement do not purport to be comprehensive or definitive, and such summaries, references and descriptions are qualified in their entireties by references to the appropriate statute, instrument or document.

THE 2010 SERIES BONDS

General

The 2010 Series Bonds will be dated the date of delivery and will bear interest from such date. Ownership interests in the 2010 Series Bonds will be in denominations of $5,000 or any integral multiple thereof. Interest with respect to the 2010 Series Bonds will be computed using a year of 360 days comprised of twelve 30-day months and is payable on April 1 and October 1 of each year, commencing April 1, 2011. The 2010 Series 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.

Build America Bonds

The Commission has elected to designate the 2010 Series B Bonds as "Build America Bonds" for purposes of the American Recovery and Reinvestment Act of 2009 ("ARRA") and to receive payments ("Subsidy Receipts") from the United States Treasury in connection therewith.

In February 2009, as part of ARRA, Congress added provisions to the Internal Revenue Code of 1986, as amended (the "Code"), which permit state or local governments to obtain certain tax advantages when issuing taxable obligations that meet certain requirements of the Code and the related Treasury Regulations. Section 54AA authorized the issuance of "Build America Bonds". Build America Bonds are qualified bonds for purposes of Section 6431 of the Code if they meet certain requirements of the Code and the related Treasury Regulations and the Commission has made an irrevocable election to have the special rule for qualified bonds apply.

The Series 2010 Series B Bonds are designated as "Build America Bonds". The Commission expects to receive a cash subsidy payment from the United States Treasury equal to

35% of the interest payable on the 2010 Series B Bonds on or about each interest payment date (a "Direct Payment"). The Direct Payments to the Commission do not constitute full faith and credit guarantees of the 2010 Series B Bonds by the United States. The Direct Payments, if received by the Commission, will be applied to the payment of debt service on the 2010 Series B Bonds in accordance with the terms of the 2010 Series Resolution. The Commission is obligated to make all payments of principal and interest on the 2010 Series B Bonds whether or not it receives the Direct Payments. To receive each Direct Payment, the Commission must file Form 8038-CP with the Internal Revenue Service. No assurances can be given that the Commission will receive the Direct Payments. The amount and receipt of any Direct Payment is subject to future changes in legislation or Treasury regulations, the Commission's filings of Form 8038-CP and any offset against certain amounts that may, for unrelated reasons, be owed by the Commission to the federal government.

If the Commission fails to timely file Form 8038-CP to receive a Direct Payment, it is possible that the Commission will receive a Direct Payment after the related interest payment date. It is for this reason that the Commission has established the Interest Subsidy Reserve Fund. Direct Payments will only be paid with respect to the 2010 Series B Bonds if the Commission complies with certain covenants and establishes certain facts and expectations with respect to the 2010 Series B Bonds regarding the use and investment of proceeds thereof and the use of property financed thereby.

Holders of the 2010 Series B Bonds will not be eligible to receive tax credits with respect to such bonds. Interest on the 2010 Series B Bonds will not be excluded from the gross income of the beneficial owners thereof for purposes of the federal income tax. Beneficial owners of the 2010 Series B Bonds should consult their tax advisors with respect to the inclusion of interest on such bonds in gross income for federal income tax purposes. See "TAX MATTERS."

So long as the 2010 Series B Bonds are outstanding, the Commission shall maintain the Interest Subsidy Reserve Fund with the Municipal Bond Commission or a corporate trustee. On the date of issuance of 2010 Series B Bonds, there shall be deposited to the credit of the Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not received by the Commission in connection with the 2010 Series B Bonds on or before any interest payment date, the Municipal Bond Commission or a corporate trustee shall apply an amount on deposit in the Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date as claimed by the Commission on Form 8038-CP. Any amounts paid from the Interest Subsidy Reserve Fund shall be repaid by the Commission to the Interest Subsidy Reserve Fund immediately upon receipt of any Subsidy Receipt.

The Subsidy Receipts do not constitute a full faith and credit guarantee of the United States of America but are required to be paid by the United States Treasury under ARRA. If the Subsidy Receipts from the United States Treasury are reduced or eliminated, the 2010 Series B Bonds are subject to extraordinary optional redemption. See "THE 2010 SERIES BONDS – Redemption" herein.

Book-Entry Only System

The 2010 Series Bonds will be issued as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company, ("DTC"), New York, New York. DTC will act as securities depository for the 2010 Series Bonds. Purchases of the 2010 Series 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 2010 Series Bonds will be made to purchasers. Unless otherwise provided herein, payments of the principal, interest and premium, if any, will be made to purchasers by DTC through its participants.

Except as otherwise provided herein or APPENDIX J – "BOOK-ENTRY ONLY SYSTEM", each actual purchaser of each 2010 Series Bonds ("Beneficial Owner") will not be or be considered to be, and will not have any rights as, owners or holders of the 2010 Series Bonds under the General Resolution. For additional information about DTC and the book-entry-only system see APPENDIX J – "BOOK-ENTRY ONLY SYSTEM."

Redemption

Optional Redemption of the 2010 Series Bonds. The 2010 Series A Bonds maturing on April 1, 2026 are subject to redemption at the option of the Commission, prior to maturity, in whole or in part at any time on or after April 1, 2020 from amounts deposited with the West Virginia Municipal Bond Commission (the "Municipal Bond Commission") as Paying Agent by the Commission and from other funds available therefor at a redemption price of par, plus accrued interest to the date fixed for redemption. The 2010 Series B Bonds are subject to an Optional Make-Whole Redemption (as provided below) and an Extraordinary Optional Redemption as provided below. The 2010 Series C Bonds are not subject to redemption prior to maturity.

Optional Make-Whole Redemption. The 2010 Series B Bonds shall be subject to optional redemption prior to maturity, at the option of the Commission, in whole or in part, on any Business Day, at the Make-Whole Redemption Price, which is equal to the greater of (i) 100% of the principal amount of the 2010 Series B Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of the 2010 Series B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 Series B Bonds are to be redeemed, discounted to the date on which the 2010 Series B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (hereinafter defined) plus 0.50%, plus accrued and unpaid interest on the 2010 Series B Bonds to be redeemed on the Redemption Date.

Extraordinary Optional Redemption. The 2010 Series B Bonds are subject to redemption prior to their maturity at the option of the Commission, in whole or in part (in $5,000 increments), upon the occurrence of the Extraordinary Event at a redemption price equal to the greater of:

1) 100% of the principal amount of the 2010 Series B Bonds to be redeemed; and
2) The sum of the present value of the remaining scheduled payments of principal

and interest to the maturity date of the 2010 Series B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the 2010 Series B Bonds are to be redeemed, discounted to the date on which the 2010 Series B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate, plus 1.00%;

plus, in each case, accrued interest on the 2010 Series B Bonds to be redeemed to the redemption date.

An "Extraordinary Event" will have occurred if a material adverse change has occurred to Section 54AA or 6431 of the Code (as such Sections were added by Section 1531 of the Recovery Act, pertaining to "Build America Bonds") pursuant to which the Commission's 35% cash subsidy payment from the Treasury is reduced or eliminated with respect to the 2010 Series B Bonds.

"Treasury Rate" means, with respect to any redemption date for a particular 2010 Series B Bond, the yield to maturity as of such redemption date of Treasury securities with a constant maturity excluding inflation indexed securities (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to the maturity date of the 2010 Series B Bond to be redeemed; provided, however, that if the period from the redemption date to such maturity date is less than one year, the weekly average yield on actually traded Treasury securities adjusted to a constant maturity of one year will be used.

At the request of the Trustee, the redemption price of the 2010 Series B Bonds to be redeemed at the option of the Commission will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the Commission at the Commission's expense to calculate such redemption price. The Trustee and the Commission may conclusively rely on the determination of such redemption price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

Mandatory Sinking Fund Redemption of the 2010 Series A Bonds. The 2010 Series A Bonds maturing April 1, 2026 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2021	$1,875,000
2022	1,970,000
2023	2,065,000
2024	2,170,000
2025	2,280,000
2026*	2,390,000

* Denotes Final Maturity

Mandatory Sinking Fund Redemption of the 2010 Series B Bonds. The 2010 Series B Bonds maturing April 1, 2030 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2027	$2,510,000
2028	2,635,000
2029	2,760,000
2030*	2,895,000

* Denotes Final Maturity

The 2010 Series B Bonds maturing April 1, 2040 shall be subject to mandatory annual sinking fund redemption of principal on April 1, in the years and in the amounts set forth below, without premium, plus interest accrued to the dates of such redemption.

Year	Principal
2031	$3,035,000
2032	3,185,000
2033	3,345,000
2034	3,510,000
2035	3,685,000
2036	3,870,000
2037	4,060,000
2038	4,265,000
2039	4,475,000
2040*	6,035,000

* Denotes Final Maturity

Notice of Redemption. Notice of redemption of the 2010 Series Bonds will be given by the Registrar by mailing a copy of such notice to DTC, as the registered owner of the 2010 Series Bonds, not less than thirty (30) days and not more than sixty (60) days prior to the redemption date. See "Summary" herein.

Negotiable Instruments

The Act provides that the 2010 Series Bonds shall constitute negotiable instruments under the West Virginia Uniform Commercial Code.

SOURCES AND USES OF FUNDS

The following table sets forth the sources and uses of funds:

Sources

Principal amount of the 2010 Series A Bonds	$ 16,520,000.00
Principal amount of the 2010 Series B Bonds	50,265,000.00
Principal amount of the 2010 Series C Bonds	10,080,000.00
Original Issue Discount	(200,113.95)
Total	$ 76,664,886.05

Uses

Deposit to Bond Proceeds Fund	$ 74,710,000.00
Deposit to Interest Subsidy Reserve Fund	1,338,285.38
Underwriters' Discount and Costs of Issuance Fund[1]	616,600.67
Total	$ 76,664,886.05

[1] Includes legal fees, underwriting fees, printing and miscellaneous costs relating to the issuance of the 2010 Series Bonds.

PLAN OF FINANCE

Proceeds of the 2010 Series Bonds will be applied to provide funds to (i) fund the 2010 Projects, (ii) fund an interest subsidy reserve fund for the benefit of the 2010 Series B Bonds and (iii) pay the costs associated with the issuance of the 2010 Series Bonds.

All Bonds issued under the General Resolution shall be payable from and equally and ratably secured by the Revenues in the manner set forth in General Resolution. See "SECURITY FOR THE 2010 SERIES BONDS."

The 2010 Projects consist of the new construction and facility improvements and renovations described more fully in Appendix B hereto. The 2010 Projects will be constructed with monies deposited in the Bond Proceeds Fund, along with amounts contributed by the Institutions for their specific projects. Funds on deposit in the Bond Proceeds Fund will be expended before any other monies or funds available for construction of the 2010 Projects.

DEBT SERVICE REQUIREMENTS

The following table sets forth, for each year as indicated, the amounts required annually for the payment of existing debt service on the Prior Bonds and the payment of principal and interest for the 2010 Series Bonds.

Year Ending	2010 Series Bonds			Existing	
(June 30)	Principal	Interest [1]	Debt Service [1] [2]	Debt Service [3]	Total
2011	-	995,270	995,270	28,235,813	29,231,082
2012	1,340,000	3,656,094	4,996,094	26,667,563	31,663,656
2013	1,370,000	3,627,418	4,997,418	23,909,038	28,906,455
2014	1,405,000	3,589,880	4,994,880	23,911,888	28,906,767
2015	1,455,000	3,543,093	4,998,093	23,911,788	28,909,881
2016	1,510,000	3,485,912	4,995,912	23,907,888	28,903,799
2017	1,580,000	3,419,623	4,999,623	22,724,488	27,724,110
2018	1,655,000	3,343,151	4,998,151	22,719,663	27,717,813
2019	1,735,000	3,259,950	4,994,950	22,721,263	27,716,212
2020	1,800,000	3,194,887	4,994,887	22,718,138	27,713,025
2021	1,875,000	3,122,887	4,997,887	22,719,438	27,717,325
2022	1,970,000	3,029,137	4,999,137	22,723,263	27,722,400
2023	2,065,000	2,930,637	4,995,637	22,722,538	27,718,175
2024	2,170,000	2,827,387	4,997,387	22,723,238	27,720,625
2025	2,280,000	2,718,887	4,998,887	22,719,138	27,718,025
2026	2,390,000	2,604,887	4,994,887	22,055,113	27,050,000
2027	2,510,000	2,485,387	4,995,387	22,055,675	27,051,062
2028	2,635,000	2,363,840	4,998,840	20,612,813	25,611,653
2029	2,760,000	2,236,241	4,996,241	16,797,250	21,793,491
2030	2,895,000	2,102,588	4,997,588	16,799,250	21,796,838
2031	3,035,000	1,962,397	4,997,397	16,797,500	21,794,897
2032	3,185,000	1,811,482	4,996,482	9,996,250	14,992,732
2033	3,345,000	1,653,108	4,998,108	9,999,500	14,997,608
2034	3,510,000	1,486,778	4,996,778	9,996,000	14,992,778
2035	3,685,000	1,312,243	4,997,243	-	4,997,243
2036	3,870,000	1,129,006	4,999,006	-	4,999,006
2037	4,060,000	936,570	4,996,570	-	4,996,570
2038	4,265,000	734,687	4,999,687	-	4,999,687
2039	4,475,000	522,610	4,997,610	-	4,997,610
2040	6,035,000	300,090	4,996,805	-	4,996,805
Total	**76,865,000**	**70,386,124**	**145,912,839**	**500,144,488**	**646,057,326**

[1] Interest is net of the 35% Build America Bond subsidy

[2] Debt service reflects the release of the Interest Subsidy Reserve Fund at the final maturity

[3] Represents Debt Service on all Prior Bonds that are on parity with the 2010 Series Bonds. Amounts do not include debt service associated with the Commission's 2009 Series A Community and Technical Colleges Capital Improvement Revenue Bonds which are not secured by the Revenues pledged herein.

SECURITY FOR THE 2010 SERIES BONDS

Pledge of Revenues

The debt service on the Bonds is payable solely from the Revenues. The 2010 Series Bonds are secured ratably by a first lien on the Revenues, which is on parity as to lien and source of payment with the Prior Bonds and any Additional Bonds. See "PLAN OF FINANCE."

The Revenues are comprised of: (i) 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; (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004; (iii) the Pledged Excess Lottery Revenues, as increased pursuant to Senate Bill 612; and (iv) Subsidy Receipts, only available for the 2010 Series B Bonds. See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION."

Following revisions to the Act that reclassified the fees that Institutions could charge to their students, the registration and tuition fees included in clause (i) of the description of Revenues above are no longer separately collected. Nevertheless, these registration and tuition fees remain pledged as security for the Bonds. The Commission is unaware of any plans by any Institution to impose any registration and tuition fees in the future. The current practice of not imposing registration and tuition fees does not, however, affect the legal validity of the pledge of such fees as security for the Bonds. Accordingly, if registration and tuition fees are imposed in the future, they will constitute a source of funds available for payment of debt service on the Bonds in addition to the fees currently being imposed. Nevertheless, the Pledged Educational and General Capital Fees, the Pledged Excess Lottery Revenues and, only for the 2010 Series B Bonds, the Subsidy Receipts, are presently the sole sources of funds available for payment of debt service on the Bonds.

THE 2010 SERIES BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION PAYABLE SOLELY FROM THE REVENUES. THE 2010 SERIES BONDS SHALL NOT BE DEEMED TO BE OBLIGATIONS OR DEBTS OF THE STATE OF WEST VIRGINIA OR THE COMMISSION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND THE CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA SHALL NOT BE DEEMED PLEDGED THEREFOR. THE COMMISSION HAS NO TAXING POWER.

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 available for the payment of debt service on Bonds issued by the Commission and its predecessors pursuant to the General Resolution shall be deposited in the respective capital

improvement funds and the debt service on the Bonds will be transferred semiannually to the Municipal Bond Commission or a corporate trustee and is pledged for the payment of the Bonds.

Under the Lottery Act, a special revenue fund named the State Excess Lottery Revenue Fund has been created in the State Treasury (the "Excess Lottery Revenue Fund.") The Excess Lottery Revenue Fund receives its revenues, primarily from two sources: (1) the Racetrack Video Lottery; and (2) the Limited Video Lottery. The Lottery Act provides that funds on deposit in the Excess Lottery Revenue Fund be disbursed by the Lottery Commission to certain funds, including the Higher Education Improvement Fund ("Higher Education Improvement Fund"), in the order of priority specified therein. See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION – Pledged Excess Lottery Revenues" herein. Specifically, the Lottery Act directs the Lottery Commission to transfer $15,000,000 to the Higher Education Improvement Fund annually, subject to available funds, for the benefit of higher education. Funds on deposit in the Higher Education Improvement Fund are then required to be deposited into the special capital improvement fund, pursuant to the terms of Section 18a of the Lottery Act and Senate Concurrent Resolution No. 41, and used to pay debt service on the Bonds in accordance with the General Resolution.

Pursuant to the Tenth University Supplemental Resolution and a Memorandum of Understanding, as amended (the "MOU") among the Commission, the Director of the West Virginia Lottery 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, 2004, 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 G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS."

Revenue Covenant

The Commission has covenanted to fix and otherwise provide for the collection of Revenues, which include Subsidy Receipts for the benefit of the 2010 Series B Bonds, in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period, as those terms are defined in the General Resolution and the 2010 Series Resolution. See APPENDIX G – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS."

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 parity with the lien of the Bonds issued from time to time pursuant to the General Resolution. The 2010 Series Bonds are authorized to be issued under the 2010 Series Resolution. The issuance of the 2010 Series Bonds meets the test for the issuance of a Series of Additional Bonds set forth in 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 constituted solely of Pledged Educational and General Capital Fees 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 paragraph (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.

Interest Subsidy Reserve Fund

Revenues shall include Subsidy Receipts from the United States Treasury paid contemporaneously with each interest payment date for the 2010 Series B Bonds, equal to 35% of the interest payable on the 2010 Series B Bonds on such date. This amount shall be for credit to the holders of the 2010 Series B Bonds.

On the date of issuance of 2010 Series B Bonds, there shall be deposited into the Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not received by the Commission in connection with the 2010 Series B Bonds on or before any interest payment date, the Municipal Bond Commission or a corporate trustee shall apply an amount on deposit in the Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date, as claimed by the Commission on its Form 8038-CP, for credit to the holders of the 2010 Series B Bonds.

REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION

Pledged Educational and General Capital Fees

As previously discussed, the Pledged Educational and General Capital Fees are part of the Revenues pledged to secure the Bonds and consist of the portion of the required educational and general capital fees that constituted registration and tuition fees in effect as of March 21, 2004. The required educational and general capital fees are only a portion of the overall student fees charged to students enrolled in Institutions.

In general, the student fees that are regularly charged to and collected from students enrolled at Institutions are comprised of three distinct components: (1) tuition and required educational and general fees; (2) auxiliary and auxiliary capital fees; and (3) required educational and general capital fees (the "Educational and General Capital Fees").

Pursuant to Senate Bill 448, effective March 13, 2004, the Legislature separated the State's community and technical college institutions from the baccalaureate and graduate institutions. The Institutions included in each category can be seen in Appendix A hereto.

The Pledged Educational and General Capital Fees do <u>not</u> constitute all of the Educational and General Capital Fees collected by the Institutions, but only those Educational and General Capital Fees that constituted registration and tuition fees in effect on March 21, 2004. Furthermore, the following fees are not part of the Revenues pledged for the payment of the Bonds: (i) fees constituting tuition fees collected at West Virginia University Health Sciences Center; (ii) fees constituting tuition and registration fees collected from students enrolled in West Virginia University graduate level extension and graduate level off-campus courses for credit taught off the campus of West Virginia University; (iii) fees constituting tuition fees collected at Blue Ridge Community and Technical College; Bridgemont Community and Technical College; Eastern West Virginia Community and Technical College; Kanawha Valley Community and Technical College; Mountwest Community and Technical College; New River Community and Technical College; Pierpont Community and Technical College; Southern West Virginia Community and Technical College; West Virginia Northern Community and Technical College; and West Virginia University at Parkersburg.

Collection of Educational and General Capital Fees

Pursuant to the Act, each Board of Governors is required to collect the Educational and General Capital Fees from students enrolled at their respective Institutions and deposit those fees into separate "capital improvement funds" maintained in the State Treasury.

Full-time students enrolled at each Institution are required by the Act to pay Education and General Capital Fees. 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. However, no additional Educational and General Capital Fees are collected from students taking more than 12 credit hours or from graduate students taking more than 9 hours.

The Commission has covenanted to diligently enforce and collect the Pledged Educational and General Capital Fees from all students enrolled for credit at any of the Institutions.

Each Board of Governors is empowered to fix the Educational and General Capital Fees to be imposed upon students at their respective Institutions. The Board of Governors of each Institution may increase the registration fee and tuition fee component of the Educational and General Capital Fees now or hereafter in effect pursuant to the Act. The increase in fees is subject to the approval of the Commission, or, in the case of community and technical college education offered by the public higher education institutions, subject to the approval of the Council for Community and Technical College Education ("the Council"); provided, however, that West Virginia University and Marshall University are not required to obtain the Commission's approval of such fee increases at their respective Institutions. Though the Council is now responsible for approving tuition and fees for institutions under its jurisdiction, the Commission remains responsible for debt repayment and capital project initiatives and all previous revenues pledged remain under the Commission's control.

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 Bonds in the ensuing fiscal year.

Student Enrollment Statistics

Data in the following table illustrates the historical pattern of both end of term Fall head-count and FTE enrollment for all Institutions over the past five years, as well as projections through end of term, Fall 2010. Both resident and non-resident enrollment data are provided, since student fees for non-residents are substantially higher than for in-state students. Nevertheless, various factors may contribute to material fluctuations in head-counts and FTE enrollment statistics in the future, which may materially impact the Commission's ability to pay debt service on the Bonds. See "WEST VIRGINIA HIGHER EDUCATION – Student Enrollment."

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Higher Education Policy Commission							
Council for Community and Technical College Education							
Summary of All Institutions							
Combined-Headcount							
Fall Semester (End of Term)		Resident		Non Resident		Total	
2005		65,974		19,660		85,634	
2006		66,086		20,886		86,972	
2007		66,280		21,996		88,276	
2008		66,070		23,210		89,280	
2009		71,068		23,884		94,952	
2010 Projected		72,135		24,242		96,377	(1)
Combined-FTE							
Fall Semester (End of Term)		Resident		Non Resident		Total	
2005		52,170		18,067		70,237	
2006		52,009		19,388		71,397	
2007		51,657		20,473		72,130	
2008		51,578		21,652		73,230	
2009		54,687		22,240		76,927	
2010 Projected		56,264		22,882		79,146	(1)
(1) To project the Fall 2010 end of term Headcount and FTE enrollments, the Fall 2010 census date enrollments were divided by the Fall 2009 census date enrollments. The results were multiplied by the Fall 2009 end of term enrollments							

Source: West Virginia Higher Education Policy Commission

Pledged Excess Lottery Revenues

As previously discussed, the Pledged Excess Lottery Revenues are part of the Revenues pledged to secure the Bonds. The Pledged Excess Lottery Revenues consist of funds from the State Excess Lottery Revenue Fund that are required to be deposited into the Higher Education Improvement Fund, subject to availability, as provided in the Lottery Act.

This explanation of the Pledged Excess Lottery Revenues, the State Excess Lottery Revenue Fund and the Lottery contained in this section does not purport to be a complete description or explanation of the information contained in the Official Statement. Investors should read APPENDIX E – "WEST VIRGINIA LOTTERY" and APPENDIX F – "WEST VIRGINIA LOTTERY FINANCIAL STATEMENTS" to obtain the necessary information to make an informed evaluation of the Pledged Excess Lottery Revenues.

The West Virginia Lottery was constitutionally authorized on November 6, 1984. The

Lottery Act was enacted during the 1985 legislative session of the West Virginia Legislature. The Lottery Act created the Lottery Commission, which sets policy and direction for the Lottery.

Chapter 29, Article 22 of the Code of West Virginia, 1931, as amended (the "Lottery Act"), Chapter 29, Article 22A of the Code of West Virginia, 1931, as amended, and Chapter 29, Article 22B, Code of West Virginia, 1931, as amended, together provide a system by which a portion of profits from Racetrack Video Lottery and from Limited Video Lottery as well as Limited Video Lottery licensing, permit and other fees are transferred to the State Excess Lottery Revenue Fund. The Lottery Act requires the Lottery Commissioner to disburse the remaining funds from the State Excess Lottery Revenue Fund to certain other funds, including the Higher Education Improvement Fund, in the order of priority set forth in the Lottery Act.

Under the General Resolution, the Commission has included the Higher Education Improvement Fund as security for the payment of the Bonds. Revenues include all amounts contained in the Higher Education Improvement Fund and the Pledged Educational and General Capital Fees. Revenues do not include, however, moneys on deposit in the State Excess Lottery Revenue Fund or the State Lottery Fund that have not been transferred by the Lottery Director into the Higher Education Improvement Fund.

Under the Lottery Act, a special revenue fund named the State Excess Lottery Revenue Fund has been created in the State Treasury (the "State Excess Lottery Revenue Fund"). The State Excess Lottery Revenue Fund receives its revenues from two sources, the Limited Video Lottery and the Racetrack Video Lottery, as described herein. The Lottery Act also creates a special revenue fund in the State Treasury named the State Lottery Fund (the "State Lottery Fund"). The State Lottery Fund receives the State's share of net profits from lottery tickets, materials and games (except the Veterans' Instant Lottery) and a portion of the net terminal income from the Racetrack Video Lottery. The Lottery Act requires that revenues on deposit in the State Excess Lottery Revenue Fund serve as the principal source of funding for the Higher Education Improvement Fund, while revenues on deposit in the State Lottery Fund, if available, serve as a backup source of funding for the Higher Education Improvement Fund in years where revenues on deposit in the State Excess Lottery Revenue Fund are insufficient to pay the debt service on bonds payable from the revenues thereof, but only to the extent such revenues of the State Lottery Fund are not otherwise needed to pay debt service on bonds secured thereby.

The Lottery Act provides that funds on deposit in the State Excess Lottery Revenue Fund shall be transferred to certain funds, including the Higher Education Improvement Fund, in the order of priority specified therein. On March 13, 2010, the West Virginia Legislature enacted Senate Bill 612, which increased the amount deposited annually in the Higher Education Improvement Fund from $10 million to $15 million. The Commission will pledge those funds toward the payment of the Bonds. The Lottery Act and the transfers of funds from the State Excess Lottery Revenue Fund required therein are subject to amendment by the State Legislature. Upon the issuance of the 2010 Series Bonds, the maximum annual amount of $15,000,000 presently earmarked for transfer from the State Excess Lottery Revenue Fund into the Higher Education Improvement Fund will be required to satisfy the annual principal and interest on the Bonds.

In the fiscal years, 2008 through 2010, the revenues of the State Excess Lottery Revenue

Fund have been approximately $1,523,455,539; $1,493,035,765; and $1,358,094,455, respectively. See APPENDIX F – "WEST VIRGINIA LOTTERY FINANCIAL STATEMENTS."

Future funding for the State Excess Lottery Revenue Fund is subject to the following risks, among others: (i) competition from lotteries and other gaming facilities in West Virginia and the surrounding states; (ii) changes in legislation affecting the funding of or allocation or distribution of funds from the State Excess Lottery Revenue Fund; and (iii) the dissolution of the West Virginia Lottery. See APPENDIX E – "WEST VIRGINIA LOTTERY."

State Excess Lottery Revenue Fund

The Lottery Act creates the "State Excess Lottery Revenue Fund" as a special revenue fund in the State Treasury. The State Excess Lottery Revenue Fund receives the State's share of net profits from two sources: (1) Racetrack Video Lottery, and (2) Limited Video Lottery, as well as certain fees related to Limited Video Lottery.

The Racetrack Video Lottery Act, as set forth in Chapter 29, Article 22A of the Code of West Virginia, 1931, as amended, and the Limited Video Lottery Act, as set forth in Chapter 29, Article 22B of the Code of West Virginia, 1931, as amended, together provide a system through which a portion of the net profits from Racetrack Video Lottery and from Limited Video Lottery, as well as Limited Video Lottery licensing, permit and other fees, are transferred to the State Excess Lottery Revenue Fund.

The Racetrack Video Lottery Act establishes two permanent benchmarks for each racetrack based on fiscal year ended June 30, 2001 results. The first of these two benchmarks is based on a track's gross terminal income, net of prizes (the "Gross Benchmark"). The aggregate Gross Benchmark for all tracks equals $438.1 million. The Racetrack Video Lottery Act also establishes a benchmark based on a track's net terminal income (the "Net Benchmark"). No deposit to the State Excess Lottery Revenue Fund occurs until the benchmarks for a given racetrack is exceeded during the respective fiscal year.

Transfers from the State Excess Lottery Revenue Fund are prescribed by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the State Excess Lottery Revenue Fund is transferred to West Virginia Department of Revenue for the purpose of providing funding for a senior citizen tax credit for real estate taxes paid on the first $20,000 of assessed value of the taxpayer's owner-occupied dwelling (the "Refundable Credit"). The Refundable Credit totaled $7,371,723 for the year ended June 30, 2009 and $8,370,988 for the year ended June 30, 2010. The Lottery Commission projects that the annual Refundable Credit will be $10,000,000 during each of the next three fiscal years.

Second Priority Transfers: Second, a portion of the State Excess Lottery Revenue Fund is then transferred to the following eight funds:[1]

General Purpose Account	$65 million
Education Improvement Fund (Promise Scholarship Fund)	$29 million
Economic Development Project Fund	$19 million
Excess Lottery School Building Debt Service Fund	$19 million
West Virginia Infrastructure Fund	$40 million
Higher Education Improvement Fund	$15 million
State Park Improvement Fund	$ 5 million
Thoroughbred Development Fund	$ 2 million

If, after funding the Refundable Credit, the remaining funds in the State Excess Lottery Revenue Fund are insufficient to fund all of the forgoing seven transfers, the remaining funds on deposit in the State Excess Lottery Revenue Fund, will be transferred in the following priority:

(1) First, a transfer of approximately $19 million to the Economic Development Project Fund to pay debt service on the $249,895,000 West Virginia Economic Development Authority State of West Virginia Excess Lottery Revenue Bonds (Federally Taxable), Series 2004 (the "EDA - Excess Lottery Grant Bonds") coming due in a particular year, as certified to the Lottery Director, which shall be transferred by the Lottery Director to the Economic Development Project Fund in one-tenth increments on a monthly basis.

[1] Prior to the issuance of bonds payable from revenues of the State Excess Lottery Revenue Fund, the Lottery Act does not prescribe the timing or manner in which the Lottery Director must make the transfers to these seven funds in years when the revenues of the State Excess Lottery Revenue Fund are sufficient to make all such transfers. Following the issuance of bonds, however, the Lottery Act provides that the Lottery Director shall, on a monthly basis, first transfer to the Economic Development Project Fund one-tenth of the projected annual principal, interest and coverage requirements coming due on the EDA Excess Lottery Grant Bonds in a particular year, as certified to the Lottery Director, and second transfer to the fund or funds from which debt service is paid on bonds issued for the School Building Authority, infrastructure, Commission and park improvements in an amount equal to one-tenth of the projected annual principal, interest and coverage requirements coming due on those respective bonds in a particular year, as certified to the Lottery Director. Presently, this second required transfer is only made to the Higher Education Improvement Fund and the Excess Lottery School Building Debt Service Fund to pay such amounts coming due in a particular year. In years when revenues of the State Excess Lottery Revenue Fund are sufficient to make all of the transfers to these seven funds, the Lottery Act does not prohibit the Lottery Director from making transfers to funds from which debt service is not payable in the manner he deems appropriate following the one-tenth transfers referred to above. For a discussion of the priority in which transfers must be made from the State Excess Lottery Revenue Fund in years where revenues are insufficient to make all transfers required by the Lottery Act, see discussion in (2) of this section, below.

(2) Second, transfers to such of the other six funds from which debt service is payable in amounts necessary to pay the respective debt service on such bonds coming due in a particular year, as certified to the Lottery Director, which shall be transferred to such funds in one-tenth increments on a monthly basis; provided that, to the extent that sufficient State Excess Lottery Revenues are not available to pay debt service on all such revenue bonds, transfers will be made on a pro rata, parity basis. Presently, the second-priority, parity transfers include a $15 million transfer to the Higher Education Improvement Fund to pay debt service on bonds issued by the Commission and a transfer to the Excess Lottery School Building Debt Service Fund of $19 million to pay debt service on bonds issued by the School Building Authority of West Virginia. Additional second-priority, parity transfers may be required in the future as a result of the issuance of revenue bonds the debt service on which is payable out of the West Virginia Infrastructure Fund or the State Park Improvement Fund.

(3) Third, transfers to the Education Improvement Fund.

(4) Fourth, transfers to the General Purpose Account.

(5) Last, transfers to the remaining Funds.

Third Priority Transfers: Last, the remaining funds on deposit in the State Excess Lottery Revenue Fund are required to be transferred to the State Lottery Fund in amount equal to those amounts that were transferred from the State Lottery Fund to the State Excess Lottery Revenue Fund to pay debt service on bonds payable from revenues of the State Excess Lottery Revenue Fund.

NO PORTION OF THE STATE EXCESS LOTTERY REVENUE FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. ONLY AMOUNTS ON DEPOSIT IN THE EXCESS LOTTERY HIGHER EDUCATION IMPROVEMENT FUND CONSTITUTE PLEDGED REVENUES.

State Lottery Fund

The Lottery Act creates the "State Lottery Fund" as a special revenue fund in the State Treasury. The State Lottery Fund receives the State's share of net profits from lottery tickets, materials and games (except the Veterans' Instant Lottery) and a portion of the net terminal income from the Racetrack Video Lottery.

A minimum annual average of forty-five percent of the gross amount received from each lottery is allocated and disbursed as prizes, and not more than fifteen percent of the gross amount received from each lottery can be allocated to and disbursed, as necessary, for fund operation and administrative expenses. The excess of the gross amount received from the lotteries described above over the sum of the amount distributed for prizes and administrative expenses shall be allocated as net profit. Thirty percent of net terminal income up to the Gross Benchmark from the Racetrack Video Lottery is also transferred to the State Lottery Fund each fiscal year.

Transfers from the State Lottery Fund are required by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the net profits of the State Lottery Fund is transferred monthly to the School Building Debt Service Fund established under the Lottery Act to pay the annual principal, interest and coverage requirement on all revenue bonds and refunding bonds issued, or to be issued after April 1, 1994, payable from revenues of the State Lottery Fund (the "SBA Lottery Bonds").

Second Priority Transfers: Second, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Education, Arts, Sciences and Tourism Debt Service Fund established under the Lottery Act as necessary to pay debt service on revenue bonds issued and payable from such source pursuant to the Lottery Act (the "EAST Lottery Bonds"). The maximum monthly amount cannot exceed $1,000,000 and the total allocation of net profits cannot exceed the lesser of the principal and interest required to be annually paid or $10,000,000. The EAST Lottery Bonds matured by their terms on July 1, 2010. Pursuant to HB 113 enacted by the State Legislature in the First Special Session of 2009 ("HB 113"), the authority to issue revenue bonds payable from funds deposited into the Education, Arts, Sciences and Tourism Debt Service Fund (the "EAST Fund") from the State Lottery Fund was transferred from the State Building Commission to the West Virginia Economic Development Authority. The West Virginia Economic Development Authority issued bonds payable from funds on deposit in the EAST Fund in August 2010 (the "New EAST Lottery Bonds"). The New EAST Lottery Bonds were issued in an amount that will fully leverage the $10,000,000 allocation of revenues deposited into the EAST Fund from the State Lottery Fund.

Third Priority Transfers: Third, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Community and Technical College Capital Improvement Fund to pay the annual principal, interest and coverage ratio requirements on all revenue bonds payable from the Community and Technical College Capital Improvement Fund pursuant to the Lottery Act (the "CTC Lottery Bonds"). The maximum monthly amount cannot exceed $500,000 and the total allocation cannot exceed the lesser of the principal and interest required to be annually paid or $5,000,000. The current annual principal and interest on the CTC Lottery Bonds is approximately $5,000,000 and these bonds mature by their terms in 2039. Upon the maturity of the CTC Lottery Bonds, the $5,000,000 allocated annually to the Community and Technical College Capital Improvement Fund shall become available for debt service on additional CTC Lottery Bonds ("Additional CTC Lottery Bonds"). The priority of the transfer of $5,000,000 from the State Lottery Fund to the Community and Technical College Capital Improvement Fund to pay debt service on Additional CTC Lottery Bonds, if issued, vis-à-vis the priority of the transfer of up to $10,000,000 from the State Lottery Fund to the Education, Arts, Sciences and Tourism Debt Service Fund to pay debt service on any bonds payable therefrom shall be determined as provided in the Lottery Act at the time of issuance of the Additional CTC Lottery Bonds.

Fourth Priority Transfers: Fourth, after first satisfying the requirements for funds dedicated to retire the SBA Lottery Bonds, the EAST Lottery Bonds and the CTC Lottery Bonds or Additional CTC Lottery Bonds, as the case may be, the remaining net profits of the State

Lottery Fund are then made available to pay debt service in connection with any bonds issued pursuant to Section 18a of the Lottery Act (that is bonds payable from revenues of the State Excess Lottery Revenue Fund) if and to the extent needed for such purpose from time to time.

Fifth Priority Transfers: Last, subject to certain limitations described in this paragraph, the remaining net profits of the State Lottery Fund may be appropriated by the West Virginia Legislature annually, in such proportions as it deems beneficial, to (i) the Lottery Education Fund; (ii) the School Construction Fund; (iii) the Lottery Senior Citizens Fund; and (iv) the Division of Natural Resources and West Virginia Development Office; provided, however, these fifth priority payments may only be made if: (i) a default does not exist with respect to the debt service on the bonds issued by the School Building Authority, the State Building Commission, the Higher Education Policy Commission, the Economic Development Authority, or bonds that are otherwise secured by lottery proceeds; and (ii) the net profits of the State Lottery Fund for the preceding twelve months is equal to at least 150% of the debt service on bonds issued by the School Building Authority, the State Building Commission or the Higher Education Policy Commission, which are secured by the net profits of the lottery.

NO PORTION OF THE STATE LOTTERY FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. AS DESCRIBED ABOVE, HOWEVER, REVENUES OF THE STATE LOTTERY FUND IN EXCESS OF THE AMOUNT OF REQUIRED TRANSFERS TO THE SCHOOL BUILDING DEBT SERVICE FUND, THE EDUCATION, ARTS, SCIENCES AND TOURISM DEBT SERVICE FUND AND THE COMMUNITY AND TECHNICAL COLLEGE CAPITAL IMPROVEMENT FUND TO PAY DEBT SERVICE ON BONDS SECURED THEREBY SHALL BE MADE AVAILABLE FOR TRANSFER TO THE STATE EXCESS LOTTERY REVENUE FUND TO PAY DEBT SERVICE ON BONDS REFERRED TO IN SECTION 18A OF THE LOTTERY ACT TO THE EXTENT THAT REVENUES IN THE STATE EXCESS LOTTERY REVENUE FUND ARE INSUFFICIENT TO PAY ALL SUCH DEBT SERVICE.

Debt Service Coverage

The following Table, prepared by the Commission, shows: (i) the historical coverage of Annual Debt Service resulting from a historical comparison of the Revenues to the Annual Debt Service for the three prior fiscal years; and (ii) the projected Coverage of Annual Debt Service resulting from a comparison of forecasted Revenues and forecasted Annual Debt Service for the 2011 fiscal year. The forecasted Annual Debt Service for 2011 includes Debt Service on Outstanding Bonds.

The West Virginia Higher Education Fund (the "Fund"), through the Commission, does not as a matter of course make public projections as to future revenues, increase in net assets, or other results. However, the Commission has prepared the prospective financial information set forth below to present projected Annual Debt Service Coverage information. The accompanying prospective financial information was prepared for internal management purposes and was not prepared with a view toward complying with the guidelines established by the American Institute of Certified Public Accountants with respect to prospective financial information, but, in the view of the Commission, was

prepared on a reasonable basis, reflects the best currently available estimates and judgments, and presents, to the best of the Commission's knowledge and belief, the expected course of action and the expected future financial performance of the Fund. However, this information is not fact and should not be relied upon as being necessarily indicative of future results, and readers of this Official Statement are cautioned not to place undue reliance on the prospective financial information.

Neither the Fund's independent auditors, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the prospective financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the prospective financial information.

Higher Education Policy Commission
Summary of Actual/Forecasted Pledged Revenues and Expenditures
Higher Education Facilities Bonds – Pledged Revenues

				Forecasted	
	Period Ending June 30, 2008	Period Ending June 30, 2009	Period Ending June 30, 2010	Period Ending June 30, 2011	
Pledged Educational and General Capital Fees	$42,167,939	$44,427,487	$45,495,567	$47,769,638	(1)
Investment Earnings	$847,952	$318,446	$67,443	$40,661	(2)
Pledged Excess Lottery Revenues	$10,000,000	$10,000,000	$10,000,000	$15,000,000	(3)
Total Revenues	$53,015,891	$54,745,933	$55,563,010	$62,810,299	
Annual Debt Service	$28,329,310	$28,292,562	$28,252,313	$29,231,082	(4)
Coverage of Annual Debt Service	1.87	1.93	1.97	2.15	

(1) To project the fiscal year 2011 pledged educational and general capital fees, the collections through November 2010 were divided by the collections through November 2009. The result was multiplied by the total collections for Fiscal Year 2010.

(2) This estimate is based on the assumption that invested balances will not change significantly from the previous year. To project the fiscal year 2011 pledged investment earnings on pleadged capital fees, the amounts received through November 2010 were divided by the amounts received through November 2009. The result was multiplied by the total collections for Fiscal Year 2010.

(3) The increase in pledged Lottery revenues is due to the additional $5 million appropriated by the Legislature for new debt service.

(4) Debt service for Fiscal year 2011 is net of the 35% Federal Subsidy on the 2010 Series B Bonds.

INVESTMENT CONSIDERATIONS

The purchase of the 2010 Series Bonds involves certain investment risks that are discussed throughout this Official Statement. Certain of these risks are described below. Accordingly, each prospective bond purchaser should make an independent evaluation of all of the information presented in this Official Statement, including the risk factors described below, in order to make an informed investment decision.

Competition

The West Virginia Lottery faces potential competition from gaming within West Virginia and increasing competition from states surrounding West Virginia that may introduce new lottery games or gaming facilities or otherwise enhance existing lottery games or gaming facilities comparable to those in West Virginia. While there is no way of currently assessing the effect of the introduction of games and/or gaming facilities by such states upon the amount of Pledged Revenues received, the introduction of such games and/or gaming facilities by such states could have a material adverse effect upon the amount of Pledged Revenues received. See "Competition from Surrounding States" herein.

Competition within West Virginia

During the 1999 Legislative Session, a new law was enacted to permit casino gaming at a historic resort hotel such as the Greenbrier Resort in White Sulphur Springs, West Virginia. This gaming was to be regulated by the West Virginia Lottery. The law requires that the residents of the resort hotel's host county must approve casino gaming by referendum before the casino may open. An unsuccessful vote occurred in Greenbrier County on November 7, 2000. A subsequent successful vote occurred in Greenbrier County on November 4, 2008, at which time Greenbrier County voters approved casino gaming at the Greenbrier Resort. The State Legislature enacted Senate Bill 575 during the 2009 Regular Session of the Legislature that established more uniformity among casinos operated by the State's pari-mutuel racetracks and the casino authorized to be operated at the Greenbrier Resort. The Greenbrier Resort began limited casino gaming operations on October 1, 2009, and full casino gaming operations in a permanent casino on July 2, 2010.

Management of the West Virginia Lottery believes that casino gaming at the Greenbrier Resort, will not compete with other West Virginia Lottery products because it is limited to hotel overnight guests, non-hotel guests registered for hotel conventions and events, and residents of surrounding properties on the hotel grounds and their guests.

On March 8, 2007, the West Virginia Legislature enacted the West Virginia Lottery Racetrack Table Games Act (the "Table Games Act"), which became effective as of June 6, 2007. The Table Games Act authorizes the West Virginia Lottery Commission to issue up to four racetrack table games licenses to racetracks located in West Virginia that hold racetrack video lottery licenses and licenses to conduct horse or dog racing after the citizens of the respective counties in which the racetracks are located approve racetrack table games by referendum. Referenda for approving racetrack table games were conducted in Jefferson, Hancock, Ohio and Kanawha Counties in West Virginia in 2007. In 2007, voters in Jefferson County rejected the referendum, while voters in Hancock, Ohio and Kanawha Counties approved the referenda. In December 2009, however, voters in Jefferson County approved a second referendum authorizing racetrack table games in Jefferson County. Accordingly, racetrack table games are now authorized under the Table Games Act at Mountaineer Casino Racetrack & Resort in Chester, West Virginia, Wheeling Island Hotel-Casino-Racetrack in Wheeling, West Virginia, Mardi Gras Casino & Resort in Nitro, West Virginia, and Hollywood Casino at Charles Town Races (formerly Charles Town Races & Slots) in Charles Town, West Virginia. The Lottery Commission has issued racetrack table games licenses to Mountaineer Casino Racetrack

& Resort, Wheeling Island Hotel-Casino-Racetrack, Mardi Gras Casino & Resort and Charles Town Races & Slots. Mountaineer Casino Racetrack & Resort and Wheeling Island Hotel-Casino-Racetrack began operating table games in October 2007, Mardi Gras Casino & Resort (formerly Tri-State Casino & Resort) began operating table games in October 2008, and Hollywood Casino at Charles Town Races began operating table games on July 1, 2010. The tax rate for each racetrack participating in this new form of legal gaming is thirty five percent of adjusted gross receipts. Eighteen and 24/100% of a total rate of thirty-five percent is earmarked by statute for the reduction of state debt and unfunded liabilities.

NO REVENUES GENERATED FROM CASINO GAMING AT THE GREENBRIER RESORT OR FROM RACETRACK TABLE GAMES ARE DEPOSITED INTO THE STATE EXCESS LOTTERY REVENUE FUND OR THE STATE LOTTERY FUND. NO PORTION OF REVENUES GENERATED BY CASINO GAMING AT THE GREENBRIER RESORT OR BY RACETRACK TABLE GAMES WILL BE DEPOSITED INTO THE EXCESS LOTTERY SCHOOL BUILDING DEBT SERVICE FUND AND, THERFORE, ARE NOT PART OF THE PLEDGED REVENUES THAT SECURE THE 2010 SERIES BONDS.

There exists no constitutional or legislative mandate that future revenues generated from new lottery games of other gaming enterprises, e.g., riverboats, non-racetrack based casinos, etc., be included in the calculation of net profits or be otherwise available for deposit into the State Excess Lottery Revenue Fund or the State Lottery Fund.

Competition from Surrounding States

In early July 2004, Governor Ed Rendell signed the Pennsylvania Race Horse Development and Gaming Act (HB2330) providing for up to seven slot machine licenses for existing and planned horseracing facilities (Category 1), up to five slot machine licenses for non-racing venues (Category 2) and up to two slot machine licenses for existing resort hotels with at least 275 rooms each (Category 3). When fully exercised, fourteen licensees could operate as many as 61,000 slot machines. As of October 31, 2010, the ten licensees operated 26,916 machines.

At the end of calendar year 2007, the Pennsylvania Gaming Control Board ("PGCB") approved permanent licenses for six Category 1 racetrack slot machine applicants which may operate a maximum of 5,000 slot machines each at existing horse racing facilities:

- Chester Downs and Marina, LLC (*Harrah's Chester Downs*, Delaware County). The racino in Chester, Pa., opened in January 2007. As of October 31, 2010, it operated 2,933 slot machines with authority to operate 3,000 machines.
- Downs Racing, LP (*Mohegan Sun*, Luzerne County). The casino at Pocono Downs near Wilkes-Barre was the first to begin operations in Pennsylvania, opening on November 14, 2006, with 1,099 slot machines. As of October 31, 2010, it operated 2,466 machines.
- Greenwood Gaming and Entertainment Inc. (*Parx*, Bucks County). The racino opened December 19, 2006. As of October 31, 2010, it operated 3,460 machines.

- Mountainview Thoroughbred Racing Association (*Penn National*, Dauphin County). The racino near Harrisburg opened in February 2008. As of October 31, 2010, it operated 2,489 machines.
- Presque Isle Downs, Inc. (*Presque Isle*, Erie County). The racino located outside of Erie opened with 1,600 slot machines in operation in February 2007. As of October 31, 2010, it operated 2,025 machines.
- Washington Trotting Association, Inc. (*The Meadows*, Washington County). The racino opened in June 2007. As of October 31, 2010, it operated 3,504 slot machines.

The PGCB also approved five Category 2 licenses for stand-alone slots facilities, which may operate a maximum of 5,000 slot machines each:

- HSP Gaming, LP. HSP's *SugarHouse Casino* is located along the Delaware River near the Girard Avenue exit of Interstate 95 in Philadelphia. As of October 31, 2010, it operated 1,602 slot machines.
- Philadelphia Entertainment & Development Partners, LP. Philadelphia Entertainment's *Foxwoods Casino Philadelphia* may be located in South Philadelphia along the Delaware River or in Center City Philadelphia. It will be operated by Foxwoods Development and may include approximately 3,000 slot machines. Following numerous delays, construction of the *Foxwoods Casino Philadelphia* has not yet commenced. An opening date cannot be projected.
- PITG Gaming, LLC. *The Rivers Casino* is operated in Pittsburgh by owner Majestic Star. It is located on the North Shore west of Heinz Field and the Carnegie Science Center. As of October 31, 2010, it operated 2,953 slot machines.
- Mount Airy #1, LLC (*Mount Airy Casino,* Monroe County). Based at the Mount Airy resort in Paradise Township in the Poconos, the *Mount Airy Casino* opened in October 2007. As of October 31, 2010, it operated 2,450 slot machines.
- Sands Bethworks Gaming, LLC (*Sands Bethlehem*, Northampton/Lehigh Counties). The *Sands Bethlehem Casino* is located at the former Bethlehem Steel Co. plant in the City of Bethlehem. It opened in May 2009. As of October 31, 2010, it operated 3,033 slot machines.

The PGCB has approved one Category 3 license and is evaluating four applications that it received for the issuance of a second Category 3 license. The Category 3 license was previously approved but has not been placed into operation as a result of pending litigation. Pennsylvania's Category 3 license is similar to the license granted by the West Virginia Lottery to the Greenbrier Resort.

In January 2010, the Pennsylvania Legislature enacted legislation authorizing the operation of table games in Pennsylvania's 14 planned slot machine locations. The PGCB has issued table games certificates to the ten Category 1 and 2 licensees to operate up to 250 table games for the initial six months of operation, after which they may petition the PGCB to increase the number of table games. On a smaller scale, the Pennsylvania legislation permits the Category 3 facilities to seek a table games certificate to operate up to 50 table games. The Pennsylvania legislation permits an increase in the number of slot machines operated at Category 3 facilities to 600 after a table games certificate is obtained, and authorized the addition of a third

Category 3 license after July 20, 2017. Expanded gaming operations in Pennsylvania will continue to impact the revenues of the West Virginia Lottery, including the State Excess Lottery Revenue Fund, and could potentially impact such revenues more significantly than projected by the Lottery. See "PLEDGED REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION – Historical, Estimated West Virginia Lottery Revenues" and "APPENDIX F."

In 2008, Maryland voters approved a statewide referendum authorizing up to 15,000 slot machines in the city of Baltimore and the counties of Allegany, Anne Arundel, Cecil and Worcester. There is no requirement that any of the slot venues be racetracks. Currently, there is one operating casino (slots only) at Perryville in Cecil County that opened in late September 2010. A second casino is expected to open at Ocean Downs in Worcester County late in 2010. In November, voters in Anne Arundel County approved a zoning change for a casino at the Arundel Mills Mall. To date, there has been little interest from casino operators in developing a casino at the designated location in Allegany County.

On July 13, 2009, the Ohio Legislature passed a budget bill implicitly recognizing Governor Ted Strickland's authority to expand Ohio's Lottery to include electronic slot machines at Ohio's seven horse-racing tracks. Governor Strickland issued a directive to the Ohio Lottery Commission to begin the process of adding up to 2,500 electronic slot machines at each track. The recent election of Ohio Governor-Elect John Kasich, who defeated Governor Strickland, has cast doubt on the future of electronic slot machines at Ohio's seven horse-racing tracks.

On November 3, 2009, Ohio voters considered and approved Issue 3 that authorized one casino facility to be operated at a designated location within each of the cities of Cincinnati, Cleveland, Columbus and Toledo, Ohio. The election of a new Governor, and its impact upon the composition and operation of the Ohio Casino Control Commission, has left the future of the new casinos in the hands of the new administration. Expanded gaming operations in Ohio will impact the revenues of the West Virginia Lottery, including the State Excess Lottery Revenue Fund, and could potentially impact such revenues more significantly than projected by the Lottery. See "REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION – Pledged Excess Lottery Revenues" and "APPENDIX F."

Legislation was recently introduced in Kentucky that would have authorized casino-style gaming at Kentucky racetracks. That legislation was not enacted. It is unknown whether similar legislation will be introduced in the future and, if so, whether such legislation will receive sufficient legislative support to be enacted.

West Virginia currently has no Native American reservations or treaty lands. In order for land to be converted to Indian lands upon which a tribal council could decide to construct a casino, land would need to be offered to the United States Secretary of the Interior, and the Secretary has the option to accept it for the purpose of conversion to a reservation. If the Secretary accepted the conveyance, the State's Governor would also have the option to accept. Management of the Lottery Commission believes that such an occurrence is improbable in West Virginia.

In 2010, the State Legislature enacted SB 577, which made it a felony for charitable raffle licensees and others to offer electronic versions of raffle games. Targeted versions of such games look and play like video lottery terminals, and have flourished in other states.

New Local Option Elections

The Racetrack Video Lottery Act and Table Games Act provides that in the event voters of a county approve Racetrack Video Lottery and/or Table Games, another local option election on the issue may be held, provided that such new local option election occur no sooner than at least five years after the date upon which voters of a county approved Racetrack Video Lottery and/or Table Games, and, further provided, that at least five percent of the number of qualified voters residing within the county who were registered to vote in the next preceding general election file a written petition with the county commission of such county to hold such new local option election. To date, although all local option elections in the State for which voters approved Racetrack Video Lottery occurred more than five (5) years ago, there has been no attempt within any county in which Racetrack Video Lottery has previously been approved to hold a new local option election. A successful recall election in any one or more of the counties in which there is Racetrack Video Lottery could have a material adverse effect on the availability of revenues available for debt service on the 2010 Series Bonds. If Racetrack Video Lottery gaming is ever successfully voted out in a county, supporters of Racetrack Video Lottery must wait 104 weeks to hold another election on whether Racetrack Video Lottery can be operated.

Effect of Changes in Allocation or Dissolution of West Virginia Lottery

The Lottery Act provides that the Lottery Commission allocate, as a second priority allocation, up to $15,000,000 from the State Excess Lottery Revenue Fund each fiscal year for deposit into the Higher Education Improvement Fund until all outstanding Bonds of the Commission secured by funds on deposit in the Higher Education Improvement Fund are paid. Although the annual allocation of moneys to the State Excess Lottery Revenue Fund could be increased, decreased or otherwise altered by future action of the West Virginia Legislature amending the Lottery Act, the Lottery Commission believes and legislative leaders have indicated that the importance and essentiality of the program makes an increase, decrease or change of priority in the allocation unlikely. Any such change would require statutory amendment.

Dissolution of the West Virginia Lottery would leave the State Excess Lottery Revenue Fund and the State Lottery Fund without a source of funding, unless the West Virginia Legislature acted to provide an alternative source of funding. The Lottery Commission, an agency within the West Virginia Department of Revenue, is subject to periodic legislative review under the West Virginia Performance Review Act. All state agencies except for constitutional officers are subject to review under the West Virginia Performance Review Act. The West Virginia Department of Revenue is scheduled to make presentations to the Joint Standing Committee on Government Organization and the Joint Committee on Government Organization (collectively the "Committees") during the 2010 legislative interim period. Following the 2010 review, the Committees shall make a recommendation to the Legislature as to whether the Department of Revenue, including the Lottery Commission, should be continued, consolidated or

terminated. While there can be no assurance that the Legislature will continue the Lottery Commission after 2010, the Lottery Commission is not aware of any matters which would cause the Legislature to terminate the Lottery Commission. Legislation was introduced during the 2009 Regular Session of the State Legislature that proposed the combination of Charitable Gaming, Alcohol Beverage Control Administration and the Racing Commission with the Lottery Commission to form what would have been known as the Gaming Commission. However, such legislation was not enacted. There can be no assurance that similar legislation will not be introduced and enacted in the future.

Effect of Reduction in Number of Limited Video Lottery Permits

Chapter 29, Article 22B of the Code of West Virginia, 1931, as amended (the "Limited Video Lottery Act"), authorized the Lottery Commission to issue permits ("LVL Permits") for the operation of up to 9,000 video lottery terminals in restricted access adult-only facilities throughout the State. As of June 30, 2010, there were 7,940 limited video lottery machines operating in 1,613 locations. Existing LVL Permits expire on June 30, 2011. Bids are being solicited for the LVL Permits that will become effective on July 1, 2011.

The Limited Video Lottery Act provides that, during the fiscal year ending June 30, 2011, the Lottery Commission shall seek bids for the issuance of LVL Permits for the ten-year period beginning July 1, 2011, and ending June 30, 2021. The Governor of the State appointed a select panel to receive public comments at regional meetings throughout the State regarding the issuance of LVL Permits for the ten-year period beginning July 1, 2011, and ending June 30, 2021. The panel has concluded its public hearings and issued its report to the Governor. There can be no assurance that the State Legislature will not amend the Limited Video Lottery Act to reduce the maximum number of LVL Permits that may be issued by the Lottery Commission for ten-year period beginning July 1, 2011, and ending June 30, 2021. Under the Lottery Act, the Lottery Commission could seek bids for the issuance of less LVL Permits for the ten-year period beginning July 1, 2011, and ending June 30, 2021, than (i) the maximum number of LVL Permits authorized by the Lottery Act (9,000) and (ii) the number of LVL machines currently operating in the State. Any significant reduction in the number of LVL Permits issued by the Lottery Commission for the ten-year period beginning July 1, 2011, and ending June 30, 2021, below the number currently operated throughout the State could have a material adverse affect on the revenues of the State Excess Lottery Revenue Fund, a portion of which are transferred into the Higher Education Improvement Fund under the Lottery Act.

In 2009, one of the largest owners of limited video lottery machines in the State, Southern Amusement Co., Inc. ("Southern Amusement"), was indicted on multiple counts in a federal indictment unsealed on June 8, 2009. The indictment sought, among other things, forfeiture of every limited video lottery machine owned by Southern Amusement. Southern Amusement leases its limited video lottery machines to licensed limited video lottery retailers for operation in various locations throughout the State. As a result of a federal protective order related to assets covered by the indictment, the Lottery Commission refrained from taking any action on Southern Amusement's limited video lottery license. Southern Amusement's license to operate limited video lottery machines is currently in good standing with the Lottery Commission. Any prolonged interruption in the operation of 675 limited video lottery machines owned by Southern Amusement could have a material adverse affect on the revenues of the State

Excess Lottery Revenue Fund, a portion of which are transferred into the Higher Education Improvement Fund under the Lottery Act. The extent of the impact of any suspension or revocation of Southern Amusement's limited video lottery license by the Lottery Commission on the overall revenues of the State Excess Lottery Revenue Funds cannot be estimated with specificity, but could nevertheless be material to the overall revenues of the State Excess Lottery Revenue Fund. On October 7, 2010, a hearing on a plea agreement and Order accepting guilty plea involving Southern Amusement's owner were presented to a Federal Judge and ordered filed in which all charges against Southern Amusement were dismissed and the restraining order against the company was released. The plea agreement also requires that Southern Amusement's owner divest himself of his interest in the company.

No Mortgage or Other Interest in Projects

The Commission will not own the 2010 Projects, other than the West Virginia Education, Research and Technology Park located in South Charleston, or other property financed with the proceeds of the 2010 Series Bonds, and no lien on or other security interest in the Projects is being granted to the Owners of the 2010 Series Bonds. As a result, in the event the amounts deposited in the State Excess Lottery Revenue Fund or otherwise available from the State Lottery Fund are insufficient to pay debt service on the 2010 Series Bonds, neither the Trustee nor the Owners of such bonds will have any rights with respect to the real property, improvements thereon or appurtenances thereunto belonging that constitute the Projects.

THE COMMISSION

In General

The Commission is the successor to the Board of Directors of the State College System and the University of West Virginia Board of Trustees. The Commission was formed in June of 2000 as part of a restructuring of higher education.

The Commission is responsible for developing 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 increases in tuition and other fees of the institutions, except West Virginia University and Marshall University, and the power to prescribe institutions' budget request. The Commission has the authority to assess each Institution for payment of debt service of the 2010 Series Bonds.

Members

The Commission is comprised of ten members. The ex-officio members are the Chairman of the Council for Community and Technical College Education, the Secretary of Education and the Arts, and 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. The Governor shall appoint a member to fill any vacancy among the seven members of the Commission appointed by the Governor. The 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:

David K. Hendrickson, Esq., Chairman

David K. Hendrickson is the Founding Managing Partner of Hendrickson and Long, P.L.L.C. He graduated from West Virginia University in 1979 with a Bachelor of Arts, cum laude, and Juris Doctorate from the West Virginia University College of Law in 1982. He is a veteran, leaving active duty after completing a four-year tour of service as a Captain in the United States Army. Mr. Hendrickson is a new inductee into the International Academy of Trial Lawyers. He has also been recognized by several national publications including Chambers, USA, Best Lawyers in America, and Litigation Magazine in the area of Corporate Litigation. While at West Virginia University, Mr. Hendrickson served as the student body president and was the second ever student voting member on the West Virginia Board of Regents. He is a past president of the West Virginia University Alumni Association and was named Outstanding Alumnus of the Year, 2004. Mr. Hendrickson served as the legal correspondent to the Charleston, ABC affiliate, WCHS-TV and conducted a news segment titled "The Legal Pad." He currently serves on the Boards of several charitable, civic and social organizations.

Dr. Bruce Berry, Vice Chairman

Bruce Berry, M.D., of Morgantown, currently serves as the medical director at Colombo & Stuhr P.L.L.C. where he oversees risk management and quality assurance. For nearly thirty years, Dr. Berry practiced medicine at a private practice in Charleston. Dr. Berry also served as a clinical instructor, clinical assistant professor, and clinical associate professor at West Virginia University's School of Medicine campus at Charleston Area Medical Center. In addition to his work with WVU, Dr. Berry served as a clinical associate professor with the West Virginia School of Osteopathic Medicine. Dr. Berry graduated with an A.B. in biology, M.S. in embryology, and a M.D. from West Virginia University.

Kathy G. Eddy, Secretary

Kathy G. Eddy, CPA is a shareholder in McDonough, Eddy, Parsons & Baylous, A.C., located in Parkersburg, West Virginia. Ms. Eddy joined the firm in 1974 and became a shareholder in 1981. She is a graduate of Marshall University with B.A. in accounting. She became a Certified Public Accountant in 1978. She has been active in her profession at the national level, serving as Chairman of the Board of Directors of the 340,000 member professional organization, the American Institute of Certified Public Accountants (AICPA). She was awarded the AICPA Gold Medal for Distinguished Service. In addition to her service to her profession at the national level she has served the accounting profession in West Virginia including the West Virginia Society of CPAs and the West Virginia Board of Accountancy by holding all offices, including President of both organizations. Until her recent appointment to the Higher Education Policy Commission she was a member of Marshall University's Lewis College of Business Board of Advisors and the Accounting Curriculum and Accreditation Committee.

She is the recipient of the Marshall Distinguished Alumni Award and a member of the Lewis College of Business Hall of Fame. She has been involved in many community organizations and continues to serve on the Board of Directors of Camden Clark Memorial Hospital.

Jenny Allen

Jenny Allen, of Shepherdstown, has served as vice chair of the nearly completed $20 million Create the Future campaign for Shepherd University, the institution's first comprehensive fundraising initiative. She is currently the vice president of the board of the Contemporary American Theater Festival at Shepherd, a significant driver of the Eastern Panhandle economy that brings thousands of visitors to West Virginia each summer. From 2005-2010 she was a member of the West Virginia Public Broadcasting Foundation board. She has been a trustee of North Country School and Camp Treetops in Lake Placid, NY, since 2006. Ms. Allen earned a B.A. from Hampshire College in Amherst, Mass., an M.A. from the University of Georgia, and recently completed the Executive Certificate program in Nonprofit Management at Georgetown University.

Bob Brown, Ex-Officio, Chair, West Virginia Council for Community and Technical College Education

Bob Brown is Executive Director of the West Virginia School Service Personnel Association, AFT/AFL-CIO. Brown resides in Charleston, West Virginia, is Chair of the West Virginia Public Employee Grievance Board; Chair of the West Virginia Community and Technical College Council; a member of the West Virginia Workforce Investment Council; a member of the Teachers Retirement System Committee of the West Virginia Investment Management Board; a Commissioner for the Malden Public Service District; a member of the West Virginia Attorney General's Citizen Advisory Committee; and is Senior Vice President of the West Virginia AFL-CIO. Brown is a Marine Corps veteran of the Vietnam War and was educated in Kanawha County public schools, West Virginia Institute of Technology, and West Virginia University.

John Estep

John Estep is a graduate of West Virginia State College (now University) and earned his Master of Science degree from West Virginia University. A resident of Richwood, Mr. Estep formerly taught and coached in Greenbrier, Wyoming and Nicholas County Schools. He currently is employed as a staff representative for the American Federation of Teachers (AFT) – West Virginia. He served as a member of the Governor's Higher Education Transition Team and is active in his community as a member of the board of directors of the Cherry Hills Country Club and the board of trustees of the First Baptist Church of Richwood.

Kay H. Goodwin, Ex-Officio, Secretary of Education and the Arts

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.

Dr. John Leon

John Leon, MD was born in Steubenville, Ohio and grew up in Wellsburg, West Virginia. He attended the University of Notre Dame in South Bend, Indiana, where he played varsity football and received a BA in Psychology. After receiving his MD from West Virginia University School of Medicine in Morgantown, he completed an internship and residency. Dr. Leon is board certified in Diagnostic Radiology with Special Competence in Nuclear Medicine. He joined Radiological Physician Associates in July of 1988 and now serves as president of the corporation. He is also Chief of Radiology at Fairmont General Hospital and is past president of the Marion County Medical Society.

Dr. Steven L. Paine, Ex-Officio, State Superintendent of Schools

Dr. Steven L. Paine became West Virginia's 25th State Superintendent of Schools on July 1, 2005. He joined the West Virginia Department of Education in 2003 as Deputy State Superintendent of Schools after serving as county superintendent in Morgan County, West Virginia. He has also served as principal, assistant principal, teacher and curriculum director in Harrison, Upshur and Morgan counties. Dr. Paine is a recipient of the prestigious Milken Family Foundation National Educator Award. Dr. Paine received his undergraduate degree from Fairmont State College. He furthered his education by attending West Virginia University where he received his masters in educational administration and his doctorate in educational leadership. He has completed post-graduate studies at The Ohio State University and at Marshall University.

David Richard Tyson, Esq.

David Tyson, of Huntington, is the managing partner in the law firm Tyson & Tyson. He is a graduate of West Virginia University and California Western School of Law. He previously served on the West Virginia Board of Regents as a student representative in 1975. Other higher education experience includes serving as adjunct professor at Marshall University, President of the Huntington Chapter of the West Virginia University Alumni Association, and member of the West Virginia University Extension Service Board. Mr. Tyson was appointed to the President's Advisory Committee for the Arts by President George W. Bush in 2002, and formerly served as State Chairman of the Republican State Executive Committee of West Virginia. Mr. Tyson is very active in community affairs and serves on numerous boards, including the Y.M.C.A. Board of Directors, the Huntington Chamber of Commerce, and the Huntington Visitors and Convention Bureau.

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. Below are the biographies of the administrative staff of the Commission:

Dr. Brian Noland, Chancellor of Higher Education for West Virginia

Dr. Brian Noland serves as the chancellor of the West Virginia Higher Education Policy Commission. Under his leadership, the Commission has engaged in a series of initiatives to implement a public agenda for higher education in the state. Dr. Noland's professional career has been primarily focused in higher education and higher education policy. Prior to joining the Commission's staff, he served as the Associate Executive Director for the Tennessee Higher Education Commission, and was a faculty member in the Peabody College of Education at Vanderbilt University. Dr. Noland received his B.A. and M.A in political science from West Virginia University, and holds a Ph.D. in Political Science from the University of Tennessee, Knoxville.

Dr. Kevin G. Walthers, Vice Chancellor for Administration

Dr. Kevin Walthers was appointed Vice Chancellor for Administration for the West Virginia Higher Education Policy Commission and the West Virginia Community and Technical College System in November 2009. Dr. Walthers previously served as the Vice President for Finance and Administration at the College of Eastern Utah. He has served in a variety of roles in state government and higher education, including positions with the Utah State Board of Regents and the Utah Legislature. Vice Chancellor Walthers holds a Ph.D. in Educational Leadership and Policy from the University of Utah. He earned a M.S. in Educational Administration from Texas A&M University – Commerce and a B.S. from The University of Texas at Austin.

Richard B. Donovan, Chief Financial Officer

Richard Donovan has been employed by West Virginia's higher education governing and policy boards since 1980 and has served in various positions in the Division of Finance and Facilities. He has served as the Assistant Director of Facilities since 1991, and from November 2006 as Co-Interim Director of Finance and Facilities along with the Assistant Director of Finance. In March 2009, he was appointed as Chief Financial Officer of the West Virginia Higher Education Policy Commission. Mr. Donovan holds a bachelor's degree in business administration from Shepherd College.

Terry L. Hess, Assistant Director of Finance

Terry L. Hess has served as Assistant Director of Finance for the West Virginia Higher Education Policy Commission since November 2000. Prior to joining the Higher Education Policy Commission, he held several accounting and administrative positions with the West Virginia State Tax Department over a seventeen year period. Mr. Hess received his A.S. in computer science and B.A. in accounting from West Virginia State University.

Bruce Ray Walker, Esq., 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.

History and Experience of Commission in the Issuance of Bonds

The Commission and its predecessor, the Board of Directors of the State College System and the University of West Virginia Board of Trustees, have 7 series of bonds, representing an aggregate principal amount of $377,926,232 outstanding. The bonds outstanding include the Commission's 1998 A University Facilities Bonds, originally issued in the amount of $55,025,000, currently outstanding in the amount of $43,525,000, its 2000 A University Facilities Bonds, originally issued in the amount of $36,590,868, and having a current accretion value of $69,936,232, its 2003 A State College Facilities Bonds, originally issued in the amount of $22,160,000, currently outstanding in the amount of $3,925,000, its 2003 A University Facilities Bonds, originally issued in the amount of $60,380,000, currently outstanding in the amount of $15,380,000, its 2004 B Higher Education Facilities Bonds, originally issued in the amount of $167,260,000, currently outstanding in the amount of $144,025,000, and its 2007 A Higher Education Facilities Bonds, originally issued in the amount of $25,915,000, currently outstanding in the amount of $24,265,000 (collectively the "Prior Bonds"). The CTC Lottery Bonds, as hereinafter defined, were issued under a separate indenture and do not constitute a lien on the Revenues from which the 2010 Series Bonds are payable.

WEST VIRGINIA HIGHER EDUCATION

Capital Budgeting and Planning

West Virginia funds the capital needs of its colleges and universities almost entirely through regular student fees and excess lottery appropriations rather than 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 general tax appropriations.

Among the duties of the Commission is the development of an appropriation request for the State system of higher education. The appropriation request includes the 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 toward meeting compact goals and other standards.

Under West Virginia Code, the Commission has the authority to transfer funds pledged for the repayment of Bonds from the accounts of Institutions if an Institution fails to transfer funds to the Commission in a timely manner.

State Appropriations for Higher Education

The State has a policy of utilizing its general fund revenues to meet a 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 that ended June 30, 2010, state appropriations of $471,249,000 represented almost 30% of total revenues of $1,576,834,000 with the balance coming from grants and contracts (27%), student fees (30%), auxiliary revenues (12%) and other income (1%).

Student Enrollment

Data reported in the Table under the caption "Student Enrollment Statistics" above, relates to recent enrollment at Commission and Council 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 or a graduate student enrolled for twelve 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. An undergraduate student taking eighteen credit hours would be considered a full-time student but be counted as 1.20 FTE since he/she is taking one-fifth more credit hours than what is considered to be a normal 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.

High school graduation rates in West Virginia are projected to decline for the next decade, which will decrease the number of traditional students generally attending higher education. This downturn is the result of demographic trends in the State. However, the economic downturn, aggressive marketing, a GEAR-UP grant that targets underrepresented counties, and a new adult learner campaign entitled RBA Today should ensure moderate gains. In addition, the potential exists for further growth in the rate of college participation by West Virginians before the market is saturated. Also, 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.

Accredited institutions with a wide range of academic programs and support services, tuition and fee levels, and enhanced efforts in student recruitment and retention, are among the factors which place the institutions of the Higher Education Policy Commission and Council for Community and Technical College Education in a position of growing importance to the State and its residents. Enrollment data from recent years indicate that West Virginians view quality programs of higher education as the key to their personal future as well as that of the State.

Select Financial Information of West Virginia Higher Education Fund

The audited financial statements of the West Virginia Higher Education Fund for the Fiscal Years ended June 30, 2010, and June 30, 2009, are set forth in Appendix C.

The following table sets forth certain historical financial information relating to the West Virginia Higher Education Fund, which is comprised of ten four-year public colleges and universities, ten community and technical colleges, and two administrative units.

The following table sets forth selected combined financial data. The Commission derived its selected combined financial data as of and for the years ended June 30, 2010 and 2009 from its combined financial statements, which were audited by Deloitte & Touche LLP. The Commission derived its selected combined financial data as of and for the years ended June 30, 2008, 2007 and 2006 from its combined financial statements. The historical selected financial data may not be indicative of future performance and should be read in conjunction with "Managements Discussion and Analysis" and "Risk Factors" in the financial statements included in Appendix C.

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WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS
FOR THE YEARS ENDED JUNE 30, 2006, 2007, 2009, 2009 AND 2010
(Dollars in thousands)

	2006	2007	2008	2009	2010
OPERATING REVENUES:					
Student tuition and fees — net of scholarship allowance	$ 333,266	376,390	406,818	447,080	467,933
Federal and local land grants	8,147	8,825	9,439	9,853	9,760
Contracts and grants:					
Federal	194,642	195,722	131,529	135,781	149,728
State	62,331	62,736	65,042	64,583	58,500
Local	1,234	1,114	1,211	1,425	1,455
Private	59,455	58,885	59,656	70,172	66,316
Interest on student loans receivable	846	998	876	896	1,154
Sales and services of educational activities	17,097	18,803	18,760	20,183	23,471
Auxiliary enterprise revenue — net of scholarship allowance	151,893	165,104	184,238	190,468	195,447
Other operating revenues	24,231	20,723	22,866	23,447	22,983
Total operating revenues	853,142	909,300	900,435	963,888	996,747
OPERATING EXPENSES:					
Salaries and wages	572,376	611,065	645,769	698,667	733,485
Benefits	177,021	174,286	214,021	221,412	294,569
Supplies and other services	283,710	303,158	325,562	340,115	346,927
Utilities	44,606	44,283	44,646	47,865	49,335
Student financial aid — scholarships and fellowships	68,360	75,730	79,349	89,674	117,365
Depreciation	69,797	74,461	78,642	82,113	89,780
Other operating expenses	1,510	9,130	8,127	11,314	6,060
Total operating expenses	1,217,380	1,292,113	1,396,116	1,491,160	1,637,521
OPERATING LOSS	(364,238)	(382,813)	(495,681)	(527,272)	(640,774)
NONOPERATING REVENUES (EXPENSES):					
State appropriations	401,829	423,858	536,101	483,534	449,305
State fiscal stabilization funds (federal)					21,944
Federal Pell grants[1]			71,930	80,668	133,211
Payments on behalf of West Virginia Higher Education Fund			18,000	10,864	0
Gifts	16,006	15,902	19,548	21,092	21,548
Investment income (loss)	21,050	28,235	17,426	(961)	10,947
Interest on indebtedness	(36,215)	(34,921)	(36,181)	(36,504)	(40,328)
Payments to other institutions	(13,444)	(15,346)	(18,222)	(20,492)	(14,915)
Other nonoperating expenses — net	(1,738)	(2,804)	(1,838)	(215)	(1,625)
Net nonoperating revenues	387,488	414,924	606,764	537,986	580,087
LOSS (INCOME) BEFORE OTHER REVENUES, EXPENSES, GAINS, OR LOSSES	23,250	32,111	111,083	10,714	(60,687)
CAPITAL GRANTS AND GIFTS	63,192	77,912	78,174	43,633	43,126
STATE CAPITAL GRANTS (FEDERAL)					4,242
DECREASE (INCREASE) IN NET ASSETS BEFORE CUMULATIVE EFFECT OF ADOPTION OF ACCOUNTING PRINCIPLE[2]	86,442	110,023	189,257	54,347	(13,319)
NET ASSETS — Beginning of year	1,032,336	1,118,778	1,228,801	1,418,058	1,472,882
CUMULATIVE EFFECT OF ADOPTION OF ACCOUNTING PRINCIPLE[2]			61,858[2]	477	
NET ASSETS — End of year	$1,118,778	$1,228,801	$1,418,058	$1,472,882	$1,459,563

See notes to combined financial statements.

[1]Effective FY 2009, Federal Pell grants moved to Non-operating Revenue (Expenses)

[2]Adopted Accounting Principal in FY 2008 is GASB 45 as it relates to Other Post Employment Benefits (OPEB)

UNDERWRITING

Citigroup Global Markets Inc., Raymond James & Associates, Inc. and Crews & Associates, Inc. (the "Underwriters") have agreed to purchase the 2010 Series Bonds at an aggregate purchase price of $76,274,581.79 (par, less original issue discount of $200,113.95, less Underwriters' discount of $390,304.26), pursuant to a bond purchase agreement between the Commission and the Underwriters. The Underwriters may offer and sell the 2010 Series Bonds to certain dealers (including dealers depositing such 2010 Series 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 inside cover page hereof may be changed after the initial offering by the Underwriters.

Citigroup Inc., parent company of Citigroup Global Markets Inc., an underwriter of the 2010 Series Bonds, has entered into a retail brokerage joint venture with Morgan Stanley. As part of the joint venture, Citigroup Global Markets Inc. will distribute municipal securities to retail investors through the financial advisor network of a new broker-dealer, Morgan Stanley Smith Barney LLC. This distribution arrangement became effective on June 1, 2009. As part of this arrangement, Citigroup Global Markets Inc. will compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the 2010 Series Bonds.

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 2010 Series Bonds the ratings of "A+" and "Aa3", 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. There is no assurance that such ratings will continue for any given period of time or that they 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 Beneficial Owners of the 2010 Series 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 Agreement to provide notice of any rating changes to EMMA (as defined herein). Any such downward revision or withdrawal may have an adverse effect on the market price of the 2010 Series Bonds.

TAX MATTERS

General

The following discussion of "Tax Matters" is a brief discussion of certain income tax matters with respect to the 2010 Series Bonds under existing applicable law. It does not purport to deal with all aspects of taxation that may be relevant to the owner of a bond. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the tax consequences of owning and disposing of the 2010 Series Bonds.

2010 SERIES A BONDS - TAX-EXEMPT BONDS

Federal Income Tax Exemption of the 2010 Series A Bonds

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 2010 Series A 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 2010 Series A 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 taken into account in determining the adjusted current earnings of certain corporations for purpose of calculating corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Bond Counsel is set forth in **APPENDIX H** hereto.

Assumed Compliance with Certain Covenants and Federal Tax Requirements

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 2010 Series A Bonds. The Commission has covenanted to comply with certain restrictions designed to insure that interest on the 2010 Series A Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2010 Series A Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2010 Series A 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 2010 Series A Bonds may adversely affect the value of, or the tax status of interest on, the 2010 Series A 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 2010 Series A Bonds. Prospective purchasers of 2010 Series A 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 General Resolution, the Tax Certificate, and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the 2010 Series A 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 Series 2010 A 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.

Original Issue Discount

To the extent the issue price of any maturity of the 2010 Series A Bonds is less than the amount to be paid at maturity of such 2010 Series A Bonds (excluding amounts stated to be interest and payable at least annually over the term of such 2010 Series A Bonds) (the "Discount

Bonds"), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each beneficial owner thereof, is treated as interest on the 2010 Series A Bonds which is excluded from gross income for federal income tax purposes and State of West Virginia personal income taxes. For this purpose, the issue price of a particular maturity of the 2010 Series A Bonds is the first price at which a substantial amount of such maturity of the 2010 Series A 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 2010 Series A Bonds accrues daily over the term to maturity of such 2010 Series A Bonds on the basis of a constant interest rate compounded semiannually (or over a shorter permitted compounding interval selected by the owner). The accruing original issue discount is added to the adjusted basis of such 2010 Series A Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such 2010 Series A Bonds. A purchaser of a Discount Bond in the initial public offering at a price for that Discount Bond stated on the cover of this Official Statement who holds that Discount Bond to maturity will realize no gain or loss upon the retirement of that Discount Bond. Beneficial owners of the 2010 Series A Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2010 Series A Bonds with original issue discount, including the treatment of beneficial owners who do not purchase such 2010 Series A Bonds in the original offering to the public at the first price at which a substantial amount of such 2010 Series A Bonds is sold to the public.

Information Reporting and Backup Withholding

Information reporting requirements apply to interest paid on tax-exempt obligations, including the 2010 Series A Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number Certification," or unless the recipient is one of a limited class of exempt recipients, including corporations. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to "backup withholding," which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a "payor" generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a 2010 Series A Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the 2010 Series A Bonds from gross income for federal income tax purposes. Any amounts withheld pursuant to the backup withholding should be allowed as a refund or a credit against any owner's federal income tax once the required information is furnished to the Internal Revenue Service.

State Income Tax Exemption

In the opinion of Bond Counsel, under the Act, as presently written and applied, the 2010 Series A Bonds, together with the interest thereon, shall be exempt from all taxation by the State

of West Virginia, or by any county, school district, municipality or political subdivision thereof.

Individual Circumstances

Although Bond Counsel is of the opinion that interest on the 2010 Series A 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 2010 Series A 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.

Future Tax Changes

Future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the 2010 Series A Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the 2010 Series A Bonds. Prospective purchasers of the 2010 Series A Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the 2010 Series A Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Commission, or about the effect of future changes in the Code, the application regulations, the interpretation thereof or the enforcement thereof by the IRS. The Commission has covenanted, however, to comply with the requirements of the Code.

Bond Counsel Obligations

Bond Counsel's engagement with respect to the 2010 Series A Bonds ends with the issuance of the 2010 Series A Bonds, and unless separately engaged, Bond Counsel is not obligated to defend the Commission or the beneficial owners regarding the tax-exempt status of the 2010 Series A Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Commission and their appointed counsel including the beneficial owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt 2010 Series A Bonds is difficult, obtaining an independent review of IRS positions with which the Commission legitimately disagrees may not be practicable. Any action of the IRS, including but not limited to selection of the 2010 Series A Bonds for audit, or the course or result of such audit, or an audit of 2010 Series A Bonds presenting similar tax issues may affect the market price for, or the marketability of, the 2010 Series A Bonds, and may cause the

Commission or the beneficial owners to incur significant expense.

Bond Counsel's opinions represent its legal judgment based in part upon the representations and covenants referenced therein and its review of existing law, but are not a guarantee of result or binding on the IRS or the courts. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may come to Bond Counsel's attention after the date of its opinions or to reflect any changes in law or the interpretation thereof that may occur or become effective after such date.

2010 SERIES B BONDS AND 2010 SERIES C BONDS – TAXABLE BONDS

IRS CIRCULAR 230 DISCLOSURE:

Any discussion of the tax issues relating to the 2010 Series B Bonds and the 2010 Series C Bonds, hereafter described as the "Taxable Bonds", in this Official Statement was written to support the promotion or marketing of the Taxable Bonds. Such discussion was not intended or written to be used, and it cannot be used, by any person for the purpose of avoiding tax penalties that may be imposed on such person. Each investor should seek advice with respect to the tax consequences of the Taxable Bonds based on its particular circumstances from an independent tax advisor.

Opinion of Bond Counsel

In the opinion of Bond Counsel, interest on the Taxable Bonds will be included in gross income for Federal income tax purposes; however, under the Act, the Taxable Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof.

Tax Consequences

The following is a discussion of certain material United States federal income tax consequences of the ownership and disposition of the Taxable Bonds. This summary is based on the Code and existing and proposed Treasury regulations, revenue rulings, administrative interpretations and judicial decisions, all as currently in effect and all of which are subject to change, possibly with retroactive effect. Except as specifically set forth in this subsection, this summary deals only with Taxable Bonds purchased by a United States holder, as defined below, at original issuance and held as capital assets within the meaning of Section 1221 of the Code. It does not discuss all of the tax consequences that may be relevant to such a holder in light of his particular circumstances or to holders subject to special rules, such as insurance companies, financial institutions, regulated investment companies, dealers in securities or foreign currencies, traders in securities that elect the mark-to-market accounting method, persons holding the Taxable Bonds as part of a hedging transaction, "straddle," conversion transaction, or other integrated transaction, or United States holders whose functional currency, as defined in Section 985 of the Code, is not the United States dollar. This discussion does not address United States estate tax consequences of holding the Taxable Bonds and, except as specifically described, does not address either tax consequences to pension plans or foreign investors or any

aspect of state or local taxation with respect to the Taxable Bonds. Persons considering the purchase of the Taxable Bonds should consult with their own tax advisors concerning the application of the United States federal income tax laws to their particular situations as well as any tax consequences arising under the laws of any state, local or foreign jurisdiction. The opinion of Bond Counsel with respect to the Taxable Bonds, the form of which is attached in Appendix H, will not address such matters.

If a partnership or other entity classified as a partnership for United States federal income tax purposes holds Taxable Bonds, the tax treatment of the partnership and each partner generally will depend on the activities of the partnership and the status of the partner. Partnerships acquiring Taxable Bonds, and partners in such partnerships, should consult their tax advisors.

United States Holder.

As used in the sections below, the term *"United States holder"* means a beneficial owner of a Taxable Bond that is for United States federal income tax purposes (a) a citizen or resident of the United States, (b) a corporation (including an entity treated as a corporation for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (c) an estate, the income of which is includible in gross income for United States federal income tax purposes, regardless of its source, or (d) a trust if (i) a court within the United States can exercise primary supervision over the administration of such trust and one or more United States persons have the authority to control all substantial decisions of such trust or (ii) the trust has in effect a valid election to be treated as a domestic trust for United States federal income tax purposes. Further, as described below, a non-United States holder is any holder of a Taxable Bond that is not a United States holder.

Taxation of Interest.

Interest paid on a Taxable Bond generally will be taxable to a United States holder as ordinary interest income at the time it accrues or is received, in accordance with the United States holder's method of tax accounting.

Sale, Exchange or Retirement of the Taxable Bonds.

Upon the sale, exchange or retirement of a Taxable Bond, a United States holder generally will recognize taxable gain or loss equal to the difference between the amount realized on the sale, exchange or retirement (other than amounts representing accrued and unpaid interest) and the United States holder's adjusted tax basis in the Bond. A United States holder's adjusted tax basis in a Taxable Bond will equal the cost of the Bond to that holder, increased by the amount of any original issue discount previously included in income by such holder with respect to such Bond and reduced by any principal payments received by the holder or by any amortized premium.

Gain or loss recognized on the sale, exchange or retirement of a Taxable Bond generally will be capital gain or loss, and will generally be long-term capital gain or loss if at the time of

sale, exchange or retirement the Bond has been held for more than one year. Through December 31, 2010, non-corporate taxpayers are subject to reduced maximum rates on long-term capital gains and generally are subject to tax at ordinary income rates on short-term capital gains. The deductibility of capital losses is subject to certain limitations. Prospective investors should consult their own tax advisor concerning these tax law provisions.

Any amount realized on the sale, exchange or retirement of a Taxable Bond that is attributable to accrued interest will be taxable as interest unless previously taken into account. In addition, the tax treatment of the receipt of any redemption premium resulting from the exercise of an extraordinary optional redemption of the Taxable Bonds (see, "THE TAXABLE BONDS" - Redemption Provisions") is unclear, and prospective purchasers of the Taxable Bonds are urged to consult their tax advisors regarding the tax treatment of any such payment.

Defeasance or material modification of the terms of any Taxable Bond may result in a deemed reissuance thereof, in which event a beneficial owner of the defeased Taxable Bond generally will recognize taxable gain or loss equal to the difference between the amount realized from the sale, exchange or retirement (less any accrued qualified stated interest which will be taxable as such) and the beneficial owner's adjusted tax basis in the Taxable Bond. Prospective purchasers of the Taxable Bonds are urged to consult their tax advisors regarding the foregoing matters.

Taxation of Tax-Exempt Investors.

Special considerations apply to employee benefit plans and other investors ("Tax-Exempt Investors") that are subject to tax only on their unrelated business taxable income ("UBTI'). A Tax-Exempt Investor's income from the Taxable Bonds generally will not be treated as UBTI under current law, so long as such Tax-Exempt Investor's acquisition of such Taxable Bonds is not debt-financed. Tax-Exempt Investors should consult with their own tax advisors concerning these special considerations.

The Employees Retirement Income Security Act of 1974, as amended ("ERISA"), and the Code generally prohibit certain transactions between a qualified employee benefit plan under ERISA or tax-qualified retirement plans and individual retirement accounts under the Code (collectively, the "Plans") and persons who, with respect to a Plan, are fiduciaries or other "parties in interest" within the meaning of ERISA or "disqualified persons" within the meaning of the Code. All fiduciaries of Plans, in consultation with their advisors, should carefully consider the impact of ERISA and the Code on an investment in any Taxable Bonds.

Non-United States Holders.

The following applies to a holder if the holder is a beneficial owner of a Taxable Bond and is not a United States holder or a United States partnership (or entity treated as a partnership for United States federal income tax purposes) (hereinafter a "non-United States holder"). Special rules which will not be addressed herein may apply if a non-United States holder is a "controlled foreign corporation" or a "passive foreign investment company" for United States federal income tax purposes. If a non-United States holder is such an entity, the non-United

States holder should consult its tax advisor to determine the tax consequences that may be relevant to the non-United States holder.

All payments on a Taxable Bond made to a non-United States holder and any gain realized on a sale, exchange, or other disposition of a Taxable will be exempt from United States federal income and withholding tax, provided that:

- the non-United States holder does not own, actually or constructively, 10% or more of the Authority's outstanding capital or profit interests within the meaning of the Code and the Treasury regulations;
- the non-United States holder is not a controlled foreign corporation related, directly or indirectly, to the Authority through stock ownership;
- the non-United States holder is not a bank whose receipt of interest on the Bond is described in Section 881(c)(3)(a) of the Code;
- the non-United States holder has fulfilled the certification requirement described below;
- such payments are not effectively connected with the conduct by the non-United States holder of a trade or business in the United States; and
- in the case of gain realized on the sale, exchange, or other disposition of a Taxable Bond, if the non-United States holder is a nonresident alien individual, the non-United States holder is not present in the United States for 183 or more days in the taxable year of the disposition where certain other conditions are met.

The certification requirement referred to above will be fulfilled if the non-United States holder provides its name and address to the Trustee on IRS Form W-8BEN (or an acceptable substitute), and certifies, under penalties of perjury, that the holder is not a United States person.

If the non-United States holder is engaged in a trade or business in the United States, and if payments on a Taxable Bond are effectively connected with the conduct of that trade or business, or are attributable to a permanent establishment maintained by the non-United States holder in the United States, the holder will generally be taxed in the same manner as a United States holder (see, "United States Holder" above), except that the non-United States holder will be required to provide a properly executed IRS Form W-8ECI in order to claim an exemption from or reduction of withholding tax.

Recently proposed legislation could impose United States withholding tax on payments of interest and proceeds of sale in respect of the Taxable Bonds to a non-United States holder that does not comply with certain disclosure requirements related to the equity ownership of the non-United States holder by United States persons. If payment of withholding taxes were required, non-United States holders that were eligible for an exemption from United States withholding taxes with respect to such interest and proceeds would be required to seek a refund from the IRS

to obtain the benefit of such exemption. It is unclear whether this legislation will be enacted and if so in what form.

Non-United States holders should consult their tax advisors with respect to other tax consequences of the ownership of the Taxable Bonds, including the possible imposition of a 30% branch profits tax.

Information Reporting And Backup Withholding.

Information returns may be filed with the Internal Revenue Service ("IRS") in connection with payments on the Taxable Bonds and the proceeds from a sale, exchange, or other disposition of the Taxable Bonds. Holders may receive statements containing the information reflected on these returns. If the holder is a United States holder, the holder may be subject to United States backup withholding tax on these payments if it fails to provide its taxpayer identification number to the paying agent and comply with certification procedures or otherwise establish an exemption from backup withholding. If the holder is not a United States holder, it may be subject to United States backup withholding tax on these payments unless the holder complies with certification procedures to establish that the holder is not a United States person. The certification procedures required of the holder to claim the exemption from withholding tax on certain payments on the Taxable Bonds described above will satisfy the certification requirements necessary to avoid the backup withholding tax as well.

The amount of any backup withholding made from a payment will be allowable as a credit against the holder's United States federal income tax liability and may entitle the holder to a refund, provided that the holder timely furnishes the required information to the IRS.

Certain State and Local Tax Consequences.

In addition to the United States federal income tax consequences described above, prospective investors should consider the potential state and local tax consequences of an investment in the Taxable Bonds. State income tax law may vary substantially from state to state, and this discussion does not purport to describe any aspect of the income tax laws of any state or locality. Therefore, potential purchasers should consult their own tax advisors with respect to the various state and local tax consequences of an investment in the Taxable Bonds. Notwithstanding the foregoing, under the Act, the Taxable Bonds, together with the interest thereon, shall be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof.

2010 Series B Bonds are Build America Bonds (Direct Payment).

The Authority will make an irrevocable election to treat the 2010 Series B Bonds as Build America Bonds (Direct Payment). As a result of this election, interest on the 2010 Series B Bonds will be includable in gross income of the holders thereof for federal income tax purposes and the holders of the 2010 Series B Bonds will not be entitled to any tax credits as a result of either ownership of the 2010 Series B Bonds or receipt of any interest payments on the 2010 Series B Bonds. Holders of the 2010 Series B Bonds should consult their tax advisors with

respect to the inclusion of interest on the 2010 Series B Bonds in gross income for federal income tax purposes. See "THE SERIES 2010 BONDS – Build America Bonds."

General Tax Provisions

Prospective purchasers of the Taxable Bonds should consult their own tax advisors as to the status of interest on the Taxable Bonds under the tax laws of any state other than West Virginia.

The IRS has a program to audit state and local government obligations to determine, as applicable, whether the interest thereon is includible in gross income for federal income tax purposes or whether such obligations qualify for certain designations, such as "Build America Bonds." If the IRS does audit the 2010 Series B Bonds, under current IRS procedures, the IRS will treat the Commission as the taxpayer and the owners of the 2010 Series B Bonds will have only limited rights, if any, to participate.

There are many events that could affect the value and liquidity or marketability of the Taxable Bonds after their issuance, including but not limited to public knowledge of an audit of the Taxable Bonds by the IRS, a general change in interest rates for comparable securities, a change in federal or state income tax rates, legislative or regulatory proposals affecting state and local government securities and changes in judicial interpretation of existing law. In addition, certain tax considerations relevant to owners of Taxable Bonds who purchase Taxable Bonds after their issuance may be different from those relevant to purchasers upon issuance. Neither the opinions of Bond Counsel nor this Official Statement purports to address the likelihood or effect of any such potential events or such other tax considerations and purchasers of the Taxable Bonds should seek advice concerning such matters as they deem prudent in connection with their purchase of Taxable Bonds.

Bond Counsel Obligations

Bond Counsel's engagement with respect to the Taxable Bonds ends with the issuance of the Taxable Bonds, and unless separately engaged, Bond Counsel is not obligated to defend the Commission or the beneficial owners regarding the Build America Bonds (Direct Payment) status of the 2010 Series B Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Commission or their appointed counsel, including the beneficial owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of the Taxable Bonds is difficult, obtaining an independent review of IRS positions with which the Commission legitimately disagrees may not be practicable.

Bond Counsel's opinions represent its legal judgment based in part upon the representations and covenants referenced therein and its review of existing law, but are not a guarantee of result or binding on the IRS or the courts. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may come to Bond Counsel's attention after the date of its opinions or to reflect any changes in law or the interpretation thereof that may occur or become effective after such date.

LITIGATION

There is no litigation of any nature pending or threatened against the Commission concerning the validity of the 2010 Series Bonds, and the Commission will furnish to the Underwriters a no-litigation certificate certifying to the foregoing at the time of the delivery of the 2010 Series Bonds.

LEGALITY

The validity of the 2010 Series Bonds and the tax exemption of interest on the 2010 Series 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 2010 Series Bonds. Certain matters will be passed upon for the Commission by Bruce R. Walker, Esq., Charleston, West Virginia, its counsel and for the Underwriters by their counsel, Goodwin & Goodwin, LLP, Charleston, West Virginia.

INDEPENDENT AUDITORS

The financial statements of the Commission included in Appendix C to this Official Statement have been audited by Deloitte & Touche LLP, independent auditors, to the extent and for the periods indicated in their report. The financial statements of the West Virginia Lottery included in Appendix F to this Official Statement have been audited by Gibbons & Kawash, independent auditors, to the extent and for the periods indicated in their report.

FINANCIAL ADVISOR

Public Resources Advisory Group, New York, New York, is serving as Financial Advisor in connection with the issuance of 2010 Series Bonds. The Financial Advisor is an independent advisory firm and is not engaged in the business of underwriting, trading, or distributing municipal securities or other public securities. The Financial Advisor has not and is not obligated to undertake to make an independent verification of, or to assume responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement.

CONTINUING DISCLOSURE

The Commission is the obligated party with respect to the 2010 Series Bonds and will provide the continuing disclosure described below. The Commission, on its own behalf and on behalf of the Lottery, has covenanted to provide, in accordance with the Continuing Disclosure Agreement, which shall be delivered in substantially the form attached hereto as APPENDIX I, certain financial information and operating data regarding the Commission and the West Virginia Lottery (the "Annual Information") not later than two hundred seventy (270) days following the end of the Commission's and the Lottery's fiscal years, commencing with the reports for the fiscal years ending June 30, 2011 (which are due no later than March 31, 2012), and to provide notice of the occurrence of the enumerated events listed therein, if material. The Annual Information and each notice of material events will be filed electronically by the Commission, on its own behalf and on behalf of the Lottery, with the Electronic Municipal Markets Access system ("EMMA").

This continuing disclosure obligation is being undertaken by the Commission, on behalf of the Lottery, to assist the Underwriters in complying with Rule 15c2-12 promulgated by the SEC. The Commission, on behalf of the Lottery, has agreed to give notice in a timely manner to EMMA of any failure to supply the required information. However, any such failure will not constitute a default under the terms of the 2010 Series Bonds. Under the Continuing Disclosure Agreement, the sole remedy for such failure is to seek an order for specific performance. See "APPENDIX I – FORM OF CONTINUING DISCLOSURE AGREEMENT."

The Commission has complied with all continuing disclosure obligations applicable to the Commission.

MISCELLANEOUS

The foregoing descriptions or statements of provisions of the West Virginia Code of 1931, as amended and supplemented, the 2010 Series Bonds, the 2010 Series Bonds Resolution, 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 2010 Series Bonds. Copies of the documents mentioned in this paragraph are on file at the offices of the Commission. The Commission has duly authorized delivery and distribution of this Official Statement.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _/s/ Dr. Brian Noland_
Chancellor

APPENDIX A

STATE INSTITUTIONS OF HIGHER EDUCATION

West Virginia Higher Education Policy Commission, as the supervising board of State Institutions of Higher Education

Baccalaureate and Graduate Institutions

Bluefield State College
Concord University
Fairmont State University
Glenville State College
Marshall University
Shepherd University
West Liberty University
West Virginia School of Osteopathic Medicine
West Virginia State University
West Virginia University
    Potomac State College, a division of West Virginia University
    West Virginia University Institute of Technology, a division of West Virginia University

Community and Technical College Institutions

Blue Ridge Community and Technical College
Bridgemont Community and Technical College
Eastern West Virginia Community and Technical College
Kanawha Valley Community and Technical College
Mountwest Community and Technical College
New River Community and Technical College
Pierpont Community and Technical College
Southern West Virginia Community and Technical College
West Virginia Northern Community and Technical College
West Virginia University at Parkersburg

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APPENDIX B

PROJECT LIST

Institution	Project	Funding Source: Institution, Federal, and/or Private Funding	Funding Source: HEPC Bond Funding	Running Total Bond Proceeds
New Buildings & Facilities				
	New Buildings & Facilities funded by HEPC Bonds			
WLU	Science Center	2,250,000	12,750,000	12,750,000
SU	Visual Arts Project	2,085,000	11,815,000	24,565,000
MU	Biotechnology Development Center & Applied Engineering	25,000,000	25,000,000	49,565,000
GSC	Multi-Function Health and Wellness Education Center (State funding to be applied to academic facilities only)	15,000,000	11,000,000	60,565,000
HEPC	Dow Research Park - Building Renovation	10,500,000	10,000,000	70,565,000
Subtotal New E&G Buildings & Facilities		**$54,835,000**	**$70,565,000**	
Building and Campus Renewal (Renovation)				
	Additional Projects Subject to Available Funding from HEPC Bonds			
WVU-Tech	Old Main Renovations	0	3,000,000	73,565,000
WVSU	Wallace Hall Renovation	0	1,800,000	75,365,000
WVSU	Davis Fine Arts Renovation	0	2,000,000	77,365,000
WVU	Research Laboratories (HSC)	0	3,200,000	80,565,000
WVU	Renovation of Health Sciences North (HSC)	0	15,000,000	95,565,000
BSC	Campus Infrastructure Improvements	0	6,000,000	101,565,000
MU	Forensic Science Center Annex/Renovation	0	1,000,000	102,565,000
WVU	Chemistry Research Annex Renovation	0	1,500,000	104,065,000
WVU	Hodges Renovation	0	25,000,000	129,065,000
Subtotal E&G Bldg. & Campus Renewal		**$0**	**$58,500,000**	
Total All Bond Projects		**$54,835,000**	**$129,065,000**	

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APPENDIX C

FINANCIAL STATEMENTS OF THE COMMISSION

West Virginia Higher Education Fund

(A Component Unit of the State of West Virginia)

Combined Financial Statements as of and for the Years Ended June 30, 2010 and 2009, Additional Information as of and for the Year Ended June 30, 2010, and Independent Auditors' Reports

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

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Deloitte.

Deloitte & Touche LLP
2500 One PPG Place
Pittsburgh, PA 15222-5401
USA
Tel: +1 412 338 7200
Fax: +1 412 338 7380
www.deloitte.com

INDEPENDENT AUDITORS' REPORT

To the West Virginia Higher Education
Policy Commission:

We have audited the accompanying combined statements of net assets of the West Virginia Higher Education Fund (the "Fund") as of June 30, 2010 and 2009, and the related statements of revenues, expenses, and changes in net assets and of cash flows for the years then ended. These combined financial statements are the responsibility of the Fund's management. Our responsibility is to express an opinion on these combined financial statements based on our audits. We did not audit the financial statements of Bluefield State College, Concord University, Glenville State College, New River Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and West Virginia School of Osteopathic Medicine (collectively, "Other Institutions") for the years ended June 30, 2010 and 2009, which statements reflect total assets, total net assets, and total revenues constituting approximately 11%, 16%, and 12%, respectively, of the Fund in 2010, and 11%, 15%, and 12%, respectively, of the Fund in 2009. Those statements were audited by other auditors whose reports have been furnished to us, and our opinion, insofar as it relates to the amounts included for the Fund for the years ended June 30, 2010 and 2009, is based solely on the reports of such other auditors. We also did not audit the discretely presented component units' financial statements. The component units' statements were audited by other auditors whose reports have been furnished to us, and our opinion, insofar as it relates to the discretely presented component units' financial statements, is based solely on the reports of such other auditors.

We, and the auditors for the Other Institutions and Marshall University Foundation, Inc., 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 combined financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used, and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that these audits provide a reasonable basis for our opinion.

In our opinion, based on our audits and the reports of the other auditors, the combined financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of June 30, 2010 and 2009, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

The Management's Discussion and Analysis (MD&A) on pages 3 to 16 is not a required part of the combined financial statements but is supplementary information required by the GASB. This supplementary information is the responsibility of the Fund's management. We have applied certain

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limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit such information and we do not express an opinion on it.

Our audits were conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The additional information listed in the table of contents is presented for the purpose of additional analysis and is not a required part of the basic financial statements. This additional information is the responsibility of the Fund's management. Such information has been subjected to the auditing procedures applied in our audits of these basic financial statements and, in our opinion, is fairly stated in all material respects when considered in relation to the basic financial statements taken as a whole.

Deloitte & Touche LLP

December 2, 2010

West Virginia Higher Education Fund

Management's Discussion and Analysis
Fiscal Year 2010 (Unaudited)

Overview of the Combined Financial Statements and Financial Analysis

The West Virginia Higher Education Fund (the "Fund") is comprised of twenty public colleges and universities and two administrative units. The Fund is a discretely presented component unit of the State of West Virginia. The supervision and management of the affairs of each institution is the responsibility of individual Governing Boards, while the West Virginia Higher Education Policy Commission (the "Commission") and the West Virginia Council for Community and Technical College Education (the "Council") are responsible for the development and implementation of a higher education policy agenda.

GASB standards require the audited financial statements of certain institutions' component units to be separately presented as a discrete component unit in the Fund's financial statements for the fiscal years ended June 30, 2010 and 2009. These component units are private nonprofit organizations that report under FASB standards. A supplemental information schedule is provided presenting these statements on a consolidated GASB basis to meet the State of West Virginia reporting requirements.

The following discussion and analysis of the Fund's Combined Financial Statements provides an overview of its financial activities for Fiscal Years 2010 and 2009 and is required supplemental information. The emphasis of discussions about these statements will focus on current year data in comparison to prior year. There are three financial statements presented: the Combined Statement of Net Assets; the Combined Statement of Revenues, Expenses, and Changes in Net Assets; and the Combined Statement of Cash Flows.

Combined Statement of Net Assets

The Combined Statement of Net Assets presents the assets, liabilities, and net assets of the Fund and is a point of time financial statement, designed to present to the readers of the financial statements a fiscal snapshot of the Fund. The Combined Statement of Net Assets presents end-of-year financial information on Assets (current and noncurrent), Liabilities (current and noncurrent), and Net Assets (assets minus liabilities).

From the data presented, readers of the Combined Statement of Net Assets are able to determine the assets available to continue the operations of the Fund. They are also able to determine how much the Fund owes vendors, employees, investors and lending institutions. Finally, the Combined Statement of Net Assets provides a picture of the net assets (assets minus liabilities) and their availability for expenditure by the Fund.

Net assets are divided into three major categories as follows:

(1) Invested in Capital Assets, Net of Related Debt, which provides the Fund's equity in property, plant and equipment owned by the Fund.

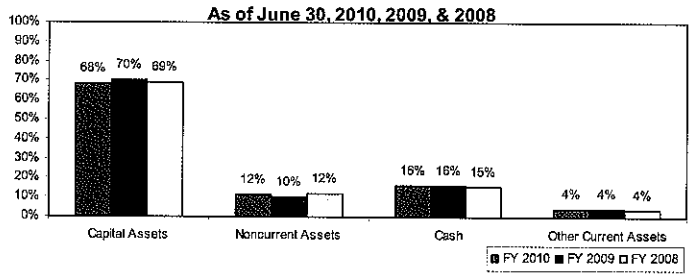
(2) Restricted Net Assets, which is divided into two categories, nonexpendable and expendable. Nonexpendable restricted net assets are not available for expenditure by the Fund. These funds are invested and generate earnings that are available for certain types of expenditures. Expendable restricted net assets are available for expenditure by the Fund but have a specific purpose.

(3) Unrestricted net assets are available for expenditure and can be used for any lawful purpose of the Fund.

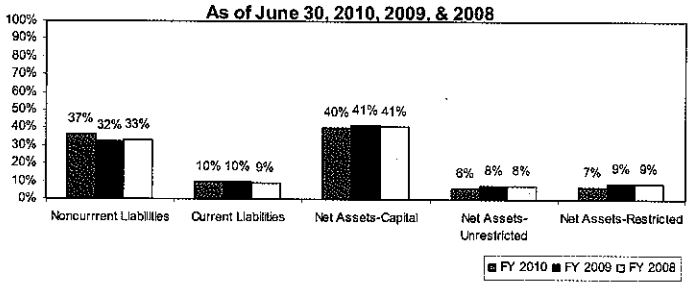
Condensed Statements of Net Assets
(In thousands of dollars)

	June 30 2010	June 30 2009	June 30 2008	Change From 2009 to 2010
Assets				
Current Assets	$ 568,479	$ 542,442	$ 491,652	$ 26,037
Capital Assets, net	1,941,703	1,862,554	1,767,642	79,149
Other Noncurrent Assets	327,283	240,584	303,961	86,699
Total Assets	$ 2,837,465	$ 2,645,580	$ 2,563,255	$ 191,885
Liabilities				
Current Liabilities	$ 280,034	$ 259,359	$ 236,858	$ 20,675
Noncurrent Liabilities	1,036,010	851,481	846,481	184,529
Total Liabilities	1,316,044	1,110,840	1,083,339	205,204
Net Assets				
Invested in Capital Assets, net	1,141,427	1,095,650	1,044,109	45,777
Restricted-expendable	196,161	230,330	227,311	(34,169)
Restricted-nonexpendable	5,946	5,354	5,454	592
Unrestricted	177,887	203,406	203,042	(25,519)
Total Net Assets	1,521,421	1,534,740	1,479,916	(13,319)
Total Liabilities and Net Assets	$ 2,837,465	$ 2,645,580	$ 2,563,255	$ 191,885

Asset Composition



Liabilities & Net Assets



Major items of note in the Combined Statement of Net Assets include:

- Total current assets of $568.5 million exceeded total current liabilities of $280.0 million as of June 30, 2010 for net working capital of $288.5 million as compared to net working capital of $283.0 million as of June 30, 2009. Current assets increased by $26.0 million over the prior year, while current liabilities increased by $20.7 million.
    - The major components of currents assets include cash and cash equivalents of $454.5 million and $431.9 million and net accounts receivable of $82.2 million and $71.8 million as of June 30, 2010 and 2009, respectively. The majority of the cash and cash equivalents represent interest earning assets invested through the office of the West Virginia State Treasurer which invested with Board of Treasury Investments at both June 30, 2010 and 2009.
    - The major components of current liabilities include $85.5 million and $82.6 million of deferred revenue, $56.2 million and $58.4 million in accounts payable, $44.0 million and $40.2 million of accrued liabilities, $39.7 million and $40.1 million in accrued compensated absences, and $26.9 million and $24.4 million in bonds payable, as of June 30, 2010 and 2009, respectively.
    - The changes from last year in the level of current assets and liabilities reflect normal fluctuations in business operations, anticipation of upcoming projects including current construction projects, increases in grant activities, and the general growth of the higher education institutions.
- Noncurrent assets total $2,269.0 million and $2,103.1 million and noncurrent liabilities total $1,036.0 million and $851.5 million as of June 30, 2010 and 2009, respectively. Noncurrent assets increased by $165.8 million over the prior year while noncurrent liabilities increased by $184.5 million.
    - The primary noncurrent asset is $1,941.7 million and $1,862.6 million of net capital assets as of June 30, 2010 and 2009, respectively. Also included as noncurrent assets are cash and cash equivalents primarily for capital purposes of $103.7 million and $79.2 million and investments for capital purposes totaling $151.2 million and $86.6 million as of June 30, 2010 and 2009, respectively. Net loans to students total $51.2 million and $53.5 million as of June 30, 2010 and 2009, respectively.
    - Major components of noncurrent liabilities include long-term bonds payable totaling $722.0 million and $655.0 million, capital leases of $67.2 million and $44.2 million, advances from federal sponsors of $41.4 million and $41.5 million, notes payable of $30.3 million and $31.2 million, and accruals for other post employment benefit liability of $113.5 million and $24.0 million as of June 30, 2010 and 2009, respectively.
    - The increase in post employment benefit liability of $89.5 million is partially attributed to decreases in payments on behalf of West Virginia Higher Education Fund and decreases in investment returns by the State's Multiple-Employer Trust Fund resulting in an increase of the Annual Required Contribution (ARC).
    - Other changes from the prior year in noncurrent assets and liabilities primarily reflect new capital projects financed by prior year revenue bonds at Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Virginia University, and a system bond issue by the Commission as discussed in more detail in a later section.

- The net assets of the Fund total $1,521.4 million and $1,534.7 million as of June 30, 2010 and 2009, respectively, a decrease of $13.3 million and increase of $54.8 million from each previous year end.
  - Net assets invested in capital assets total $1,141.4 million and $1,095.6 million as of June 30, 2010 and 2009 respectively.
  - Restricted expendable net assets total $196.2 million and $230.3 million and include $78.6 million and $96.4 million for sponsored projects, $66.9 million and $70.8 million for capital projects, and $25.7 million and $27.9 million for loan programs as of June 30, 2010 and 2009, respectively.
  - Unrestricted net assets total $177.9 million and $203.4 million as of June 30, 2010 and 2009, respectively, and represent net assets available to the Fund for any lawful purpose of the Fund.
  - The increase in Net Assets is more fully explained in the following section.

Combined Statement of Revenues, Expenses, and Changes in Net Assets

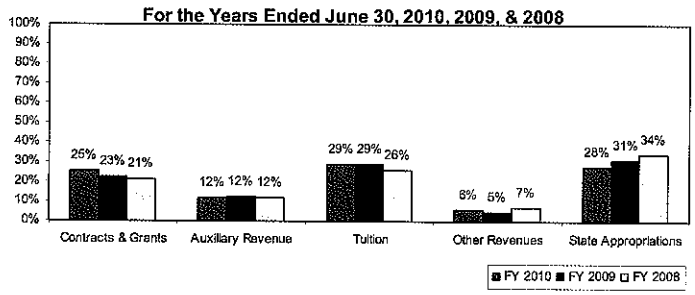
Changes in total net assets as presented on the Combined Statement of Net Assets are based on the activity presented in the Combined Statement of Revenues, Expenses, and Changes in Net Assets. The purpose of the statement is to present the revenues of the Fund, both operating and nonoperating, and the expenses of the Fund, operating and nonoperating, and any other revenues, expenses, gains or losses of the Fund.

Operating revenues represent the receipts earned from providing goods and service to the various customers and constituencies served by the Fund, including fees from students and revenue in the form of Federal and State grants used to support operations and various initiatives. Operating expenses are those expenses incurred in the form of staff salaries, benefits and various goods and services to carry out the mission of the Fund. Revenues for which goods and services are not provided are reported as nonoperating revenues. For example, State appropriations are nonoperating because they are provided by the West Virginia State Legislature to the Fund without the Legislature directly receiving commensurate goods and services for those revenues.

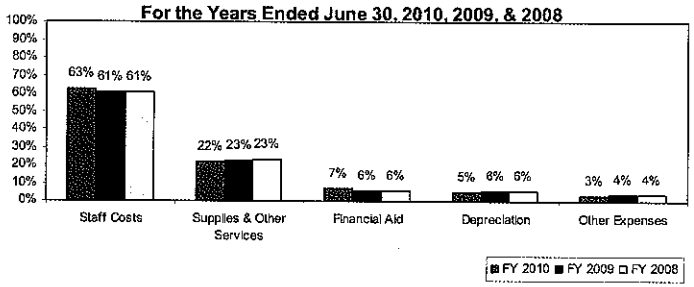
Condensed Statements of Revenues, Expenses, and Changes in Net Assets
(In thousands of dollars)

	FY 2010	FY 2009	FY 2008	Change From 2009 to 2010
Operating Revenues	$ 996,747	$ 963,888	$ 900,435	$ 32,859
Operating Expenses	1,637,521	1,491,160	1,396,116	146,361
Operating Loss	(640,774)	(527,272)	(495,681)	(113,502)
Net Nonoperating Revenues	580,087	537,986	606,764	42,101
(Loss) Income Before Other Revenues, Expenses, Gains or Losses	(60,687)	10,714	111,083	(71,401)
Capital Grants and Gifts-Net	43,126	43,633	78,174	(507)
State Capital Grants (Federal)	4,242	-	-	-
(Decrease) Increase in Net Assets Before Cumulative Effect	(13,319)	54,347	189,257	(67,666)
Net Assets-Beginning of Year	1,534,740	1,479,916	1,228,801	54,824
Cumulative Effect Of Adoption Of Accounting Principle	-	477	61,858	(477)
Net Assets-End of Year	$ 1,521,421	$ 1,534,740	$ 1,479,916	$ (13,319)

Total Revenues



Total Expenses



Major items of note in the Combined Statement of Revenue, Expenses and Changes in Net Assets include:

- Operating Revenues of the Fund totaled $996.7 million and $963.9 million, for the years ended June 30, 2010 and 2009, respectively, an increase of $32.8 million compared to the prior year increase of $63.2 million.
    - Student tuition and fees revenues totaled $467.9 million in FY 2010, an increase of $20.9 million or 4.7% in FY 2010 compared to a 9.9% increase in FY 2009. Tuition is reported net of scholarship allowances totaling $134.8 million and $106.5 million for the years ended June 30, 2010 and 2009, respectively. This increase is a combination of increases in tuition and number of students.
    - Federal grant and contracts totaled $149.7 million and $135.8 million for the years ended June 30, 2010 and 2009, respectively. The increase of $13.9 million represents normal fluctuations in grant activities. Federal grants include funding for sponsored research, and other miscellaneous federal programs.
    - Auxiliary enterprises generated revenues of $195.4 million and $190.5 million, net of $18.7 million and $16.1 million of scholarship allowances for the years ended June 30, 2010 and 2009, respectively. FY 2010 net auxiliary revenues increased by $5.0 million or 2.6% compared to a 3.4% increase in FY 2009, reflecting primarily increases in rates as there were no new significant additions to level of service in 2010.
    - State grants and contracts totaled $58.5 million and $64.6 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $6.1 million from FY 2009 compared to a decrease of $0.4 million from FY 2008. Private grants and contracts totaled $66.3 million and $70.2 million for the years ended June 30, 2010 and 2009 respectively, a decrease of $3.9 million from FY 2009, compared to an increase of $10.5 million from FY 2008. These changes represent normal fluctuations in grant activities.
- Operating expenses totaled $1,637.5 million and $1,491.2 million for the years ended June 30, 2010 and 2009, respectively, an increase of $146.4 million and $94.5 million from each previous year.
    - Staff salary costs totaled $733.5 million and $698.7 million, an increase of $34.8 million and $52.9 million for the years ended June 30, 2010 and 2009, respectively, or 5.0% from FY 2009. This increase is attributed to salary increases and an additional year of service of annual increment. Benefit costs increased by $73.2 million in FY 2010, or 33.0% from FY 2009 and is due to the increase of the OPEB liability.
    - Supplies and other services totaled $346.9 million and $340.1 million for the years ended June 30, 2010 and 2009, respectively, an increase of $6.8 million from FY 2009, compared to an increase $14.5 million from FY 2008. The largest increases in the functional areas are related to research and public service of $5.2 million and $3.7 million, respectively.
    - Scholarships and fellowships totaled $117.4 million and $89.7 million for the years ended June 30, 2010 and 2009, respectively, an increase of $27.7 million or 30.9% from FY 2009 compared to an increase of $10.4 million or 13.1% from FY 2008.

- Depreciation on capital assets totaled $89.8 million and $82.1 million for the years ended June 30, 2010 and 2009, respectively, an increase of $7.7 million from FY 2009 compared to a $3.5 million increase from FY 2008.

- The result from operations was a net operating loss of $640.8 million and $527.3 million for the years ended June 30, 2010 and 2009, respectively, which excludes State appropriations of $449.3 million (which does not include another $21.9 million of State fiscal stabilization funds), and $483.5 million and Federal Pell grants of $133.2 million and $80.7 million for the years ended June 30, 2010 and 2009, respectively, which are recorded as non-operating revenue. The net operating loss increased by $113.5 million in FY 2010, from the increase in operating expenses of $146.4 million, in excess of increases in revenue of $32.9 million. The increase in net operating loss of $113.5 million is more than the FY 2009 increase of $31.3 million as discussed above.

- Net non-operating revenue totaled $580.1 million and $538.0 million for the years ended June 30, 2010 and 2009, respectively, an increase of $42.1 million.

  - State general revenue and lottery appropriations totaled $449.3 million and $483.5 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $34.2 million, primarily attributed to a decrease in State appropriations from FY 2009 as State budget reductions mandated by the Governor were imposed for FY 2010. This decrease was backfilled with State fiscal stabilization funds of $21.9 million.

  - Interest incurred on indebtedness totaled $40.3 million and $36.5 million, an increase of $3.8 million from FY 2009, compared to $0.3 million from FY 2008.

  - Interest income (loss) on investments totaled $10.9 million and $(1.0) million for the years ended June 30, 2010 and 2009, respectively, a positive change of $11.9 million from the prior year. This positive change is due to improving investment returns by the Board of Treasury Investments (BTI) and gains in market value of investments by West Virginia University and Marshall University.

  - Payments on behalf of West Virginia Higher Education Fund totaled $10.9 million for the year ended June 30, 2009 and is attributed to OPEB credits from the State of West Virginia for retiree insurance premiums. For FY 2010, the State did not make payments to the Trust.

  - Student financial aid payments to other institutions totaled $14.9 million and $20.5 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $5.6 million from FY 2009, compared to an increase of $2.3 million from FY 2008.

- Other revenues consist of capital grants and gifts totaling $43.1 million and $43.6 million for the years ended June 30, 2010 and 2009, respectively, a decrease of $0.5 million from FY 2009, compared to a decrease of $34.6 million from FY 2008. The decrease from FY 2008 is primarily attributed to a one time $30.0 million capital appropriation in FY 2008 for the construction of two advanced technology centers within the Community and Technical College System.

- The activity for FY 2010 resulted in a decrease of net assets totaling $13.3 million, as compared to the $54.3 million increase in net assets during FY 2009. The decrease in net assets at June 30, 2010 is primarily attributed to the additional OPEB liability.

- As reported below on a functional expenditure basis, expenditures for Educational and General Expenses were $1,252.7 million and $1,149.7 million for the years ended June 30, 2010 and 2009, respectively, an increase of $103.0 million or 8.2% from FY 2009. Cost of instruction constitutes 39.8% of total educational and general expenses. Student Services grew by 11.3%, Academic Support increased by 10.3% and costs of Instruction increased by 9.6% over FY 2009.

Functional Expenditure Comparisons
(in thousands of dollars)

	FY10 Total	% of E&G Total	FY09 Total	% of E&G Total	FY08 Total	% of E&G Total
Instruction	$ 498,765	39.8%	$ 450,986	39.2%	$ 419,054	39.2%
Research	161,548	12.9%	152,535	13.3%	152,181	14.2%
Public Service	96,345	7.7%	87,671	7.6%	81,935	7.7%
Academic Support	87,605	7.0%	78,557	6.8%	76,288	7.1%
Student Services	81,483	6.5%	72,302	6.3%	69,441	6.5%
Plant Operations	133,450	10.7%	125,891	10.9%	108,970	10.2%
Institutional Support	193,454	15.4%	181,804	15.8%	161,837	15.1%
Total E & G Expenses	1,252,650	100.0%	1,149,746	100.0%	1,069,706	100.0%
Financial Aid	115,175		88,232		77,858	
Auxiliary Enterprises	175,874		168,821		168,064	
Depreciation	89,780		82,113		78,642	
Other	4,042		2,248		1,846	
Total Operating Expenses	$ 1,637,521		$1,491,160		$ 1,396,116	

Combined Statement of Cash Flows

The final statement presented is the Combined Statement of Cash Flows. The Combined Statement of Cash Flows presents detailed information about the cash activity of the Fund during the year. The statement is divided into five parts. The first section deals with operating cash flows and shows the net cash used by the operating activities of the Fund. The second section reflects cash flows from noncapital financing activities. This section reflects the cash received and spent for nonoperating, noninvesting, and noncapital financing purposes. The third section deals with cash flows from capital and related financing activities. This section deals with the cash used for the acquisition and construction of capital and related items. The fourth section reflects the cash flows from investing activities and shows the purchases, proceeds, and interest received from investing activities. The fifth part reconciles the net cash used to the operating loss reflected on the Combined Statement of Revenues, Expenses, and Changes in Net Assets.

Condensed Statements of Cash Flows
(In thousands of dollars)

	FY 2010	FY 2009	FY 2008	Change From 2009 to 2010
Cash Provided (Used) By:				
Operating Activities	$ (456,304)	$ (400,958)	$ (366,983)	$ (55,346)
Noncapital Financing Activities	616,726	565,023	628,834	51,703
Capital and Related Financing Activities	(83,460)	(158,366)	(240,599)	74,906
Investing Activities	(54,397)	32,056	47,988	(86,453)
Increase in Cash and Cash Equivalents	22,565	37,755	69,240	(15,190)
Cash and Cash Equivalents, beginning of year	431,890	394,135	324,895	37,755
Cash and Cash Equivalents, end of year	$ 454,455	$ 431,890	$ 394,135	$ 22,565

Major items of note in the Combined Statement of Cash Flows include:

- Cash provided from operating revenues was exceeded by cash expended for operating activities by $456.3 million and $401.0 million for the years ended June 30, 2010 and 2009, respectively, primarily due to the reporting of State appropriations and Federal Pell grants as noncapital financing activities. Primary sources of cash from Operating Activities during FY 2010 and 2009, respectively, were Student tuition and fees of $487.4 million and $443.1 million; Contracts and grants of $270.8 million and $274.7 million; and Auxiliary enterprise charges of $185.1 million and $199.9 million. Primary uses of cash for FY 2010 and 2009, respectively, included payments to and on behalf of employees of $936.7 million and $888.9 million and payments to suppliers of $347.3 million and $337.3 million.

- Net cash provided from noncapital financing activities for FY 2010 and 2009, respectively, totaled $616.7 million and $565.0 million, of which $456.2 million and $480.0 million was from State General Revenue and Lottery appropriations and $133.2 million and $80.7 million was from Federal Pell Grants. In FY 2010, the fund received $20.8 million is State fiscal stabilization funds from the Federal Government American Recovery and Reinvestment Act (ARRA).

- Net cash used in capital and related financing activities for FY 2010 totaled $83.5 million primarily for purchases of capital assets of $160.2 million, offset by proceeds from bond issuances and borrowings totaling $96.0 million as compared to net cash used of $158.4 million in FY 2009 primarily for purchases of capital assets of $171.8 million offset by proceeds from bond issuances and borrowings of $10.0 million.

- Net cash used in investing activities for FY 2010 totaled $54.4 million compared to net cash provided by investing activities of $32.1 million for FY 2009. This represents the net purchases of investments for funding capital projects primarily from the investment of the 2009 Series A bond proceeds.

- Net cash for FY 2010 increased by $22.6 million compared to increase in net cash for FY 2009 of $37.8 million. This increase is the net result of all the previous activity discussed.

Capital Asset and Long-Term Debt Activity

The Fund continued to expand its capital facilities to further its mission of providing quality programs to students and to provide expanded research capabilities. Expenditures for capital assets totaled $160.2 million in FY 2010, as compared to $171.8 million in FY 2009. Institutional projects at all the institutions are under way due to institutional bond issues in FY 2003, 2004, 2005, 2006 and 2008 and system bond issues in FY 2005 and FY 2010. For FY 2010, expenditures at West Virginia University, Glenville State College, Marshall University, Concord University, Mountwest Community and Technical College and Shepherd University accounted for $137.6 million of the $160.2 million total. Major projects at West Virginia University included in these expenditures include a new student recreation center, an addition to the Wise Library, a new Life Sciences Building, continuation of an asbestos abatement program, and various projects focused on infrastructure improvements. Major projects at Glenville State College include a new housing complex. Major projects at Marshall University include a new housing complex, a new parking garage, and planning for a new biotechnology science center. Major projects at Concord University include ADA upgrades and the University Point project. Major projects for Mountwest Community and Technical College include the acquisition of land and a building for the future site of the Mountwest campus. Major projects at Shepherd University include a new housing complex, infrastructure upgrades, improvements to the Arts Center and construction of the Ken Boone Field House at Ram Stadium. The remaining expenditures reflect on-going capital projects at the other state colleges, universities and community and technical colleges.

Funding for capital projects comes from a variety of sources, including student tuition and other operating revenues, fund raising, bond proceeds, capital lease financing, and other external financing arrangements. The Institutions have participated in a number of System Bonds issued in previous years, with a balance outstanding of $123.7 million as of June 30, 2010. This includes the State College and University System Bonds prior to the Facilities 2004 System Bonds and the 2007 Refunding Bonds, which are funded from tuition collections at the institutions. The Facilities 2004 System Bonds of $144.0 million are funded from excess lottery revenue. There have been no significant changes in credit ratings or debt limitations that may affect future financing for the Fund. Further details concerning the long-term liabilities of the Fund are included in Notes 7 through 12 of the Notes to the Combined Financial Statements.

On December 8, 2009, the Commission, on behalf of the Council, issued $78,295,000 of Community and Technical Colleges Improvement Revenue Bonds, 2009 Series A (2009 Bonds). The proceeds of the 2009 Bonds are being used to finance the acquisition, construction, equipping, or improvement of community and technical college facilities in West Virginia. The interest rate on the 2009 Bonds ranges from 2.5% to 5.0% and the due dates commence July 1, 2010 and end July 1, 2028. State Lottery proceeds of a maximum of $5,000,000 per year will be used to repay the debt, which has a maximum annual debt service of $4,999,750. In addition, pursuant to Section 18 (j) (1) of the Lottery Act, the Commission has granted a third-in-party lien, for the benefit of the bond holders, on the proceeds of the State Lottery Fund, up to a maximum of $7,500,000 annually.

Lastly, the Commission entered into an agreement on February 25, 2010 with the Union Carbide Corporation (UCC) a wholly-owned subsidiary of The Dow Chemical Company (Dow) for the donation of property known as Union Carbide Corporation's Technology Park in the City of South Charleston, County of Kanawha, and State of West Virginia. This property consists of 258 acres, several major buildings and infrastructure. Dow has opened the Tech Park to other business to enhance economic development opportunities. Kanawha Valley Community and Technical College will relocate their campus to the site with the renovation of one of the existing buildings and there will be the construction of an Advanced Technology Center for community college technical training and education. The deed to the property is expected to transfer to the Commission on or before December 15, 2010, at which time a donation would be recognized.

Other Factors Impacting the Financial Position and Results of Operations of the Fund

The mission of the Commission is to align the West Virginia Higher Education System to a new master plan for 2007-2012. The master plan has two sections. The first section, The Public Agenda – Meeting West Virginia's Needs: A Vision for Higher Education in West Virginia, is a vision statement and an executive summary of the master plan. It will set forth the overarching goals for West Virginia public higher education and provides the conceptual framework for the 2007-2012 master plan of the Higher Education Policy Commission. The plan will focus on five areas that are central to meeting current challenges in West Virginia higher education:

1. Economic Growth
2. Access
3. Cost and Affordability
4. Learning and Accountability
5. Innovation

The second section, Achieving the Goals – What We Need to Do, will provide findings, outlines goals, and suggests strategies for West Virginia's public colleges and universities to address in each of the five areas of the public agenda. The findings, goals, and strategies constitute the plan for addressing needs in higher education in West Virginia from 2007 to 2012 and are the basis for developing new elements in the establishment of new institutional compacts for the state's four-year public colleges and universities.

The achievement of the goals for the higher education system as described in the Master Plan are dependent upon many factors, one of which is adequate resources to implement the strategies necessary to achieve the goals. At the present time the Fund maintains a strong financial condition. The net asset position of the Fund is $1,521.4 million, including $177.9 million in unrestricted net assets. The continued success of the Fund is closely tied to the economic strength of the State of West Virginia. Over 28% of operating and nonoperating revenues of the Fund in FY 2010 are from State general revenue and lottery revenues. This funding is critical to the success of the higher education system in meeting the Compact goals.

State appropriations decreased approximately 7% in FY 2010 from FY 2009 and are attributable to State budget reductions mandated by the Governor in FY 2010. Unlike the majority of the nation, West Virginia was not impacted as quickly by the downturn in the economy and budget reductions did not occur until fiscal year 2010. For fiscal year 2011, as the West Virginia economy worsened, State appropriations for operations have been reduced by approximately 5% and the potential for mid year budget reductions does not seem likely. Due to the American Recover and Reinvestment Act (ARRA), State higher education institutions had their FY 2010 budget reductions backfilled by the State Fiscal Stabilization Fund Program in the amount of $21.9 million. For fiscal year 2012 the Governor's Office instructed that budget requests are to be at the current FY 2011 level plus the anticipated ARRA funds for FY 2011.

The GASB issued Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*, effective for fiscal years beginning after December 15, 2006. The adoption of GASB Statement No. 45 by the Fund resulted in a cumulative effect adjustment of approximately $61.9 million which increased net assets as the existing liability of the Fund was transferred to the State's Multiple-Employer Trust Fund. The Trust Fund for OPEB invoiced the Fund $13.7 million in fiscal year 2009 in excess of current amounts paid and for fiscal year 2010 the Trust Fund invoiced the Fund $89.6 million in excess of current amounts paid. The liability as of June 30, 2010 is $113.5 million. In the past,

the State made certain payments on behalf of the Fund. However, no such payments were made in fiscal year 2010 and there is no commitment of any payments made on behalf of the Fund from the State for years after fiscal year 2010, at this time. Accordingly, as of June 30, 2010, the GASB Statement No. 45 liability exceeded the amount that was recognized as a positive cumulative effect in FY 2008 by over $50 million.

The demographics of the State of West Virginia also have an impact on the future operations of the Fund. The number of high school graduates has declined in recent years and is projected to decline further over the next ten years. Significant efforts are underway to expand the participation rate in higher education by both high school graduating seniors as well as adults to improve the economic environment of the State. Increased attendance by non-resident students is another factor in the future financial stability of the Fund. Net student tuition and fees provide approximately 29% of the total revenues of the Fund.

One of the key goals of the higher education system is to improve the economic environment of the State of West Virginia. The full impact of the current economic environment and the resulting impact on the future economic environment by various factors including the performance of the higher education system cannot be predicted with any certainty. The current financial condition of the Fund will be beneficial in meeting the challenges that lie ahead.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF NET ASSETS
AS OF JUNE 30, 2010 AND 2009
(Dollars in thousands)

ASSETS	2010	2009
CURRENT ASSETS:		
Cash and cash equivalents	$ 454,455	$ 431,890
Appropriations due from Primary Government	15,867	23,741
Due from State		
Accounts receivable — net	82,241	71,807
Loans receivable — current portion	6,670	6,589
Other current assets	3,254	2,581
Inventories	5,992	5,834
Total current assets	568,479	542,442
NONCURRENT ASSETS:		
Cash and cash equivalents	103,701	79,188
Investments	151,222	86,580
Appropriations due from Primary Government	2,959	2,979
Loans receivable — net of allowance of $10,454 and $8,855 in 2010 and 2009, respectively	51,245	53,524
Other assets	18,156	18,313
Capital assets — net	1,941,703	1,862,554
Total noncurrent assets	2,268,986	2,103,138
TOTAL	$2,837,465	$2,645,580

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF NET ASSETS
AS OF JUNE 30, 2010 AND 2009
(Dollars in thousands)

LIABILITIES	2010	2009
CURRENT LIABILITIES:		
Accounts payable	$ 56,223	$ 58,420
Due to State of West Virginia	112	223
Accrued liabilities	43,980	40,204
Deferred revenue	85,530	82,615
Deposits	5,687	6,267
Other liabilities — current portion	162	287
Compensated absences — current portion	39,707	40,141
Notes payable — current portion	2,815	885
Capital lease obligations — current portion	13,925	2,536
Interest payable	4,997	3,385
Bonds payable — current portion	26,896	24,396
Total current liabilities	280,034	259,359
NONCURRENT LIABILITIES:		
Advances from federal sponsors	41,355	41,542
Compensated absences	3,142	3,213
Notes payable	30,302	31,208
Capital lease obligations	67,152	44,226
Deferred interest payable	29,917	26,060
Bonds payable	721,991	655,028
Other post employment benefit liability	113,543	23,990
Other noncurrent liabilities	28,608	26,214
Total noncurrent liabilities	1,036,010	851,481
Total liabilities	1,316,044	1,110,840
NET ASSETS:		
Invested in capital assets — net of related debt	1,141,427	1,095,650
Restricted for:		
Expendable:		
Scholarships	12,775	20,732
Sponsored projects	78,599	96,416
Loans	25,720	27,877
Capital projects	66,869	70,764
Debt service	8,317	7,527
Other	3,881	7,014
Total restricted expendable	196,161	230,330
Nonexpendable	5,946	5,354
Unrestricted	177,887	203,406
Total net assets	1,521,421	1,534,740
TOTAL	$2,837,465	$2,645,580

See notes to combined financial statements.

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF NET ASSETS
AS OF JUNE 30, 2010

LIABILITIES AND NET ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
LIABILITIES:															
Accounts payable	$ -	$ 103,912	$ -	$ -	$ 30,232	$ -	$ 439,532	$ 767,186	$ 1,115	$ 25,425	$ -	$ 3,020	$ 8,339	$ 7,434	$ 2,116
Other accrued liabilities		580		5,000		60,180	398,328	1,754,356	3,005	125,324			9,000		
Amounts held on behalf of others	2,184	85,950	780,894						3,338,541				123,156		
Annuity obligations			320,335	75,529			690,241								
Bonds and notes payable		3,672,157			17,345		12,342,210	90,065,000	195,026		63,884				
Swap liability								13,277,767							
Total liabilities	2,184	3,862,599	1,101,229	80,529	47,577	60,180	13,870,311	105,864,309	3,537,687	150,749	63,884	3,020	140,495	7,434	2,116
NET ASSETS (DEFICIT):															
Unrestricted	1,272,841	1,054,945	453,148	957,675	546,894	(142,853)	10,357,717	(15,897,577)	(3,226,912)	144,572	1,310,972	379,056	1,833,059	399,693	192,556
Temporarily restricted	5,286,058		3,934,813	2,933,065	25,698	115,422	20,696,013		4,399,595	2,513,210	1,248,873	1,150,533	69,185	1,364,132	4,653,943
Permanently restricted	1,070,530		17,027,260	10,829,892	11,529,721	1,015,710	68,336,110		20,073,694	15,000	8,874,969	496,820	344,344	3,815,380	1,650,741
Total net assets (deficit)	7,629,429	1,054,945	21,415,221	14,720,632	12,102,313	988,279	99,389,840	(15,897,577)	21,246,377	2,672,782	11,434,814	2,026,409	2,246,588	5,579,205	6,497,240
TOTAL	$7,631,613	$4,917,544	$22,516,450	$14,801,161	$12,149,890	$1,048,459	$113,260,151	$ 89,966,732	$24,784,064	$2,823,531	$11,498,698	$2,029,429	$2,387,083	$5,586,639	$6,499,356

* December 31 year-end.

See notes to combined financial statements.

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF NET ASSETS
AS OF JUNE 30, 2010

ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
CASH AND CASH EQUIVALENTS	$1,106,536	$ 41,814	$ 649,205	$ 34,868	$ 139,926	$ 323,841	$ 7,308,174	$ 1,102,676	$ 2,150,994	$ 576,680	$ 481,145	$ 70,403	$ 514,269	$ 879,686	$ 262,035
INVESTMENTS	6,503,811		21,374,062	11,540,030	11,275,599		76,060,291	6,743,702	21,490,881	1,775,050	8,886,776	1,834,516	23,311	3,649,657	6,212,671
NET INVESTMENT IN DIRECT FINANCING LEASES							3,587,018								
PLEDGES AND CONTRIBUTIONS RECEIVABLE	3,581		450,555	1,020,585	692,731	2,000	5,598,598		1,069,093	437,414	184,744	62,598			
OTHER ASSETS	17,685	176,765	41,094	14,028	9,006	2,300	992,075	2,579,583	68,698	33,742	57,933	61,912	24,259	11,843	24,650
BENEFICIAL INTERESTS				2,191,650		720,318	6,415,960				1,888,100		231,423	115,685	
PROPERTY, PLANT, AND EQUIPMENT — Net		4,698,965	1,534		32,578		13,298,035	79,540,771	4,398	645			1,593,821	929,268	
TOTAL	$7,631,613	$4,917,544	$22,516,450	$14,801,161	$12,149,840	$1,048,459	$113,260,151	$ 89,966,732	$24,784,064	$2,823,531	$11,498,698	$2,029,429	$2,387,083	$5,586,639	$6,499,356

* December 31 year-end.

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF NET ASSETS
AS OF JUNE 30, 2009

LIABILITIES AND NET ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. **	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
LIABILITIES:															
Accounts payable	$ -	$ 70,223	$ 7,700	$ 40	$ 35,295	$ 8,663	$ 639,094	$ 1,194,482	$ 250	$ 21,000	$ 88,457	$ 706	$ 281	$ 5,189	$ 9,359
Other accrued liabilities		354				42,530	780,191	1,203,620	1,562	305,507		4,900	9,000		
Amounts held on behalf of others	3,737	65,469	873,555						3,230,255						
Annuity obligations			188,950	68,795			727,458		167,649				128,619		
Bonds and notes payable		3,727,121			24,897		6,306,563	90,065,000			71,401				
Swap liability								8,879,900							
Total liabilities	3,737	3,863,567	1,075,205	68,835	50,192	51,193	8,453,306	101,343,002	3,399,716	326,507	159,858	5,606	137,900	5,189	9,359
NET ASSETS (DEFICIT):															
Unrestricted	1,010,404	1,265,553	104,120	477,400	848,054	(153,906)	14,904,732	(7,656,579)	(3,195,799)	27,859	1,203,957	292,744	1,767,519	329,997	200,498
Temporarily restricted	5,113,808		3,797,857	4,569,930	(805,673)	52,267	12,036,205		4,056,902	2,666,234	595,871	1,072,256	10,746	1,018,701	4,191,348
Permanently restricted	1,017,190		15,515,216	7,838,013	10,718,512	945,010	67,552,766		18,420,383	15,000	8,625,001	458,826	288,584	3,735,772	1,530,779
Total net assets (deficit)	7,141,402	1,265,553	19,417,193	12,885,343	10,760,893	843,371	94,493,203	(7,656,579)	19,281,486	2,709,093	10,424,829	1,823,826	2,066,849	5,084,470	5,922,625
TOTAL	$7,145,139	$5,129,120	$20,492,398	$12,954,178	$10,811,085	$ 894,564	$102,946,509	$ 93,686,423	$22,681,202	$3,035,600	$10,584,687	$1,829,432	$2,204,749	$5,089,659	$5,931,984

* December 31 year-end.

See notes to combined financial statements.

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF NET ASSETS
AS OF JUNE 30, 2009

ASSETS	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc. *	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
CASH AND CASH EQUIVALENTS	$1,143,172	$ 49,880	$ 1,216,309	$ 105,009	$ 65,925	$ 256,566	$ 617,817	$ 1,286,567	$ 1,194,217	$ 484,880	$ 680,899	$ 7,048	$ 335,329	$ 769,543	$ 391,214
INVESTMENTS	5,977,683		18,367,739	9,554,979	9,874,365		77,073,781	7,884,235	19,844,150	1,748,498	7,822,069	1,653,171	18,800	3,218,314	5,396,287
NET INVESTMENT IN DIRECT FINANCING LEASES							4,052,229								
PLEDGES AND CONTRIBUTIONS RECEIVABLE	4,563		825,406	1,610,839	713,231		6,287,280		1,557,592	782,851	275,251	84,520			99,047
OTHER ASSETS	19,721	149,954	67,121	23,921	13,898	6,407	978,527	2,704,010	81,079	14,674	61,859	84,693	212,097	27,453	45,436
BENEFICIAL INTERESTS				1,659,430		631,591	6,018,545				1,744,618			109,518	
PROPERTY, PLANT, AND EQUIPMENT — Net		4,929,286	15,823		143,666		7,918,330	81,811,611	4,164	4,697			1,648,523	964,831	
TOTAL	$7,145,139	$5,129,120	$20,492,398	$12,954,178	$10,811,085	$ 894,564	$102,946,509	$ 93,686,423	$22,681,202	$3,035,600	$10,584,687	$1,829,432	$2,204,749	$5,089,659	$5,931,984

* December 31 year-end.

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2010

	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, LLC	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.*	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
REVENUES, GAINS, AND OTHER SUPPORT:															
Unrestricted:															
Gifts, contributions, and other	$ 66,837	$ 813,234	$ 162,117	$ 101,000	$ 218,477	$ 251,149	$ 799,564	$ 7,493,498	$ 28,196	$ 12,140	$ 127,044	$ 35,371	$ 713,442	$ 331,084	$ 5,245
Investment income (loss)	19,512		389,982	767,464	253,074	13,219	5,185,598	(3,591,498)	571,085	5,137	286,020	37,466	1,865	405,846	27,741
Reclassifications					(243,959)	5,000	(7,797,263)							(388,725)	
Temporarily restricted:															
Gifts, contributions, and other	93,381	348,872	207,146	1,039,005	490,647	29,604	5,551,578		853,131	238,298	833,903	300,579	72,996	156,203	249,202
Investment income	525,506		859,661	341,861	990,915	87,551	1,020,226		551,619	163,512	739,663	59,214	23,578	197	471,591
Reclassifications				(1,659,430)	227,331	(3,000)	8,895,006							391,225	
Permanently restricted:															
Gifts, contributions, and other	50,149		1,113,487	1,117,725	793,550	72,700	1,184,928		1,642,449		29,704	37,994	55,315	75,941	
Investment income			565,073	214,724	1,449		696,659		18,400		223,562		445	6,167	176,400
Reclassifications				1,659,430	16,628	(2,000)	(1,097,743)							(2,590)	176,400
Total revenues, gains, and other support	755,385	1,162,106	3,297,466	3,581,779	2,748,112	454,223	14,438,553	3,902,000	3,664,880	419,087	2,239,896	470,624	867,441	975,438	1,106,579
EXPENSES:															
Scholarships, awards, and grants	186,121	1,175,225	334,918	878,943	354,086	51,000	1,740,952		968,023	246,030	549,740	18,836		220	85,595
College support	45,568		674,748	632,068	525,661		5,164,396		166,283	128,957	638,178	203,124		168,007	145,525
Management and general	35,669	197,489	289,772	235,479	526,945	258,315	2,636,568	12,142,998	565,683	80,411	41,993	46,081	687,702	312,476	124,444
Total expenses	267,358	1,372,714	1,299,438	1,746,490	1,406,692	309,315	9,541,916	12,142,998	1,699,989	455,398	1,229,911	268,041	687,702	480,703	355,564
CHANGE IN NET ASSETS	488,027	(210,608)	1,998,028	1,835,289	1,341,420	144,908	4,896,637	(8,240,998)	1,964,891	(36,311)	1,009,985	202,583	179,739	494,735	751,015
NET ASSETS — Beginning of year	7,141,402	1,265,553	19,417,193	12,885,343	10,760,893	843,371	94,493,203	(7,656,579)	19,281,486	2,709,093	10,424,829	1,823,826	2,066,849	5,084,470	5,922,625
NET ASSETS (DEFICIT) — End of year	$ 7,629,429	$ 1,054,945	$21,415,221	$ 14,720,632	$ 12,102,313	$ 988,279	$ 99,389,840	$ (15,897,577)	$ 21,246,377	$ 2,672,782	$ 11,434,814	$ 2,026,409	$ 2,246,588	$ 5,579,205	$ 6,673,640

* December 31 year-end.

See notes to combined financial statements.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS
FOR THE YEARS ENDED JUNE 30, 2010 AND 2009
(Dollars in thousands)

	2010	2009
OPERATING REVENUES:		
Student tuition and fees — net of scholarship allowance of $134,763 in 2010 and $106,499 in 2009	$ 467,933	$ 447,080
Federal and local land grants	9,760	9,853
Contracts and grants:		
Federal	149,728	135,781
State	58,500	64,583
Local	1,455	1,425
Private	66,316	70,172
Interest on student loans receivable	1,154	896
Sales and services of educational activities	23,471	20,183
Auxiliary enterprise revenue — net of scholarship allowance of $18,657 in 2010 and $16,099 in 2009	195,447	190,468
Other operating revenues	22,983	33,447
Total operating revenues	996,747	963,888
OPERATING EXPENSES:		
Salaries and wages	733,485	698,667
Benefits	294,569	221,412
Supplies and other services	346,927	340,115
Utilities	49,335	47,865
Student financial aid — scholarships and fellowships	117,365	89,674
Depreciation	89,780	82,113
Other operating expenses	6,060	11,314
Total operating expenses	1,637,521	1,491,160
OPERATING LOSS	(640,774)	(527,272)
NONOPERATING REVENUES (EXPENSES):		
State appropriations	449,305	483,534
State fiscal stabilization funds (federal)	21,944	
Federal Pell grants	133,211	80,668
Payments on behalf of West Virginia Higher Education Fund		10,864
Gifts	21,548	21,092
Investment income (loss) (including unrealized gain (loss) of $6,759 in 2010 and $9,356 in 2009)	10,947	(961)
Interest on indebtedness	(40,328)	(36,504)
Payments to other institutions	(14,915)	(20,492)
Other nonoperating expenses — net	(1,625)	(215)
Net nonoperating revenues	580,087	537,986
(LOSS) INCOME BEFORE OTHER REVENUES, EXPENSES, GAINS, OR LOSSES	(60,687)	10,714
CAPITAL GRANTS AND GIFTS	43,126	43,633
STATE CAPITAL GRANTS (FEDERAL)	4,242	
(DECREASE) INCREASE IN NET ASSETS BEFORE CUMULATIVE EFFECT	(13,319)	54,347
NET ASSETS — Beginning of year	1,534,740	1,479,916
CUMULATIVE EFFECT OF ADOPTION OF ACCOUNTING PRINCIPLE		477
NET ASSETS — End of year	$1,521,421	$1,534,740

See notes to combined financial statements.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED JUNE 30, 2010 AND 2009
(Dollars in thousands)

	2010	2009
CASH FLOWS FROM OPERATING ACTIVITIES:		
Student tuition and fees	$ 487,377	$ 443,082
Federal and local land grants	9,760	9,853
Contracts and grants	270,797	274,669
Payments to and on behalf of employees	(936,690)	(888,860)
Payments to suppliers	(347,285)	(337,332)
Payments to utilities	(48,202)	(49,072)
Payments for scholarships and fellowships	(125,850)	(92,768)
Loans issued to students	(3,175)	(9,526)
Collection of loans to students	2,428	6,233
Sales and service of educational activities	21,088	22,396
Interest earned on loans to students	720	664
Auxiliary enterprise charges	185,067	199,852
Other receipts — net	27,661	19,851
Net cash used in operating activities	(456,304)	(400,958)
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:		
State appropriations	456,195	480,009
State fiscal stabilization funds (federal)	20,841	
Federal Pell grants	133,211	80,668
Payments to other institutions	(14,634)	(15,128)
Gift receipts	21,306	21,067
Direct and Stafford lending receipts	411,735	351,725
Direct and Stafford lending payments	(411,736)	(351,272)
Other nonoperating disbursements — net	(192)	(2,046)
Net cash provided by noncapital financing activities	616,726	565,023
CASH FLOWS FROM CAPITAL FINANCING ACTIVITIES:		
Proceeds from bond issuances and borrowings	95,965	10,049
Proceeds from capital asset disposals	739	3,368
Payment of bond issuance costs	(178)	
Withdrawals from noncurrent cash and cash equivalents	50,133	28,106
Deposits to noncurrent cash and cash equivalents	(38,175)	(7,993)
Capital grants and gifts received	27,119	37,961
State capital grants (federal) received	3,506	
Purchases of capital assets	(160,217)	(171,838)
Principal paid on notes, bonds, and leases	(28,100)	(24,390)
Interest paid on notes, bonds, and leases	(34,119)	(33,595)
Bond proceeds to outside entities	(133)	(44)
Net cash used in capital financing activities	(83,460)	(158,366)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Receipts from sales of investments	11,914	31,527
Purchase of investments	(71,536)	(8,711)
Investment income	5,225	9,240
Net cash (used in) provided by investing activities	(54,397)	32,056
INCREASE IN CASH AND CASH EQUIVALENTS	22,565	37,755
CASH AND CASH EQUIVALENTS — Beginning of year	431,890	394,135
CASH AND CASH EQUIVALENTS — End of year	$ 454,455	$ 431,890

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMPONENT UNITS — STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2009

	Bluefield State College Foundation, Inc.	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	New River Community and Technical College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, LLC	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.*	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
REVENUES, GAINS, AND OTHER SUPPORT:															
Unrestricted:															
Gifts, contributions, and other	$ 39,617	$ 858,704	$ 395,233	$ 1,209,618	$ 531,464	$ 232,279	$ 797,494	$ 5,206,116	$ 28,149	$ -	$ 157,310	$ 15,822	$ 711,047	$ 428,754	$ 2,607
Investment (loss) income	(114,872)		(499,288)	(1,744,367)	82,804	(20,723)	(23,379,223)	(5,277,556)	(2,608,036)	(4,424)	16,591	(64,560)	409	(551,007)	(56,227)
Temporarily restricted:															
Gifts, contributions, and other	92,851	146,515	350,595	2,600,109	621,965	26,000	6,408,172		1,952,570	416,253	704,446	173,609	5,536	272,231	340,748
Investment (loss) income	(956,457)		(1,436,929)	9,641	(520,157)	(150,160)	3,325,876		537,730	(62,505)	(1,979,850)	(108,983)	(47,536)	22,090	(776,556)
Permanently restricted:															
Gifts, contributions, and other	37,902		499,674	1,515,518	3,541,621	66,200	2,476,989		223,777		(196,774)	45,533	22,212	327,103	
Investment (loss) income			(1,336,328)	20,224	(60,671)		(721,725)		18,131		84,596		473		(369,463)
Total revenues, gains, and other support	(900,959)	1,005,219	(2,027,043)	3,610,743	4,197,026	153,596	(11,092,417)	(71,440)	152,321	349,324	(1,213,681)	61,441	692,141	499,171	(838,891)
EXPENSES:															
Scholarships, awards, and grants	103,076	1,081,648	469,316	1,012,959		54,430	2,420,726		1,314,474	189,943	498,891	24,343		8,435	107,337
College support	103,478		2,368,037	1,600,311	1,188,449		7,064,577		157,596	237,775	990,812	58,092		305,760	137,182
Management and general	39,643	206,791	447,745	230,789	521,615	222,551	3,524,713	7,585,139	558,283	208,929	152,269	54,055	687,890	301,728	133,270
Total expenses	246,197	1,288,439	3,285,098	2,844,059	1,710,064	276,981	13,010,016	7,585,139	2,030,303	636,647	1,641,972	136,490	687,890	615,923	377,789
CHANGE IN NET ASSETS	(1,147,156)	(283,220)	(5,312,141)	766,684	2,486,962	(123,385)	(24,102,433)	(7,656,579)	(1,877,982)	(287,323)	(2,855,653)	(75,049)	4,251	(116,752)	(1,216,680)
NET ASSETS — Beginning of year	8,288,558	1,548,773	24,729,334	12,118,659	8,273,931	966,756	118,595,636		21,159,468	2,996,416	13,280,482	1,898,875	2,062,598	5,201,222	7,139,305
NET ASSETS (DEFICIT) — End of year	$ 7,141,402	$ 1,265,553	$ 19,417,193	$ 12,885,343	$ 10,760,893	$ 843,371	$ 94,493,203	$ (7,656,579)	$ 19,281,486	$ 2,709,093	$ 10,424,829	$ 1,823,826	$ 2,066,849	$ 5,084,470	$ 5,922,625

* December 31 year-end.

See notes to combined financial statements.

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

COMBINED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED JUNE 30, 2010 AND 2009
(Dollars in thousands)

	2010	2009
RECONCILIATION OF OPERATING LOSS TO NET CASH USED IN OPERATING ACTIVITIES:		
Operating loss	$ (640,774)	$ (527,272)
Adjustments to reconcile operating loss to net cash used in operating activities:		
Depreciation and amortization expense	92,219	93,784
Expenses paid on behalf of the Fund	145	10,864
Changes in assets and liabilities:		
Receivables — net	(9,999)	(14,460)
Loans receivable — net	2,146	(2,328)
Prepaid expenses	(1,055)	102
Inventories	(157)	(20)
Accounts payable	1,808	6,254
Accrued liabilities	6,299	3,182
Compensated absences	(505)	2,916
Deferred revenue	3,573	12,424
Deposits	368	101
Other post employment benefit liability	89,148	13,702
Advances from federal sponsors	(179)	(122)
Other	659	(85)
NET CASH USED IN OPERATING ACTIVITIES	$ (456,304)	$ (400,958)
SIGNIFICANT NONCASH TRANSACTIONS:		
Cumulative effect of adoption of accounting principle	$ -	$ 477
Construction in progress and capital asset additions included in accounts payable and accrued liabilities	$ 9,317	$ 8,225
Donated capital assets	$ 12,813	$ 10,595
Loss on disposals	$ 1,014	$ 2,887

See notes to combined financial statements. (Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

NOTES TO COMBINED FINANCIAL STATEMENTS
AS OF AND FOR THE YEARS ENDED JUNE 30, 2010 AND 2009

1. ORGANIZATION

The West Virginia Higher Education Fund (the "Fund") is comprised of the following:

- Bluefield State College
- Blue Ridge Community and Technical College
- Bridgemont Community and Technical College
- Concord University
- Eastern West Virginia Community and Technical College
- Fairmont State University
- Glenville State College
- Kanawha Valley Community and Technical College (formerly West Virginia State Community and Technical College)
- Marshall University (including Marshall University Graduate College)
- Mountwest Community and Technical College (formerly Marshall Community and Technical College)
- New River Community and Technical College
- Pierpont Community and Technical College
- Shepherd University
- Southern West Virginia Community and Technical College
- West Liberty University
- West Virginia Council for Community and Technical College Education
- West Virginia Higher Education Policy Commission (including West Virginia Network for Educational Telecomputing)
- West Virginia Northern Community College
- West Virginia State University
- West Virginia School of Osteopathic Medicine
- West Virginia University (including Potomac State College and West Virginia University Institute of Technology)
- West Virginia University at Parkersburg Community and Technical College

The Fund is a discretely presented component unit of the State of West Virginia (the "State").

Each college and university (the "Institutions") in the Fund is governed by its own Governing Board, which is responsible for the general determination, control, supervision, and management of the financial business and educational policies and affairs of its institution. The West Virginia Higher Education Policy Commission (the "Policy Commission"), in accordance with Senate Bill No. 653, is responsible for developing, gaining consensus around, and overseeing the implementation and development of a higher education public policy agenda. The Policy Commission is comprised of 10 persons appointed by the Governor with the advice and consent of the Senate. Senate Bill No. 448 gives the West Virginia Council for Community and Technical College Education (the "Council") the responsibility of developing, overseeing, and advancing the State's public policy agenda as it relates to

community and technical college education. The Council is comprised of 12 persons appointed by the Governor with the advice and consent of the Senate.

During fiscal year 2008, House Bill No. 3215 was passed which clarified and redefined relationships between and among certain higher education boards and institutions. This legislation defines the statewide network of independently accredited community and technical colleges. Effective July 1, 2008, the administratively linked community and technical colleges of Fairmont State University, Marshall University, West Virginia State University, and West Virginia University (the "Universities") established their own Boards of Governors. Except for Fairmont State University and Pierpont Community and Technical College which were granted an extension to be effective January 1, 2010, the newly established Boards of Governors and the Boards of Governors of the Universities jointly agreed on a division of assets and liabilities of the Universities as required. The division of all assets and liabilities was effective retroactively to July 1, 2008. The amount of net assets transferred out from the Universities to the separately established community and technical colleges was $21,778,265 and $26,111,703 during 2010 and 2009, respectively. These were transfers within the Fund and have no impact on the Fund's financial statements. The Universities and the separately established community and technical colleges developed a plan that ensures the financial stability of auxiliary enterprises, including, but not limited to, student housing, student centers, dining services, parking, and athletics through fiscal year 2012.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The combined financial statements of the Fund have been prepared in accordance with accounting principles generally accepted in the United States of America ("generally accepted accounting principles") as prescribed by Governmental Accounting Standards Board standards (GASB). The financial statement presentation required by GASB provides a comprehensive, entity-wide perspective of the Fund's assets, liabilities, net assets, revenues, expenses, changes in net assets, and cash flows and replaces the fund-group perspective previously required.

The Fund follows all GASB pronouncements as well as Financial Accounting Standards Board (FASB) Statements and Interpretations, Accounting Principles Board Opinions, and Accounting Research Bulletins issued on or before November 30, 1989, and has elected not to apply the FASB Statements and Interpretations issued after November 30, 1989, to its combined financial statements.

Reporting Entity — The accompanying combined financial statements present all entities under the authority of the Fund under GASB, including:

- Concord University Research and Development Corporation
- Glenville State College Research Corporation
- Glenville State College Housing Corporation
- Marshall University Research Corporation (MURC)
- Shepherd University Research and Development Corporation
- West Virginia State University Research and Development Corporation
- West Virginia University Research and Development Corporation

These entities are included in the combined financial statements as blended component units of the Fund.

The basic criterion for inclusion in the accompanying combined financial statements is the exercise of oversight responsibility derived from the Fund's ability to significantly influence operations and accountability for fiscal matters of related entities. Related foundations and other affiliates of the Fund

are not part of the Fund's reporting entity and are not included in the accompanying combined financial statements as the Fund has no ability to designate management, cannot significantly influence operations of these entities, and is not accountable for the fiscal matters of the foundations and other affiliates under GASB blended component unit requirements.

The Fund applies GASB discretely presented component unit requirements and, as a result, certain component units' financial statements are discretely presented here with the Fund's financial statements. The component units are the separate private nonprofit organization of each applicable institution that are required to be reported under GASB. These discretely presented component unit organizations report under FASB standards. As such, certain revenue recognition criteria and presentation features are different from GASB revenue recognition criteria and presentation features. The component units consist of foundations and other entities which meet the criteria for inclusion under GASB discretely presented component unit requirements.

Financial Statement Presentation — GASB establishes standards for external financial reporting for public colleges and universities and requires that financial statements be presented on a combined basis to focus on the Fund as a whole. Net assets are classified into four categories according to external donor restrictions or availability of assets for satisfaction of Fund obligations. The Fund's net assets are classified as follows:

Invested in Capital Assets — Net of Related Debt — This represents the Fund's total investment in capital assets, net of accumulated depreciation and outstanding debt obligations related to those capital assets. To the extent debt has been incurred but not yet expended for capital assets, such amounts are not included as a component of invested in capital assets — net of related debt.

Restricted Net Assets — Expendable — This includes resources in which the Fund is legally or contractually obligated to spend resources in accordance with restrictions imposed by external third parties.

The West Virginia Legislature, as a regulatory body outside the reporting entity, has restricted the use of certain funds by Article 10, Fees and Other Money Collected at State Institutions of Higher Education of the West Virginia State Code. House Bill No. 101 passed in March 2004 simplified the tuition and fees restrictions to auxiliaries and capital items. These activities are fundamental to the normal ongoing operations of the Fund. These restrictions are subject to change by future actions of the West Virginia Legislature.

Restricted Net Assets — Nonexpendable — This includes endowment and similar type funds in which donors or other outside sources have stipulated, as a condition of the gift instrument, that the principal is to be maintained inviolate and in perpetuity, and invested for the purpose of producing present and future income, which may either be expended or added to principal.

Unrestricted Net Assets — Unrestricted net assets represent resources derived from student tuition and fees, state appropriations, and sales and services of educational activities. These resources are used for transactions relating to the educational and general operations of the Fund, and may be used at the discretion of the respective governing boards to meet current expenses for any purpose.

Basis of Accounting — For financial reporting purposes, the Fund is considered a special-purpose government engaged only in business-type activities. Accordingly, the Fund's financial statements have been prepared on the accrual basis of accounting with a flow of economic resources measurement focus. Revenues are reported when earned and expenses when materials or services are received. All intercompany accounts and transactions have been eliminated.

Cash and Cash Equivalents — For purposes of the statements of net assets, the Fund considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Cash and cash equivalents balances on deposit with the State of West Virginia Treasurer's Office (the "State Treasurer") are pooled by the State Treasurer with other available funds of the State for investment purposes by the West Virginia Board of Treasury Investments (BTI). These funds are transferred to the BTI and the BTI is directed by the State Treasurer to invest the funds in specific external investment pools in accordance with West Virginia Code, policies set by the BTI, and by the provisions of bond indentures and trust agreements, when applicable. Balances in the investment pools are recorded at fair value or amortized cost which approximates fair value. Fair value is determined by a third-party pricing service based on asset portfolio pricing models and other sources in accordance with GASB. The BTI was established by the State Legislature and is subject to oversight by the State Legislature. Fair value and investment income are allocated to participants in the pools based upon the funds that have been invested. The amounts on deposit are available for immediate withdrawal and, accordingly, are presented as cash and cash equivalents in the accompanying combined financial statements.

The BTI maintains the Consolidated Fund investment fund which consists of eight investment pools and participant-directed accounts, three of which the state and local governmental agencies may invest in. These pools have been structured as multiparticipant variable net asset funds to reduce risk and offer investment liquidity diversification to the Fund participants. Funds not required to meet immediate disbursement needs are invested for longer periods. A more detailed discussion of the BTI's investment operations pool can be found in its annual report. A copy of that annual report can be obtained from the following address: 1900 Kanawha Blvd. East, Room E-122, Charleston, WV 25305 or http://www.wvbti.com.

Investments — GASB requires the Fund to record certain investment balances at fair value. As provided in the statement, the Fund's investments maintained by the BTI and the Municipal Bond Commission are determined by the pool's share price, which approximates fair value. Other investments, other than alternative investments, are presented at fair value, based upon quoted market prices.

The alternative investments are also carried at fair value as of June 30, 2010 and 2009. These valuations include assumptions and methods that were reviewed by Fund management and are primarily based on quoted market values or other readily determinable market values for underlying investments. The majority of the alternative investments have a readily determinable market value. The Fund believes that the carrying amount of its alternative investments is a reasonable estimate of fair value as of June 30, 2010 and 2009. Because a portion of alternative investments are not readily marketable, and the estimated value is subject to uncertainty, the reported value may differ from the value that would have been used had a ready market existed.

Permissible investments for all agencies include those guaranteed by the United States of America, its agencies and instrumentalities (U.S. Government obligation); corporate debt obligations, including commercial paper, which meet certain ratings; certain money market funds; repurchase agreements; reverse repurchase agreements, asset-backed securities; certificates of deposits; state and local government securities (SLGS); and other investments. Other investments consist primarily of investments in accordance with the Linked Deposit Program, a program using financial institutions in West Virginia to obtain certificates of deposit, loans approved by the legislature and any other program investments authorized by the legislature.

The Fund's investments held with the foundations and other agents are governed by investment policies that determine the permissible investments by category. The holdings include appropriately rated U.S. debt and equity securities, foreign debt and equity securities, as well as alternative investments. The respective investment policies outline the acceptable exposure to each category of investment and generally outline a liquidity goal.

Allowance for Doubtful Accounts — It is the Fund's policy to provide for future losses on uncollectible accounts, contracts, grants, and loans receivable based on an evaluation of the underlying account, contract, grant, and loan balances, the historical collectibility experienced by the Fund on such balances, and such other factors which, in the Fund's judgment, require consideration in estimating doubtful accounts.

Inventories — Inventories are stated at the lower of cost or market, cost being determined on the first-in, first-out method.

Noncurrent Cash, Cash Equivalents, and Investments — Cash and investments that are (1) externally restricted to make debt service payments, long-term loans to students, or to maintain sinking or reserve funds, (2) to purchase capital or other noncurrent assets or settle long-term liabilities, or (3) held for permanently restricted net assets, are classified as noncurrent assets in the combined statements of net assets.

Capital Assets — Capital assets include property, plant, and equipment, books and materials that are part of a catalogued library, and infrastructure assets. Capital assets are stated at cost at the date of acquisition or construction, or fair market value at the date of donation in the case of gifts. Interest on related borrowing, net of interest earnings on invested proceeds, is capitalized during the period of construction and was approximately $0.7 million and $1.8 million for the years ended June 30, 2010 and 2009, respectively. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, generally 20 to 50 years for buildings and infrastructure, 20 years for land improvements, 7 to 20 years for library assets, and 3 to 10 years for furniture and equipment. The combined financial statements reflect all adjustments required by GASB.

Deferred Revenue — Cash received for programs or activities to be conducted primarily in the next fiscal year are classified as deferred revenue, including items such as football ticket sales, orientation fees, room, and board. Financial aid and other deposits are separately classified as deposits.

Compensated Absences and Other Post Employment Benefits — The Fund accounts for compensated absences in accordance with the provisions of GASB.

GASB provides standards for the measurement, recognition, and display of other postemployment benefit (OPEB) expenditures, assets, and liabilities, including applicable note disclosures and required supplementary information. During fiscal year 2007, House Bill No. 4654 was established to create a trust fund for postemployment benefits for the State. Effective July 1, 2007, the Fund was required to participate in this multiple employer cost-sharing plan, the West Virginia Retiree Health Benefit Trust Fund, sponsored by the State. Details regarding this plan can be obtained by contacting West Virginia Public Employees Insurance Agency (PEIA), State Capitol complex, Building 5, Room 1001, 1900 Kanawha Boulevard, East, Charleston, WV 25305-0710 or http://www.wvpeia.com.

GASB requires entities to accrue for employees' rights to receive compensation for vacation leave, or payments in lieu of accrued vacation or sick leave, as such benefits are earned and payment becomes probable.

The Fund's full-time employees earn up to two vacation leave days for each month of service and are entitled to compensation for accumulated, unpaid vacation leave upon termination. Full-time employees also earn 1-1/2 sick leave days for each month of service and are entitled to extend their health or life insurance coverage upon retirement in lieu of accumulated, unpaid sick leave. Generally, two days of accrued sick leave extend health insurance for one month of single coverage and three days extend health insurance for one month of family coverage. For employees hired after 1988 or who were hired before 1988 but did not choose such coverage until after 1988 but before July 1, 2001, the employee shares in the cost of the extended benefit coverage to the extent of 50% of the premium required for the extended coverage. Employees hired on July 1, 2001, or later will no longer receive sick leave credit toward insurance premiums when they retire. Additionally, all retirees have the option to purchase continued coverage regardless of their eligibility for premium credits. This liability is then provided for under the multiple employer cost-sharing plan sponsored by the State.

Certain faculty employees (generally those with less than a 12-month contract) earn a similar extended health or life insurance coverage retirement benefit based on years of service. Generally 3-1/3 years of teaching service extend health insurance for one year of single coverage and five years extend health insurance for one year of family coverage. The same hire date mentioned above applies to coverage for faculty employees also. Faculty hired after July 1, 2009, will no longer receive years of service credit toward insurance premiums when they retire.

The estimated expense and expense incurred for vacation leave or OPEB benefits are recorded as a component of benefits expense in the combined statements of revenues, expenses, and changes in net assets.

Risk Management — The State's Board of Risk and Insurance Management (BRIM) provides general liability, medical malpractice liability, property and auto insurance coverage to the Fund and its employees. Such coverage is provided to the Fund through a self-insurance program maintained by BRIM for general liability, medical malpractice liability, and auto insurance coverage. BRIM maintains a self-insurance program to pay the first $1 million of each property insurance claim and purchases excess property insurance from the commercial insurance market to cover individual claims that exceed $1 million. The BRIM self-insurance programs may involve experience and exposure-related premiums.

BRIM engages an independent actuary to assist in the determination of its premiums so as to minimize the likelihood of premium adjustments to the Fund or other participants in BRIM's insurance programs. As a result, management does not expect significant differences between the premiums the Fund is currently charged by BRIM and the ultimate cost of that insurance based on the Fund's actual loss experience. In the event such differences arise between estimated premiums charged by BRIM to the Fund and the Fund's ultimate actual loss experience, the difference will be recorded as the change in estimate became known.

The West Virginia University's (WVU) and Marshall University's ("Marshall") Schools of Medicine (SOMs) have established a $250,000 deductible program under BRIM's professional liability coverage for the SOMs effective July 1, 2005. Prior to this date, the SOMs were totally covered by BRIM at a limit of $1 million per occurrence. Starting July 1, 2005, the SOMs assumed the risk and responsibility for any and all indemnity amounts up to $250,000 per occurrence and all loss expenses associated with medical malpractice claims and/or suits in exchange for a reduction in its premium for medical malpractice insurance.

Under the program, the SOMs entered into an agreement with BRIM whereby the SOMs have on deposit $4.5 million and $4.6 million as of June 30, 2010 and 2009, respectively, in escrow accounts created in the State Treasurer from which BRIM may withdraw amounts to pay indemnity costs and

allocated expenses in connection with medical malpractice claims against the SOMs. Additionally, the WVU Health Sciences Center also has on deposit $16.7 million and $14.0 million as of June 30, 2010 and 2009, respectively, in an investment earnings account with the West Virginia Foundation to cover the liabilities under this program. Marshall has a receivable from the University Physicians & Surgeons, Inc. for the funding it has agreed to provide for the self-insurance liability of $6,041,843 and $4,673,642 as of June 30, 2010 and 2009, respectively. Based on actuarial valuations of this self-insurance program, the Fund has recorded a liability of $26.2 million and $24.8 million to reflect projected claim payments at June 30, 2010 and 2009, respectively, for both WVU's and Marshall's SOMs.

In addition, through its participation in the PEIA and third-party insurers, the Fund has obtained health, life, prescription drug coverage, and coverage for job-related injuries for its employees. In exchange for payment of premiums to PEIA and the third-party insurers, the Fund has transferred its risks related to health, life, prescription drug coverage, and job-related injuries.

Classification of Revenues — The Fund has classified its revenues according to the following criteria:

Operating Revenues — Operating revenues include activities that have the characteristics of exchange transactions, such as (1) student tuition and fees, net of scholarship discounts and allowances, (2) sales and services of auxiliary enterprises, net of scholarship discounts and allowances, (3) most federal, state, local, and nongovernmental grants and contracts, (4) federal appropriations for land grant institutions, and (5) sales and services of educational activities.

Nonoperating Revenues — Nonoperating revenues include activities that have the characteristics of nonexchange transactions, such as gifts and contributions, and other revenues that are defined as nonoperating revenues by GASB, such as state appropriations, Federal Pell grants, and investment income.

Other Revenues — Other revenues consist primarily of capital grants and gifts.

Use of Restricted Net Assets — The Fund has not adopted a formal policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net assets are available. Generally, the Fund attempts to utilize restricted net assets first when practicable. Certain Institutions have adopted a policy to utilize restricted net assets first.

Federal Financial Assistance Programs — The Fund makes loans to students under the Federal Direct Student Loan Program. Under this program, the U.S. Department of Education makes interest subsidized and nonsubsidized loans directly to students, through the institutions within the Fund. The Fund also makes loans to students under the Stafford Loan Program through financial institutions. Direct and Stafford student loan receivables are not included in the Fund's combined statements of net assets. In 2010 and 2009, the Fund received and disbursed, or awarded, approximately $435 million and $377 million, respectively, under both Student Loan Programs, which is not included as revenue and expense in the combined statements of revenues, expenses, and changes in net assets.

The Fund also distributes other student financial assistance funds on behalf of the federal government to students under the Federal Pell Grant, Supplemental Educational Opportunity Grant, and College Work Study programs. The activity of these programs is recorded in the accompanying combined financial statements. In 2010 and 2009, the Fund received and disbursed approximately $136 million and $94 million, respectively, under these federal student aid programs.

Scholarship Allowances — Student tuition and fee revenues, and certain other revenues from students, are reported net of scholarship allowances in the combined statements of revenues, expenses, and changes in net assets. Scholarship allowances are the difference between the stated charge for goods and services provided by the Fund, and the amount that is paid by students and/or third parties making payments on the student's behalf.

Financial aid to students is reported in the combined financial statements under the alternative method as prescribed by the National Association of College and University Business Officers ("NACUBO"). Certain aid such as loans, funds provided to students as awarded by third parties, and Federal Direct Lending is accounted for as a third-party payment (credited to the student's account as if the student made the payment). All other aid is reflected in the financial statements as operating expenses, or scholarship allowances, which reduce revenues. The amount reported as operating expense represents the portion of aid that was provided to the student in the form of cash. Scholarship allowances represent the portion of aid provided to the student in the form of reduced tuition. Under the alternative method, these amounts are computed on an institution basis by allocating the cash payments to students, excluding payments for services, on the ratio of total aid to the aid not considered to be third-party aid.

Government Grants and Contracts — Government grants and contracts normally provide for the recovery of direct and indirect costs, subject to audit. The Fund recognizes revenue associated with direct costs as the related costs are incurred. Recovery of related indirect costs is generally recorded at fixed rates negotiated for a period of one to five years.

Income Taxes — The Fund is exempt from income taxes, except for unrelated business income, as a nonprofit organization under federal income tax laws and regulations of the Internal Revenue Service (IRS).

Cash Flows — Any cash and cash equivalents escrowed, restricted for noncurrent assets, or in funded reserves have not been included as cash and cash equivalents for the purpose of the combined statements of cash flows.

Use of Estimates — The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ materially from those estimates.

Risk and Uncertainties — Investments are exposed to various risks, such as interest rate, credit, and overall market volatility. Due to the level of risk associated with certain securities, it is reasonably possible that changes in risk and values will occur in the near term and that such changes could materially affect the amounts reported in the combined financial statements.

Reclassification — Certain reclassifications have been made to the 2009 financial statements to conform to the 2010 presentation for the adoption of GASB Statement No. 51, *Accounting and Financial Reporting for Intangible Assets*. With such adoption, $4,628,000 of other assets was reclassified into capital assets.

Newly Adopted Statements Issued by the Governmental Accounting Standards Board — During 2010, the Fund adopted GASB Statement No. 51. This statement provides guidance regarding whether and when intangible assets should be considered capital assets for financial reporting purposes. See "Reclassification" note above for further disclosure.

The Fund also adopted GASB Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*. This statement requires governmental entities to measure most derivative instruments at fair value as assets or liabilities. It also improves disclosure requirements surrounding the entity's derivative instrument activity, its objectives for entering into the derivative instrument, and the instrument's significant terms and risks. The adoption of this statement did not have a material impact on the financial statements.

Recent Statements Issued by the Governmental Accounting Standards Board — The Governmental Accounting Standards Board has issued GASB Statement No. 59, *Financial Instruments Omnibus*, effective for fiscal years beginning after June 15, 2010. This statement improves financial reporting by providing more complete information, by improving consistency of measurements, and by providing clarifications of existing standards related to certain financial instruments and external investment pools. The Fund has not yet determined the effect that the adoption of GASB Statement No. 59 may have on its financial statements.

3. CASH AND CASH EQUIVALENTS

The composition of cash and cash equivalents at June 30, 2010 and 2009, was held as follows (dollars in thousands):

	2010		
	Current	Noncurrent	Total
State Treasurer:			
Fund	$403,861	$ 50,816	$454,677
Municipal Bond Commission	1,270		1,270
Trustee	83	47,039	47,122
Bank	35,931	705	36,636
Cash equivalents	13,139	5,141	18,280
On hand	171		171
	$454,455	$103,701	$558,156

	2009		
	Current	Noncurrent	Total
State Treasurer:			
Fund	$364,194	$ 47,428	$411,622
Municipal Bond Commission	5,526		5,526
Trustee	96	25,907	26,003
Bank	41,887	667	42,554
Cash equivalents	20,085	5,186	25,271
On hand	102		102
	$431,890	$ 79,188	$511,078

Amounts held by the Municipal Bond Commission or trustee represent various project revenue, debt service, and other repair and replacement reserve funds required to be escrowed by various bond trust indentures. Other amounts held by the State Treasurer include $17.1 million and $30.1 million of restricted cash at June 30, 2010 and 2009, respectively.

The combined carrying amounts of cash in the bank at June 30, 2010 and 2009, were $36.6 million and $42.6 million, as compared with the combined bank balance of $33.5 million and $38.1 million, respectively. The difference is primarily caused by outstanding checks and items in transit. The bank balances were covered by federal depository insurance or were secured by financial instruments held as collateral by the State's agent.

Amounts with the State Treasurer and the Municipal Bond Commission as of June 30, 2010 and 2009, are comprised of the following investment pools:

The BTI has adopted an investment policy in accordance with the "Uniform Prudent Investor Act." The "prudent investor rule" guides those with responsibility for investing the money for others. Such fiduciaries must act as a prudent person would be expected to act, with discretion and intelligence, to seek reasonable income; preserve capital; and, in general, avoid speculative investments. The BTI's investment policy is to invest assets in a manner that strives for maximum safety, provides adequate liquidity to meet all operating requirements, and achieves the highest possible investment return consistent with the primary objectives of safety and liquidity. The BTI recognizes that risk, volatility, and the possibility of loss in purchasing power are present to some degree in all types of investments. Due to the short-term nature of BTI's Consolidated Fund, the BTI believes that it is imperative to review and adjust the investment policy in reaction to interest rate market fluctuations/trends on a regular basis and has adopted a formal review schedule. Investment policies have been established for each investment pool and account of the BTI's Consolidated Fund. Of the BTI's Consolidated Fund pools and accounts in which the Commission invest, all are subject to credit risk.

WV Money Market — Credit Risk — Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. For the years ended June 30, 2010 and 2009, the WV Money Market Pool has been rated AAAm by Standard & Poor's. A Fund rated "AAAm" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAm" is the highest principal stability fund rating assigned by Standard & Poor's. As this pool has been rated, specific information on the credit ratings of the underlying investments of the pool have not been provided.

The BTI limits the exposure to credit risk in the WV Money Market Pool by requiring all corporate bonds to be rated AA- by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standard & Poor's and P1 by Moody's. The pool must have at least 15% of its assets in U.S. Treasury issues.

At June 30, 2010 and 2009, the WV Money Market Pool investments had a total carrying value of $2,876,711,000 and $2,570,261,000, respectively, of which the Fund's ownership represents 13.27% and 10.24%, respectively.

WV Government Money Market Pool — Credit Risk — For the years ended June 30, 2010 and 2009, the WV Government Money Market Pool has been rated AAAm by Standard & Poor's. A Fund rated "AAAm" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAm" is the highest principal stability fund rating assigned by Standard & Poor's. As this pool has been rated, specific information on the credit ratings of the underlying investments of the pool have not been provided.

The BTI limits the exposure to credit risk in the WV Government Money Market Pool by limiting the pool to U.S. Treasury issues, U.S. government agency issues, money market funds investing in U.S. Treasury issues and U.S. government agency issues, and repurchase agreements collateralized by

U.S. Treasury issues and U.S. government agency issues. The pool must have at least 15% of its assets in U.S. Treasury issues.

At June 30, 2010 and 2009, the WV Government Money Market Pool investments had a total carrying value of $221,183,000 and $283,826,000, of which the Fund's ownership represents 0.98% and 0.77% respectively.

WV Short Term Bond Pool:

Credit Risk — The BTI limits the exposure to credit risk in the WV Short Term Bond Pool by requiring all corporate bonds to be rated A by Standards & Poor's (or its equivalent) or higher. Commercial paper must be rated at least A-1 by Standards & Poor's and P1 by Moody's. The following table provides information on the credit ratings of the WV Short Term Bond Pool's investments (in thousands):

	Credit Rating*		2010		2009	
Security Type	Moody's	S&P	Carrying Value	Percent of Pool Assets	Carrying Value	Percent of Pool Assets
Corporate asset backed securities	Aaa	AAA	$ 24,330	5.37 %	$ 16,402	5.21 %
	Aaa	NR *	10,353	2.28	5,136	1.63
	Aa3	AAA	1,000	0.22	223	0.07
	Aa2	AAA			461	0.15
	A3	AAA			273	0.09
	Baa2	AAA			831	0.26
	Baa1	BBB**			332	0.10
	Baa2	BBB**			1,376	0.44
	Ba1	CC**	45	0.01		
	Ba2	BB**	219	0.05		
	Ba3	AAA			645	0.20
	B1	AAA			779	0.25
	B1	BBB**	605	0.13		
	B1	CCC**	857	0.19		
	B2	B**			493	0.16
	B2	CCC**	366	0.08	539	0.17
	B3	AAA			949	0.30
	B3	B**	442	0.10		
	B3	BBB**	247	0.05		
	B3	CCC**	554	0.12		
	Caa1	BB**			254	0.08
	Caa1	CCC**	230	0.05		
	Caa2	CCC**	779	0.17		
	NR *	AAA	3,538	0.78	679	0.22
			43,565	9.60	29,372	9.33
Corporate bonds and notes	Aaa	AAA	72,549	16.00	47,204	14.99
	Aaa	AA	2,060	0.46		
	Aa1	AA	5,430	1.20	4,445	1.41
	Aa1	A			2,052	0.65
	Aa2	AAA			3,040	0.96
	Aa2	AA	6,650	1.47	9,066	2.88
	Aa3	AA	6,722	1.48		
	Aa3	A	13,850	3.05	7,831	2.49
	A1	AA	15,485	3.41	4,813	1.53
	A1	A	21,098	4.65	5,522	1.75
	A2	A	41,093	9.06	32,040	10.17
	A3	A	4,158	0.92	7,024	2.23
	Baa3	A			2,067	0.66
			189,095	41.70	125,104	39.72
						.00
U.S. agency bonds	Aaa	AAA	40,180	8.86	60,250	19.13
U.S. Treasury notes***	Aaa	AAA	158,423	34.93	88,805	28.20
U.S. agency mortgage backed securities****	Aaa	AAA	4,540	1.00	4,975	1.58
Money market funds	Aaa	AAA	17,715	3.91	6,426	2.04
			$ 453,518	100 %	$ 314,932	100 %

* NR = Not Rated

** The securities were not in compliance with BTI Investment Policy at June 30, 2010 and/or 2009. The securities were in compliance when originally acquired, but were subsequently downgraded. BTI management and its investment advisors have determined that it is in the best interests of the participants to hold the securities for optimal outcome.

*** U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

**** U.S. agency mortgage backed securities are issued by the Government National Mortgage Association and are explicitly guaranteed by the United States government and are not subject to credit risk.

At June 30, 2010 and 2009, the Fund's ownership represents 8.70% and 1.57%, respectively, of these amounts held by the BTI.

Interest Rate Risk — Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. All the BTI's Consolidated Fund pools and accounts are subject to interest rate risk.

The overall weighted average maturity of the investments of the WV Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides information on the weighted average maturities for the various asset types in the WV Money Market Pool:

	2010		2009	
Security Type	Carrying Value (In thousands)	WAM (Days)	Carrying Value (In thousands)	WAM (Days)
Repurchase agreements	$ 174,980	1	$ 212,010	1
U.S. Treasury notes	65,153	140		
U.S. Treasury bills	476,670	35	483,714	69
Commercial paper	855,844	18	592,479	32
Certificates of deposit	281,000	45	128,402	56
U.S. agency discount notes	606,048	52	635,602	57
Corporate bonds and notes	20,000	19	73,812	38
U.S. agency bonds/notes	246,990	55	294,019	70
Money market funds	150,026	1	150,223	1
	$2,876,711	33	$2,570,261	47

The overall weighted average maturity of the investments of the WV Government Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides information on the weighted average maturities for the various asset types in the WV Government Money Market Pool:

Security Type	2010 Carrying Value (In thousands)	2010 WAM (Days)	2009 Carrying Value (In thousands)	2009 WAM (Days)
Repurchase agreements	$ 66,600	1	$ 53,000	1
U.S. Treasury notes	8,526	114		
U.S. Treasury bills	29,982	72	74,424	94
U.S. agency discount notes	36,465	115	87,662	55
U.S. agency bonds/notes	79,532	30	68,608	37
Money market funds	78	1	132	1
	$221,183	44	$283,826	51

The overall effective duration of the investments of the WV Short Term Bond Pool cannot exceed 731 days. Maximum maturity of individual securities cannot exceed 1,827 days (five years) from date of purchase. The following table provides information on the effective duration for the various asset types in the WV Short Term Bond Pool at June 30, 2010 and 2009:

Security Type	2010 Carrying Value (in Thousands)	2010 Effective Duration (Days)	2009 Carrying Value (in Thousands)	2009 Effective Duration (Days)
U. S. Treasury bonds/notes	$158,423	583	$ 88,805	917
Corporate notes	189,095	560	125,104	559
Corporate asset backed securities	43,565	679	29,372	622
U.S. agency bonds/notes	40,180	288	60,250	752
U.S. agency mortgage backed securities	4,540	360	4,975	540
Money market funds	17,715	1	6,426	1
	$453,518	530	$ 314,932	691

Other Investment Risks — Other investment risks include concentration of credit risk, custodial credit risk, and foreign currency risk. None of the BTI's Consolidated Fund's investment pools or accounts is exposed to these risks as described below.

Concentration of credit risk is the risk of loss attributed to the magnitude of the BTI's Consolidated Fund pool or account's investment in a single corporate issuer. The BTI investment policy prohibits those pools and accounts permitted to hold corporate securities from investing more than 5% of their assets in any one corporate name or one corporate issue.

The custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, the BTI will not be able to recover the value of investment or collateral securities that are in the possession of an outside party. Repurchase agreements are required to be collateralized by at least 102% of their value, and the collateral is held in the name of the BTI. Securities lending collateral that is reported on the BTI's statement of fiduciary net assets is invested in the lending agent's money market

fund in the BTI's name. In all transactions, the BTI or its agent does not release cash or securities until the counterparty delivers its side of the transaction.

Foreign currency risk is the risk that changes in exchange rates will adversely affect the fair value of an investment or a deposit. None of the BTI's Consolidated Fund's investment pools or accounts holds interests in foreign currency or interests valued in foreign currency.

Deposits — Custodial credit risk of deposits is the risk that in the event of failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. Deposits include nonnegotiable certificates of deposit. None of the above pools contain nonnegotiable certificates of deposit. The BTI does not have a deposit policy for custodial credit risk.

Amounts with Trustee as of June 30, 2010 and 2009, are comprised of the following (dollars in thousands):

Investment Type	Moody's Rating	Standard and Poor's Rating	2010 Carrying Value	2009 Carrying Value
U.S. Treasury money market fund	Aaa	AAAm	$43,847	$17,110
Commercial paper	Aaa	AAAm		153
Money market fund (Credit Enhancers/ Collateral 1.000 Financial Guaranty Insurance Co. Municipal Bond Insurance Policy)	Aaa	N/A	83	83
Money market fund	AAA	N/A		364
Guaranteed Investment Contract (GIC)	N/A	N/A	3,192	3,192
			$47,122	$20,902

N/A = Not available

These investments have no significant custodial risk or interest rate risk and they are not exposed to a concentration of credit risk nor any foreign currency risk.

At both June 30, 2010 and 2009, the GIC investments of approximately $3,192,000, have a fixed rate of interest of 5.18%.

The remaining amounts on deposit with Trustee are invested in funds, the underlying assets of which are securities of the U.S. government, its agencies, authorities, and instrumentalities.

4. INVESTMENTS

Investments at June 30, 2010, were as follows (dollars in thousands):

Investment Type	Level 1	Level 2	Level 3	Total
U.S. government investments:				
Federal Home Loan Mortgage Corporation bonds	$ 50,821	$ -	$ -	$ 50,821
Federal National Mortgage Association bonds	9,304			9,304
Federal National Mortgage Association securities		3,043		3,043
Mutual Bond Funds:				
BTI Short-Term Bond Pool	13,065			13,065
Dodge & Cox Income Fund		8,783		8,783
Harbor Bond Fund		2,492		2,492
Vanguard Bond Index Fund		1,876		1,876
Other	1,105	180		1,285
State and Local Government Securities — Auction Rate Certificates		7,475		7,475
Fixed Income Fund — Income Research and Management		5,765		5,765
Mutual Money Market Funds — State Street Cash — SSGA Money Market		2,400		2,400
Mutual Stock Funds:				
MFS	2,580			2,580
Dodge & Cox Stock Fund	2,321			2,321
Other	1,063	1,000		2,063
Other investments	3,909	477		4,386
Other alternative investments:				
CF Multi Strategy Equity Fund		7,244		7,244
CF Multi-Strategy Bond Fund		5,593		5,593
CF Core Equity Fund	4,946			4,946
CF Multi-Strategy Bond Investors Fund		4,516		4,516
CFI Multi-Strategy Equity Fund		4,317		4,317
Robeco-Sage Capital International		3,622		3,622
CF Intermediate Fund		2,067		2,067
Other			1,258	1,258
	$ 89,114	$ 60,850	$ 1,258	$ 151,222

Investments at June 30, 2009, were as follows (dollars in thousands):

Investment Type	Level 1	Level 2	Level 3	Total
Mutual Bond Funds:				
BTI Short-Term Bond Pool	$ 12,660	$ -	$ -	$ 12,660
Income Research & Management	6,919			6,919
Other	3,672			3,672
State and Local Government Securities — Auction Rate Certificates		10,950		10,950
Mutual Money Market Funds — State Street Cash — SSGA Money Market		6,658		6,658
Mutual Stock Funds:				
MFS	2,335			2,335
Dodge & Cox Stock Fund	2,012			2,012
Other	1,834			1,834
Other investments	2,257	477		2,734
Other alternative investments:				
CF Multi-Strategy Equity Fund		10,669		10,669
CF Multi-Strategy Bond Fund		8,342		8,342
CF Multi-Strategy Bond Investors Fund		5,728		5,728
CFI Multi-Strategy Equity Fund		3,795		3,795
Robeco-Sage Capital International			3,413	3,413
CF Intermediate Fund		1,887		1,887
Other		870	2,102	2,972
	$ 31,689	$ 49,376	$ 5,515	$ 86,580

Investments have been reported at fair value and categorized as Level 1, 2, or 3. Level 1 represents investments that have a quoted price in the active markets. Level 2 represents investments with direct or indirect observable market inputs. Level 3 represents investments with no observable market.

Historically, the Fund was unable to invest excess operating funds outside of the Treasurer. In 2005, the West Virginia State Legislature passed Senate Bill No. 603 (S.B. 603). S.B. 203 granted WVU and Marshall the ability to invest a limited amount of funds with their foundations. The amounts invested with the two foundations at June 30, 2010 and 2009, were approximately $61,000,000 and $57,000,000, respectively.

In 2010, the U.S. Government investments have the following rates and maturity dates:

	Rates	Maturity Dates
Federal Home Loan Mortgage Corporation bonds	1.75%–6.00%	June 15, 2011–January 15, 2013
Federal National Mortgage Association bonds	1.75–4.875	May 18, 2012–April 19, 2013
Federal National Mortgage Association securities	4.285–4.50	July 20, 2039–July 1, 2040

In May 2008, the West Virginia University invested in the BTI's WV Short-Term Bond Pool an amount which represents long-term investment monies of WVU. The WV Short-Term Bond Pool is a bond mutual fund which was created to invest monies of participants which have a perceived longer term investment horizon. The goal of the portfolio is to earn incremental returns over the WV Money Market Pool with an objective of capital growth rather than current income. The portfolio is restricted to monthly contributions and withdrawals and calculates a per-unit price each month. The risk factor on

this portfolio is higher than the WV Money Market Pool. See additional disclosures in Note 3. As of June 30, 2010 and 2009, the investment was $13.1 million and $12.7 million, respectively.

WVU, through its board, issued Auction Rate Certificate (ARC) debt in 2004. These 2004 ARCs are variable rate debt that reset at auction every 28 days. Based on guidance from bond counsel, the WVU Research and Development Corporation began to submit bids to purchase the ARCs in the April 23, 2008 auction. At June 30, 2010 and 2009, the carrying value of these investments was approximately $7.8 million and $10.95 million, respectively. These ARCs mature in October 2012. These investments have been rated A+ by Standard & Poor's for both years.

At June 30, 2010 and 2009, certain other investments had the following Standard and Poor's (S&P) ratings:

Investment Type	Standard & Poor's Rating 2010	2009
Income Research & Management (IRM)	AA+	AA
State Street Cash — SSGA Money Market	Am	Am
CF Multi-Strategy Bond Fund	AA	AA
CF Multi-Strategy Bond Investors Fund	AA	AA
CF Intermediate Fund	AA	AA
Harbor Bond Fund	A	

Remaining investments have not been rated.

Other than listed above, these investments have no significant custodial credit risk or interest rate risk and they are not exposed to a concentration of credit risk or any foreign currency risk.

5. ACCOUNTS RECEIVABLE

Accounts receivable at June 30, 2010 and 2009, were as follows (dollars in thousands):

	2010	2009
Students — net of allowance of $12,472 and $11,502 in 2010 and 2009, respectively	$ 12,304	$ 10,810
Grants and contracts — net of allowance of $1,960 and $1,101 in 2010 and 2009, respectively	52,522	42,708
Auxiliary services — net of allowance of $795 and $713 in 2010 and 2009, respectively	2,430	1,945
Due from State and State agencies	4,176	3,948
Other — net of allowance of $15 and $14 in 2010 and 2009, respectively	10,809	12,396
	$ 82,241	$ 71,807

6. CAPITAL ASSETS

The following, for the years ended June 30, 2010 and 2009, is a summary of capital assets transactions for the Fund (dollars in thousands):

	2010			
	Beginning Balance	Additions	Reductions	Ending Balance
Capital assets not being depreciated:				
Land	$ 73,721	$ 3,268	$ 711	$ 76,278
Construction in progress	134,983	117,672	140,424	112,231
Other	132			132
Total capital assets not being depreciated	$ 208,836	$ 120,940	$ 141,135	$ 188,641
Other capital assets:				
Land improvements	$ 51,743	$ 7,186	$ 2	$ 58,927
Infrastructure	312,939	4,517	47	317,409
Buildings	1,913,329	136,132	2,515	2,046,946
Equipment	293,754	39,911	36,065	297,600
Software	46,992	4,672	1,087	50,577
Library books	143,456	8,994	573	151,877
Intangibles	20,542	8,928		29,470
Total other capital assets	2,782,755	210,340	40,289	2,952,806
Less accumulated depreciation for:				
Land improvements	17,632	3,410	1	21,041
Infrastructure	228,865	8,042	(63)	236,970
Buildings	516,636	39,932	1,186	555,382
Equipment	191,200	23,964	16,908	198,256
Software	44,177	1,619	501	45,295
Library books	115,250	7,128	539	121,839
Intangibles	15,277	5,685	1	20,961
Total accumulated depreciation	1,129,037	89,780	19,073	1,199,744
Other capital assets — net	$ 1,653,718	$ 120,560	$ 21,216	$ 1,753,062
Capital asset summary:				
Capital assets not being depreciated	$ 208,836	$ 120,940	$ 141,135	$ 188,641
Other capital assets	2,782,755	210,340	40,289	2,952,806
Total cost of capital assets	2,991,591	331,280	181,424	3,141,447
Less accumulated depreciation	1,129,037	89,780	19,073	1,199,744
Capital assets — net	$ 1,862,554	$ 241,500	$ 162,351	$ 1,941,703

	2009			
	Beginning Balance	Additions	Reductions	Ending Balance
Capital assets not being depreciated:				
Land	$ 73,325	$ 1,361	$ 965	$ 73,721
Construction in progress	142,108	132,903	140,028	134,983
Other	132			132
Total capital assets not being depreciated	$ 215,565	$ 134,264	$ 140,993	$ 208,836
Other capital assets:				
Land improvements	$ 49,126	$ 2,694	$ 77	$ 51,743
Infrastructure	289,578	24,046	685	312,939
Buildings	1,799,161	121,638	7,470	1,913,329
Equipment	290,624	26,543	23,413	293,754
Software	45,646	1,571	225	46,992
Library books	135,703	8,477	724	143,456
Intangibles	19,686	856		20,542
Total other capital assets	2,629,524	185,825	32,594	2,782,755
Less accumulated depreciation for:				
Land improvements	14,509	3,153	30	17,632
Infrastructure	219,176	9,906	217	228,865
Buildings	482,749	37,661	3,774	516,636
Equipment	189,529	22,876	21,205	191,200
Software	43,004	1,339	166	44,177
Library books	108,794	7,145	689	115,250
Intangibles	8,533	6,744		15,277
Total accumulated depreciation	1,066,294	88,824	26,081	1,129,037
Other capital assets — net	$ 1,563,230	$ 97,001	$ 6,513	$ 1,653,718
Capital asset summary:				
Capital assets not being depreciated	$ 215,565	$ 134,264	$ 140,993	$ 208,836
Other capital assets	2,629,524	185,825	32,594	2,782,755
Total cost of capital assets	2,845,089	320,089	173,587	2,991,591
Less accumulated depreciation	1,066,294	88,824	26,081	1,129,037
Capital assets — net	$ 1,778,795	$ 231,265	$ 147,506	$ 1,862,554

The Fund maintains certain collections of inexhaustible assets to which no value can be practically determined. Accordingly, such collections are not capitalized or recognized for financial statement purposes. Such collections include contributed works of art, historical treasures, and literature that are held for exhibition, education, research, and public service. These collections are neither disposed of for financial gain nor encumbered in any means.

The Fund has construction commitments at June 30, 2010, of approximately the following (dollars in thousands):

Bluefield State College	$ 366
Concord University	1,000
Fairmont State University	201
Marshall University	800
Pierpont Community and Technical College	105
West Liberty State College	48
West Virginia Northern Community College	100
West Virginia School of Osteopathic Medicine	205
West Virginia University	53,600
	$ 56,425

7. LONG-TERM LIABILITIES

The following, for the years ended June 30, 2010 and 2009, is a summary of long-term obligation transactions for the Fund (dollars in thousands):

	2010				
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Bonds, capital leases, and notes payable:					
Notes payable	$ 32,093	$ 1,907	$ (883)	$ 33,117	$ 2,815
Capital leases payable	46,762	37,564	(3,249)	81,077	13,925
Revenue bonds payable	679,424	94,647	(25,184)	748,887	26,896
Total bonds, capital leases, and notes payable	758,279	134,118	(29,316)	863,081	
Advances from federal sponsors	41,542	84	(271)	41,355	
Accrued compensated absences	43,354	2,925	(3,430)	42,849	39,707
Deferred interest payable	26,060	3,857		29,917	
OPEB liability	23,990	89,553		113,543	
Other noncurrent liabilities	26,502	7,245	(4,977)	28,770	162
Total long-term liabilities	$919,727	$237,782	$ (37,994)	$ 1,119,515	

	2009				
	Beginning Balance	Additions	Reductions	Ending Balance	Current Portion
Bonds, capital leases, and notes payable:					
Notes payable	$ 20,949	$ 11,534	$ (390)	$ 32,093	$ 885
Capital leases payable	46,827	4,539	(4,604)	46,762	2,536
Revenue bonds payable	703,593		(24,169)	679,424	24,396
Total bonds, capital leases, and notes payable	771,369	16,073	(29,163)	758,279	
Advances from federal sponsors	41,667	75	(200)	41,542	
Accrued compensated absences	41,020	4,022	(1,688)	43,354	40,141
Deferred interest payable	22,426	3,634		26,060	
OPEB liability	10,288	13,702		23,990	
Other noncurrent liabilities	23,511	6,711	(3,720)	26,502	287
Total long-term liabilities	$910,281	$44,217	$ (34,771)	$919,727	

8. OTHER POST EMPLOYMENT BENEFITS

In accordance with GASB, OPEB costs are accrued based upon invoices received from PEIA based upon actuarial determined amounts. At June 30, 2010 and 2009, the noncurrent liability related to OPEB costs was $113,543,283 and $24,192,135, respectively. The total OPEB expense incurred and the amount of OPEB expense that relates to retirees were $108,087,365 and $17,895,752, respectively, during 2010, and $44,835,894 and $20,856,773, respectively, during 2009. As of June 30, 2010 and 2009, there were approximately 1,194 and 1,160 retirees receiving these benefits, respectively.

9. LEASE OBLIGATIONS

Capital — The Fund leases certain property, plant, and equipment through capital leases. The following is a schedule by year of future annual minimum payments required under the lease obligations existing at June 30, 2010 (dollars in thousands):

Years Ending June 30	Total
2011	$ 16,885
2012	14,957
2013	5,801
2014	5,877
2015	5,911
2016–2020	28,751
2021–2025	20,393
2026	8,055
Future minimum lease payments	106,630
Less interest	25,553
Total	$ 81,077

During fiscal year 2010, WVU entered into three lease purchase agreements to finance capital projects, including construction of the Intermodal Transportation Center and the Childcare Center and capital improvements to the Engineering Sciences Building, for total lease payments of $47.9 million. As of June 30, 2010, there was $10.9 million held by the lease trustee for expenditures for completion of the leased projects.

The lease purchase for construction of the Intermodal Transportation Center, totaling $10.9 million, was subject to federal approval and, as such, the proceeds were placed in escrow. Subsequent to year-end, the University was informed that the federal government would not approve the funding. As such, the University repaid the $10.9 million in full from the funds in escrow during fiscal year 2011.

The following is a related-party capital lease:

Marshall has a capital lease agreement with the Marshall University Graduate College Foundation, Inc. (the "MUGC Foundation") for the Marshall University Graduate College's administration facility (the "Facility"). The fair value of the Facility was estimated by independent appraisal during the year ended June 30, 1995, at $5 million (building $4.3 million and land $700,000), and the 21-year lease term commenced with the Marshall University Graduate College's occupancy of the Facility in June 1995. Ownership of the Facility transfers to Marshall at the end of the lease term.

Operating — The Fund had entered into various operating lease agreements. Future annual minimum lease payments for years subsequent to June 30, 2010, are as follows (dollars in thousands):

Years Ending June 30	
2011	$ 8,979
2012	7,164
2013	5,840
2014	4,999
2015	4,105
2016–2020	12,895
2021–2025	9,880
2026–2030	9,880
2031–2035	1,980
Total	$ 65,722

Total rent expense for these operating leases for the years ended June 30, 2010 and 2009, was approximately $10.5 million and $10.6 million, respectively.

The following is a related-party operating lease:

West Virginia University leases an office building from the West Virginia University Foundation, Incorporated. Rental expense under the operating lease is $1,975,000 per year through 2031. West Virginia University retains the right to cancel the lease upon giving 30 days' written notice.

10. NOTES PAYABLE

During fiscal year 1997, West Virginia State University signed an agreement with the Educational Direct Loan Mortgage Corporation (Eddie Mac) to have available a line of credit of $3.5 million to be used to renovate dormitories. As of June 30, 2010 and 2009, West Virginia State University had $2,612,963 and $2,718,067 outstanding, respectively. At an interest rate of approximately 6.3%, current monthly principal and interest payments of approximately $21,068 are payable through 2026. Eddie Mac has a security interest for this loan on the net revenues from West Virginia State University's dormitories and receives a monthly service fee. West Virginia State University is also subject to certain operating covenants and restrictions on incurrence of additional debt per the loan document.

During fiscal year 2008, West Virginia University Research Corporation drew their final approximately $2.1 million on their $6 million construction and term loan with West Virginia Housing Development Fund (WVHDF). The proceeds of the WVHDF loan were disbursed on a draw basis as construction progressed. The principal balance of the WVHDF loan bears interest at a fixed rate of 5.11% per annum. The note is due 240 months from the closing date of October 24, 2005. A note modification agreement dated April 26, 2007, allowed the West Virginia University Research Corporation to accrue quarterly interest for the period beginning April 1, 2007 through January 31, 2009, and to add it to the principal amount of the loan. Commencing on February 1, 2009, such accrued interest is amortized and paid over the remaining term of the loan. Total principal remaining to be paid, including accrued interest, at June 30, 2010 and 2009, was approximately $6.1 million and $6.4 million, respectively.

During fiscal year 2008, West Virginia University Research Corporation drew the entire amount of their $9 million construction and term loan with West Virginia Economic Development Authority (WVEDA). The proceeds of the WVEDA loan were disbursed on a draw basis as construction progressed. The principal balance of the WVEDA loan bears interest at a fixed rate of 5.51% per annum. The note is due 240 months from the closing date of October 24, 2005. Interest on the loan will accrue but payment will be deferred for the first 36 months of the loan. Commencing on October 1, 2009, such accrued interest will be amortized and paid over the remaining term of the loan. Total principal remaining to be paid, including accrued interest, at June 30, 2010 and 2009, was approximately $9.7 million and $10 million, respectively.

During fiscal year 2009, West Virginia University Research Corporation drew the entire amount of their $9.4 million loan with West Virginia Infrastructure and Jobs Development Council (WVIJDC). The proceeds of the WVIJDC were disbursed on a draw basis as construction progressed. The principal balance of the WVIJDC loan bears interest at a fixed rate of 3% per annum. The note is due 240 months from the closing date of October 24, 2005. Interest on the loan will accrue but payment will be deferred for five years from the date of closing. Commencing on October 24, 2010, such accrued interest will be amortized and paid over the remaining term of the loan. Total principal remaining to be paid, including accrued interest, at June 30, 2010 and 2009, was approximately $9.8 million and $9.4 million, respectively. After the expiration of the five-year period, the interest rate applicable to $3 million in principal for the balance of the term of the loan will be based on the satisfaction of certain employment criteria.

During fiscal year 2008, MURC borrowed the proceeds of a bond issuance by the Cabell County Commission for the construction of an addition to the Marshall University Forensic Science Center. MURC's repayment terms are the same as the bond repayment term. MURC is obligated to make interest payments commencing on October 10, 2008, for the interest due on the loan semiannually and to make annual principal payments starting on April 1, 2009, based on a hypothetical amortization of the then-remaining principal balance at the then-applicable interest rate for the then-remaining years of the original 20-year amortization period ending April 10, 2028. However, any unspent mortgage proceeds would go to pay the first amounts due for interest and principal. Any remaining principal balance shall be payable in full on April 10, 2028. The interest rate on the bonds is 3.2% at April 10, 2008, and continuing to and including year five, and will change for each subsequent five-year period to the rate per annum equal to 67% of the five-year Treasury Constant Maturity in effect on that date plus 1.67% per annum. The principal balance at June 30, 2010 and 2009, is $2,776,173 and $2,890,606, respectively.

During fiscal year 2010, Glenville State College entered into a $1.5 million note collateralized by the Glenville State College Foundation, Inc. securities, for construction purposes. Interest is 4.0% with principal due in fiscal year 2011.

During fiscal 2009, Glenville State College entered into a $635,000 promissory note collateralized by a first lien on various parcels of real estate and a motel building. Interest is 6.56% with monthly principal payments of $4,793. The note matures in May 2030.

Annual minimum payments for the years ending after June 30, 2010, are as follows (dollars in thousands):

Years Ending June 30	Principal	Interest	Total
2011	$ 2,815	$ 1,287	$ 4,102
2012	1,499	1,348	2,847
2013	1,567	1,277	2,844
2014	1,639	1,212	2,851
2015	1,705	1,140	2,845
2016–2020	9,754	4,367	14,121
2021–2025	12,230	1,984	14,214
2026–2030	1,908	133	2,041
Total	$33,117	$12,748	$45,865

11. INSTITUTION BONDS PAYABLE

The Institutions within the Fund, at June 30, 2010 and 2009, have the following outstanding bonds payable (dollars in thousands):

	Maximum Interest Rate	Annual Installments	Principal Outstanding 2010	Principal Outstanding 2009
West Virginia University — Auction Rate Certificates Federally Taxable Revenue Refunding and Improvement Bonds 2004, Series A, due through 2035	Variable	$975–$4,200	$ 7,600	$ 11,625
West Virginia University — Revenue Refunding Bonds 2004, Series B, due through 2021	5.00 %	0–6,685	55,430	55,430
West Virginia University — Revenue Improvement Bonds 2004, Series C, due through 2035	5.00	0–12,780	138,710	138,710
Marshall University — University Facilities Revenue Bonds 2001, due through 2031	5.30	1,135–3,035	40,690	41,775
Glenville State University — Student Housing Bonds, Series 2000A, due 2030	6.20	90–1,280	4,310	4,410
Glenville State University — Campus Community Center Bonds, Series 2006, due 2026	4.30 (10-year reset)	50–456	1,320	1,375
Glenville State University — Science Building Bonds, Series 2007, due in 2037	4.68 (10-year reset)	127	3,917	3,985
Glenville State University — Goodwin Hall Bonds, Series 2009, due in 2040	Variable	0–131	16,603	
Fairmont State University — College Facilities Revenue Bonds 2002, Series A, due through 2032	5.38	390–1,145	15,595	15,995
Fairmont State University — Infrastructure Revenue Bonds 2002, Series B, due through 2032	5.00	205–565	7,860	8,070
Fairmont State University — College Facilities Revenue Bonds 2003, Series A, due through 2032	5.25	300–860	11,850	12,160
Fairmont State University — Student Activity Revenue Bonds 2003, Series B, due through 2032	5.25	520–1,475	20,385	20,920
Fairmont State University — Facilities Improvement Revenue Bonds, 2006 Series, due through 2026	4.18 (10-year reset)	303–611	7,306	7,622
Shepherd University — Student Fee Revenue Bonds, due through 2033	5.13	105–370	5,320	5,440
Shepherd University — Infrastructure Revenue Bonds, Series 2004B, due through 2024	4.50	125–240	2,590	2,730
Shepherd University — Residence Facilities Revenue Bonds, due through 2035	5.00	435–1,450	21,580	22,040
Shepherd University — Wellness Center Facilities Revenue Bonds, Series 2007, due through 2037	4.77	435–1,170	18,700	19,055
WV State University — Student Union Revenue Bonds 2002, Series A, due through 2022	6.20	215–420	3,880	4,120
West Liberty State University — Dormitory Revenue Bonds 2003, Series A, due through 2028	6.13	225–650	7,415	7,650
West Liberty State University — University Union Revenue Bonds 2003, Series B, due through 2018	5.63	75–120	785	865
West Liberty State University — Capital Improvement Revenue Bonds 2003, Series C, due through 2028	6.00	100–285	3,240	3,345
			395,086	387,322
Less unamortized bond discount			(472)	(575)
Loss on bond defeasance			(2,476)	(3,235)
Add unamortized bond premium			5,008	5,378
			$397,146	$388,890

Prior to fiscal 2003, each of the above bond issues was specific to an individual institution within the Fund, although the bonds were also issued in the names of the Fund's former governing boards, previously responsible for the governance of the State's higher education system. The bonds issued after fiscal 2002 were issued by the Institution's Governing Board only.

A summary of the annual aggregate principal payments for years subsequent to June 30, 2010, is as follows (dollars in thousands):

Years Ending June 30	Principal	Interest	Total
2011	$ 9,202	$ 18,834	$ 28,036
2012	9,960	18,410	28,370
2013	10,283	18,085	28,368
2014	10,567	17,684	28,251
2015	11,038	17,236	28,274
2016–2020	64,035	77,821	141,856
2021–2025	78,664	60,624	139,288
2026–2030	93,799	39,172	132,971
2031–2035	86,634	15,415	102,049
2036–2040	20,587	874	21,461
2041	317	3	320
Total	$395,086	$284,158	$679,244

12. SYSTEM BONDS PAYABLE

The Fund receives State appropriations to finance its operations. In addition, it is subject to the legislative and administrative mandates of State government. Those mandates affect various aspects of the Fund's operations, its tuition and fee structure, its personnel policies, and its administrative practices.

The State has chartered the Fund with the responsibility to construct or renovate, finance, and maintain various academic and other facilities of the State's universities and colleges, including certain facilities within the Fund. Financing for these facilities was provided through revenue bonds issued by various former governing boards which are now administered by the Policy Commission.

The Policy Commission has the authority to assess each institution of the Fund for payment of debt service on these system bonds. The tuition and registration fees of the Institutions are generally pledged as collateral for the Fund's bond indebtedness. Student fees collected by an 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 Fund.

The 2007 Series A Bonds were issued in April 2007 in the original principal amount of $25,915,000 with rates up to 5% and a total all-in interest cost of 4.34%, maturing serially through April 1, 2027. The 2007 Series A Bonds were issued to provide funding for a refinancing of a portion of the State College System 1997 Series A Bonds ($7,885,000), State University System 1997 Series A Bonds ($9,990,000), and State University System 2000 B Bonds ($6,970,000). The amount refinanced was $24,815,000 and with the reduced interest rates will provide a total cash savings of $1,813,791 to the State. The economic gain on the refinancing was $1,253,171.

The Commission, at June 30, 2010 and 2009, has the following outstanding bonds payable (dollars in thousands):

	Maximum Interest Rate	Original Range of Annual Installments	Principal Outstanding 2010	Principal Outstanding 2009
Series 1998 — University System Bonds, due through 2028	5.25	$1,065–$3,625	$ 43,525	$ 44,930
Series 2000A — University System Bonds, due through 2031	6.26	0–3,264	36,591	36,591
Series 2000B — University System Bonds, due through 2010	5.96	210–625		285
Series 2003A — University Facilities Bonds, due through 2012	5.00	5,740–7,875	15,380	22,520
Series 2003A — College Facilities Bonds, due through 2012	5.00	2,325–2,690	3,925	6,520
Series 2004B — Higher Education Facilities Bonds, due through 2034	6.00	2,680–9,520	144,025	147,925
Series 2007A — Revenue Refunding Bonds, due through 2027	5.00	185–1,880	24,265	25,010
Series 2009A — Community and Technical College Improvement Revenue Bonds, due through 2039	5.25	1,425–4,760	78,295	
			346,006	283,781
Add bond premium and deferred gain			5,994	6,753
Less bond discount			(259)	
			$351,741	$290,534

A summary of the annual aggregate principal payments for years subsequent to June 30, 2010, is as follows (dollars in thousands):

Years Ending June 30	Principal	Interest	Total
2011	$ 18,205	$ 13,527	$ 31,732
2012	17,345	14,321	31,666
2013	11,874	17,032	28,906
2014	12,067	16,840	28,907
2015	12,290	16,619	28,909
2016–2020	61,151	78,629	139,780
2021–2025	69,747	68,846	138,593
2026–2030	68,193	55,108	123,301
2031–2035	53,499	18,278	71,777
2036–2040	21,635	3,351	24,986
Total	$346,006	$302,551	$648,557

13. UNRESTRICTED NET ASSETS

The Fund's unrestricted net assets at June 30, 2010 and 2009, include certain designated net assets as follows:

	2010	2009
Designated for auxiliaries	$ 9,136	$ 2,598
Designated for repair and replacement of property	8,297	1,195
Designated for affiliate organizations		103
Undesignated	273,997	223,500
Total unrestricted net assets before OPEB liability	291,430	227,396
Less OPEB liability	113,543	23,990
Total unrestricted net assets	$177,887	$203,406

14. RETIREMENT PLANS

Substantially all full-time employees of the Fund participate in either the West Virginia Teachers' Retirement System (STRS) or the Teachers' Insurance and Annuities Association — College Retirement Equities Fund (TIAA-CREF). Previously, upon full-time employment, all employees were required to make an irrevocable selection between the STRS and TIAA-CREF. Effective July 1, 1991, the STRS was closed to new participants. Current participants in the STRS are permitted to make a one-time election to cease their participation in that plan and commence contributions to the West Virginia Teachers' Defined Contribution Plan. Effective January 1, 2003, higher education employees enrolled in the basic 401(a) retirement plan with TIAA-CREF have an option to switch to the New Educators Money 401(a) basic retirement plan ("Educators Money"). New hires have the choice of either plan.

Total contributions to Educators Money for the years ended June 30, 2010, 2009, and 2008, were $1,657,300, $730,900, and $669,000, respectively, which consisted of approximately $525,500, $362,300, and $331,400, from the Fund in 2010, 2009, and 2008, respectively, and approximately $531,800, $368,600, and $337,700, from the covered employees in 2010, 2009, and 2008, respectively.

The STRS is a cost-sharing, defined benefit public retirement system. Employer and employee contribution rates are established annually by the State Legislature. The contractual maximum contribution rate is 15%. The Fund accrued and paid its contribution to the STRS at the rate of 15% of each enrolled employee's total annual salary for both years ended June 30, 2010 and 2009. Required employee contributions are at the rate of 6% of total annual salary for both years ended June 30, 2010 and 2009. Participants in the STRS may retire with full benefits upon reaching age 60 with five years of service, age 55 with 30 years of service, or any age with 35 years of service. Lump-sum withdrawal of employee contributions is available upon termination of employment. Pension benefits are based upon 2% of final average salary (the highest five years salary out of the last 15 years) multiplied by the number of years of service.

Total contributions to the STRS for the years ended June 30, 2010, 2009, and 2008, were approximately $6,794,200, $6,993,700, and $6,893,000, respectively, which consisted of approximately $4,701,500, $4,884,200, and $4,779,200, from the Fund in 2010, 2009, and 2008, respectively, and approximately $2,092,700, $2,149,500, and $2,113,800, from the covered employees in 2010, 2009, and 2008, respectively.

The contribution rate is set by the State Legislature on an overall basis, and the STRS does not perform a calculation of the contribution requirement for individual employers, such as the institutions within the Fund. Historical trend and net pension obligation information is available from the annual financial report of the Consolidated Public Retirement Board. A copy of the report may be obtained by writing to the Consolidated Public Retirement Board, Building 5, Room 1000, Charleston, WV 25305.

The TIAA-CREF is a defined contribution plan in which benefits are based solely upon amounts contributed plus investment earnings. Employees who elect to participate in this plan are required to make a contribution equal to 6% of total annual compensation. The Fund matches the employees' 6% contribution. Contributions are immediately and fully vested. In addition, employees may elect to make additional contributions to TIAA–CREF which are not matched by the Fund.

Total contributions to the TIAA-CREF for the years ended June 30, 2010, 2009, and 2008, were approximately $73.4 million, $69.8 million, and $65.8 million, respectively, which consisted of approximately $36.6 million, $34.9 million, and $32.9 million, from the Fund and from the covered employees in 2010, 2009, and 2008, respectively.

The Fund's total payroll for the years ended June 30, 2010 and 2009, was approximately $727.6 million and $694.8 million, respectively, and total covered employees' salaries in the STRS, TIAA-CREF, and Educators Money were approximately $36.4 million, $600.4 million, and $8.6 million, for the year ended June 30, 2009, and $39.1 million, $587.5 million, and $6.8 million, for the year ended June 30, 2009.

15. FOUNDATIONS

Various foundations have been established as separate nonprofit organizations incorporated in the State of West Virginia having as their purpose "... to aid, strengthen, and further in every proper and useful way, the work and services of the (individual institutions within the Fund), and their affiliated nonprofit organizations ..." Oversight of the foundations is the responsibility of separate and independently elected Boards of Directors, not otherwise affiliated with the Fund. In carrying out its responsibilities, the Boards of Directors of the foundations employ management, form policy and maintain fiscal accountability over funds administered by the foundations. Although the individual institutions within the Fund do not control the timing or amount of receipts from the foundations, the majority of resources, or income thereon, that the foundations hold and invest are restricted to the activities of the individual institutions within the Fund by donors. Because these restricted resources held by the foundations as detailed in the combined financial statements can only be used by, or for the benefit of, the individual institutions within the Fund, the foundations are considered component units of the Fund and are therefore discretely presented with the Fund's combined financial statements in accordance with GASB discretely presented component unit requirements.

The West Virginia University Foundation, Inc. is appropriately not included as a discretely presented component unit as the economic resources held do not entirely or almost entirely benefit the West Virginia University, and its net assets (including unrealized gains) totaled $491.6 million and $433.7 million at June 30, 2010 and 2009, respectively. The Eastern West Virginia Community and Technical College Foundation Inc. and MCTC Foundation, Inc. are not included for the years ended June 30, 2010 and 2009, because they were not significant to their institutions. The Higher Education Foundation is not included for the years ended June 30, 2010 and 2009, because it does not entirely or almost entirely benefit any one institution and because it was not significant to the Fund. Blue Ridge Community and Technical College and Kanawha Valley Community and Technical College do not have related foundations. Currently, Bridgemont Community and Technical College Foundation, Inc. has been registered with the Secretary of State, secured a separate federal identification number, and is in the

process of securing the 501(c)(3) status with the IRS. Tech Foundation, Inc. is not included for the years ended June 30, 2010 and 2009, because it is not significant to the Fund.

Complete financial statements for any discretely presented component unit foundation can be obtained by contacting the Business Office of the West Virginia Higher Education Policy Commission, 1018 Kanawha Boulevard, E, Suite 700, Charleston, WV 25301. See also Note 19.

16. OTHER DISCRETE COMPONENT UNITS

In addition to the Foundations included as discretely presented component units, the Fund has two other component units which are material and entirely or almost entirely for the benefit of the Fund's individual institutions. Oversight of the other discrete component units is the responsibility of separate and independently elected Boards of Directors, not otherwise affiliated with the Fund.

17. AFFILIATED ORGANIZATIONS

The Fund has various separately incorporated affiliated organizations, including alumni and other associations. Oversight responsibility for these organizations rests with independent boards and management not otherwise affiliated with the Fund. Accordingly, the financial statements of these organizations are not included in the Fund's accompanying combined financial statements under the blended component unit requirements. They are not included in the Fund's accompanying financial statements as discretely presented component unit requirements as they are (1) not significant or (2) have dual purpose (i.e., not entirely or almost entirely for the benefit of the Fund).

18. CONTINGENCIES AND COMMITMENTS

Contingencies — The nature of the educational industry is such that, from time to time, claims will be presented against colleges and universities on account of alleged negligence, acts of discrimination, breach of contract or disagreements arising from the interpretation of laws or regulations. While some of these claims may be for substantial amounts, they are not unusual in the ordinary course of providing educational services in a higher education system. In the opinion of management, all known claims are covered by insurance or are such that an award against the Fund would not impact seriously on the financial status of the Fund.

Under the terms of federal grants, periodic audits are required and certain costs may be questioned as not being appropriate expenditures under the terms of the grants. Such audits could lead to reimbursement to the grantor agencies. Management believes disallowances, if any, would not have a significant financial impact on the Fund's financial position.

The Internal Revenue Code of 1986 establishes rules and regulations for arbitrage rebates. There are no arbitrage rebate liabilities that have been recorded in the combined financial statements at June 30, 2010 or 2009.

The Fund and Institutions within the Fund own various buildings that are known to contain asbestos. The Fund is not required by federal, state, or local law to remove the asbestos from the buildings. The Fund is required by federal environmental, health, and safety regulations to manage the presence of asbestos in the buildings in a safe condition. Significant problems of dangerous asbestos conditions are abated as the condition becomes known. The Fund also addresses the presence of asbestos as building renovation or demolition projects are undertaken and through asbestos operation and maintenance programs directed at containing, managing, or operating with the asbestos in a safe condition.

Commitments — West Virginia University has signed an agreement providing for the purchase of steam through the year 2030 from a nearby facility that commenced operations in late 1992. Under the agreement, West Virginia University has an annual minimum steam purchase requirement, purchased at an operating rate calculated in accordance with the agreement. This operating rate is adjusted quarterly based on actual production costs and other cost indices. Management believes that the rate is comparable to market rates. West Virginia University's total payments for steam purchased under the agreement were approximately $7.8 million and $9.1 million in 2010 and 2009, respectively. West Virginia University anticipates substantially meeting the minimum steam purchase requirement for the remaining term of its commitment; however, payments in future years will be dependent on actual operating costs and other cost indices in those years.

19. COMPONENT UNITS' DISCLOSURES

The following are the significant notes for the financial statements of the discretely presented component units:

SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization and Nature of Operations — The foundations are nonprofit organizations incorporated in the State of West Virginia. The primary purpose of the foundations is to provide assistance and support for the students, facilities, and programs of their respective institution. The other two component units are also nonprofit organizations — one incorporated in the State of West Virginia and one in Delaware. Their primary purpose is also to support their respective institutions.

Basis of Presentation — Financial statement presentation follows the requirements of the FASB. In accordance with such requirements, the component units are required to report information regarding their financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.

Basis of Accounting — The financial statements of the component units are presented on the accrual basis of accounting, in accordance with generally accepted accounting principles. Net assets and revenues, expenses, gains and losses are classified based on the existence or absence of donor-imposed restrictions.

Accordingly, net assets of the component units and changes therein are classified and reported as follows:

Unrestricted Net Assets — Net assets that are not subject to donor-imposed stipulations.

Temporarily Restricted Net Assets — Net assets subject to donor-imposed stipulations that will be met either by actions of the component units and/or the passage of time.

Permanently Restricted Net Assets — Net assets subject to donor-imposed stipulations that they be maintained permanently by the component units. Generally, the donors of these assets permit the component units to use all or part of the income earned from related investments for general or specific purposes. Included in the permanently restricted net assets is a general scholarship account that has been funded by the board of directors designating investment gains to the account. The account is generally used for general scholarships and funding of operating expense shortfalls.

Revenues are reported as increases in unrestricted net assets unless use of the related assets is limited by donor imposed restrictions. Expenses are reported as decreases in unrestricted net assets. Gains and

losses on assets or liabilities are reported as increases or decreases in unrestricted net assets unless their use is restricted by explicit donor stipulation or by law. Expirations of temporary restrictions on net assets (i.e., the donor-stipulated purpose has been fulfilled and/or the stipulated time period has elapsed) are reported as net assets released from restrictions.

Custodial accounts representing funds held by the component units on behalf of an Institution and/or departments of the Institution are reported as custodial liabilities. The component units are responsible for the management and administration of these funds.

Investments — The component units account for their investments in accordance with generally accepted accounting principles. Under generally accepted accounting principles, investments in marketable securities with readily determinable fair values and all investments in debt securities are valued at their fair values in the statement of financial position. Unrealized gains and losses are included in the change in net assets. See separately issued component units financial statements for fair value disclosures. At June 30, 2010 and 2009, there were not material items classified as Level 3 in the fair value hierarchy.

Property and Equipment — Purchased assets are recorded at cost. Donated assets are recorded at their fair value at the date they are donated. Expenditures for replaced items are capitalized and the replaced items are retired. Maintenance and repairs are expensed as incurred. Depreciation is calculated primarily by the straight-line method over the estimated useful lives of the assets.

Gift Annuities — The assets received are recognized at fair value when received, and the gift annuity liabilities are recorded using the present value of future cash flows expected to be paid to the donors and are being amortized over the expected lives of the donors.

Contributions — Contributions, including unconditional promises to give, are recognized as revenue in the period received. All contributions are available for unrestricted use unless specifically restricted by the donor. Bequests are recorded as revenue at the time an unassailable right to the gift has been established and the proceeds are measurable.

Endowments — See separately issued component unit financial statements for endowment related disclosures. For the years ended June 30, 2010 and 2009, there were no material reclasses among net asset classes nor were there material changes in the endowments.

Newly Adopted Statements Issued by the FASB — In December 2008, FASB issued FASB Staff Position (FSP) 132(R)-1, *Employers' Disclosures about Postretirement Benefit Plan Assets*, which amends FASB Statement No. 132, *Employers' Disclosures about Pensions and Other Postretirement Benefits — an amendment of FASB Statements No. 87, 88, and 106*, to provide guidance on an employer's disclosures about plan assets of a defined benefit pension or other postretirement plan. The disclosures primarily focus on the valuation of plan assets by category, including valuation techniques and significant concentrations of risk within plan assets. FSP FAS 132(R)-1 was effective for the fiscal year ended June 30, 2010. See separately issued component unit financial statements for pension related disclosures. Adoption of this statement did not have a material impact on the separately issued component unit financial statements.

In June 2009, FASB Statement No. 168, *The FASB Standards Codification™ and the Hierarchy of Generally Accepted Accounting Principles — a replacement of FASB Statement No. 162*, was issued. The objective of this pronouncement is to integrate and topically organize all relevant accounting pronouncements comprising generally accepted accounting principles into a single codified database. FASB Statement No. 162, *The Hierarchy of Generally Accepted Accounting Principles*, identified the

INVESTMENTS

The component units' investment securities at June 30, 2010 and 2009, are composed of the following:

2010	Bluefield State College Foundation, Inc.	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
Cash and temporary investments	$ 95,000	$ 1,388,660	$ 343,977	$ -	$ -	$ 346,589	$ 1,187,174	$ -	$ -	$ 400,044	$ -	$ 470,753	$ 243,568
U.S. government securities	1,114,163	2,742,647				6,397,113	9,363,193	622,188	341,881	529,970		454,391	
Corporate and municipal bonds and notes	230,986	722,406	1,418,431		22,803,440		1,061,208		716,167	52,458		369,923	535,194
Mutual funds	269,490	9,316,341	3,034,688	10,356,416					6,813,142	123,225		2,044,171	4,828,809
Equity investments	4,403,887	5,752,610	6,742,934	214,269	46,419,884		9,738,512	1,005,629	659,308	670,072		310,419	605,100
Other	390,285	1,451,398		704,914	6,836,967		140,794	147,233	356,278	58,747	23,311		
	$6,503,811	$21,374,062	$11,540,030	$11,275,599	$76,060,291	$6,743,702	$21,490,881	$1,775,050	$8,886,776	$1,834,516	$23,311	$3,649,657	$6,212,671

2009	Bluefield State College Foundation, Inc.	Concord University Foundation, Inc.	Fairmont State Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Liberty State College Foundation, Inc.	West Virginia Northern Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.	WVU at Parkersburg Foundation, Inc.
Cash and temporary investments	$ 45,000	$ 1,276,062	$ 635,714	$ -	$ -	$1,716,153	$ 1,458,306	$ -	$ -	$ 570,042	$ -	$ 370,882	$1,264,514
U.S. government securities	1,147,251	2,903,962				1,216,103	9,148,140	848,002	244,456	251,695		353,627	
Corporate and municipal bonds and notes	241,985	1,102,284	1,114,034		25,593,324	4,951,979	161,358		728,433	47,604		541,543	1,034,277
Mutual funds	119,847	7,746,851	4,005,274	8,959,759					4,914,866	115,429		1,570,266	2,630,674
Equity investments	4,038,530	4,998,775	3,697,823	209,692	38,729,426		8,931,547	863,890	1,578,036	612,804		381,996	466,822
Other	385,070	339,805	102,134	704,914	12,751,031		144,799	36,606	356,278	55,597	18,800		
	$5,977,683	$18,367,739	$9,554,979	$9,874,365	$77,073,781	$7,884,235	$19,844,150	$1,748,498	$7,822,069	$1,653,171	$18,800	$3,218,314	$5,396,287

sources of accounting principles and the framework for selecting the principles used in preparing financial statements in accordance with generally accepted accounting principles. Adoption of this statement did not have an impact on the separately issued component unit financial statements.

In September 2009, the FASB issued Accounting Standards Update (ASU) No. 2009-06, *Income Taxes (Topic 740): Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Nonpublic Entities*, effective for fiscal years ending after September 15, 2009. ASU No. 2009-06 provides clarification on accounting for uncertainty in income taxes as it relates to nonpublic entities and as was previously provided for in FASB Interpretation (FIN) No. 48, *Accounting for Uncertainty in Income Taxes — an interpretation of FASB Statement No. 109*. ASU No. 2009-06 also provides guidance on the disclosures required by nonpublic entities. See separately issued component unit financial statements for tax-related disclosures. Adoption of this statement did not have a material impact on the separately issued component unit financial statements.

PLEDGES RECEIVABLE

Pledges receivable represent amounts due to the foundations for legally enforceable pledges.

The component units' property, plant, and equipment at June 30, 2010 and 2009, consists of the following:

2010	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.
Land and land improvements	$ 499,365	$ -	$ -	$ 1,642,000	$ 1,734,683	$ -	$ -	$ -	$ 166,000
Buildings	4,714,694			10,820,563	76,700,360			2,285,211	1,276,425
Equipment	152,292	64,579	99,338	1,138,977	6,565,622	18,028	50,350	32,322	46,448
Accumulated depreciation	(667,386)	(63,045)	(66,760)	(303,505)	(5,459,894)	(13,630)	(49,705)	(723,712)	(559,105)
Net book value	$4,698,965	$ 1,534	$ 32,578	$13,298,035	$79,540,771	$ 4,398	$ 645	$1,593,821	$ 929,768

2009	Bluefield State College Research and Development Corporation	Concord University Foundation, Inc.	The Glenville State College Foundation, Inc.	The Marshall University Foundation, Inc.	MSH-Marshall, L.L.C.	The Shepherd University Foundation, Inc.	Southern West Virginia Community College Foundation, Inc.	West Virginia School of Osteopathic Medicine Foundation, Inc.	The West Virginia State University Foundation, Inc.
Land and land improvements	$ 499,365	$ -	$ 15,000	$1,357,000	$ 1,245,194	$ -	$ -	$ -	$ 166,000
Buildings	4,714,694		86,000	285,000	75,965,559			2,285,211	1,276,425
Equipment	145,941	64,579	97,701	218,204	6,730,833	16,019	50,350	28,088	46,448
Construction in progress				6,385,426					
Accumulated depreciation	(430,714)	(48,756)	(55,035)	(327,300)	(2,129,975)	(11,855)	(45,653)	(664,776)	(524,042)
Net book value	$4,929,286	$ 15,823	$143,666	$7,918,330	$81,811,611	$ 4,164	$ 4,697	$1,648,523	$ 964,831

20. SUBSEQUENT EVENT

During August 2010, the West Virginia Development Office issued approximately $162 million of Education, Arts, Science, and Tourism bonds. The Commission, as provided in the State Code, received 60%, or $97.2 million, of the proceeds to help fund various building and campus renewal projects. The West Virginia Development Office is responsible for repayment of the debt.

Also during August 2010, the Marshall University Board of Governors approved a resolution authorizing the refunding of all or a portion of the $40,690,000 outstanding principal amount of the State of West Virginia, Higher Education Interim Governing Board, Marshall University Facilities Revenue Bonds 2001 Series A and the possible financing of certain capital projects through the issuance of one or more series of bonds in a principal amount not to exceed $45,000,000.

21. SEGMENT INFORMATION

Under the auspices of the State of West Virginia and former governing boards, the Fund issued revenue bonds to finance certain of its auxiliary enterprise activities. Investors in those bonds rely solely on the revenues generated by the activities of the auxiliaries for repayment.

Descriptive information for each of the Fund's segments is shown below:

West Virginia University Board of Governors Auction Rate Certificates, Federally Taxable University Revenue Refunding, and Improvement Bonds 2004 Series A; University Revenue Refunding Bonds 2004 Series B; and the University Revenue Improvement Bonds 2004 Series C (Collectively, the "2004 Bonds") — On November 1, 2004, the West Virginia University Board of Governors (the "Board") issued $25,900,000 of the 2004 Series A Bonds. The 2004 Series A Bonds are being used (1) to advance refund the $13,710,000 State of West Virginia, University of West Virginia Board of Trustees, Dormitory Refunding Revenue Bond 1997 Series A, and the $3,250,500 State of West Virginia, University of West Virginia Board of Trustees, Refunding Revenue Bonds 1997 Athletic Facilities Series A; (2) to finance a portion of the costs of certain capital projects at West Virginia University, including reimbursement to West Virginia for certain capital expenditures made prior to the issuance of the 2004 Series A Bonds; and (3) to pay all or a portion of the costs relating to the issuance of the 2004 Series A Bonds.

On November 1, 2004, the Board also issued 2004 Series B and C Bonds in the amounts of $55,430,000. The 2004 Series B Bonds are being used (1) to advance refund the $4,250,000 State of West Virginia, University of West Virginia Board of Trustees, Revenue Bonds 1997 Athletic Facilities Series B; the $10,735,000 State of West Virginia, University of West Virginia Board of Trustees, Dormitory Revenue Bonds 1997 Series B; the $3,000,000 State of West Virginia, University of West Virginia Board of Trustees, Refunding Revenue Bonds 1997 Student Union Series A; and the $38,000,000 State of West Virginia, University of West Virginia Board of Trustees, Revenue Bonds 1997 Student Union Series B, and (2) to pay the costs of issuance of the 2004 Series B Bonds.

The 2004 Series C Bonds are being used to finance a portion of the costs of certain improvements at West Virginia University, including capitalized interest and reimbursement to West Virginia University for certain capital expenditures made prior to the issuance of the 2004 Series C Bonds, and to pay the cost of issuance.

The 2004 Bonds are limited obligations of the Board, payable from and secured by a pledge of Fees and Gross Operating Revenues received by the Board, any interest earnings thereon and on the funds and accounts held by the Bond Trustee, and the funds representing capitalized interest. Fees include Institutional Capital Fees, Auxiliary Fees, and Auxiliary Capital Fees. Gross Operating Revenues include all rent fees, charges, and other income received by or accrued to West Virginia University from the operation and use of the Auxiliary Facilities. The 2004 Bonds are also payable from (but not secured by) other moneys legally available to be used for such purposes.

State of West Virginia, Higher Education Interim Governing Board, Marshall University Facilities Revenue Bonds, 2001 Series A — In June 2001, the Board sold $46,610,000 of revenue bonds, Marshall University Facilities 2001 Series A (the "2001 Bonds"). The 2001 Bonds are secured by and payable from the revenues of the dormitories and parking facilities, and certain funds held under the Indenture. The proceeds of the 2001 Bonds are being used (1) to finance a portion of the costs of acquisition, construction and equipping of a new student housing complex and parking facilities at the University and renovations and improvements to existing dormitories at the University; (2) to fund capitalized interest on the 2001 Bonds; (3) to fund debt service reserves for the 2001 Bonds; and (4) to pay a portion of the costs of issuance of the 2001 Bonds.

The County Commission of Gilmer County, West Virginia, Commercial Development Revenue Bonds, Glenville State College Housing Corporation Project (the "Corporation"), Series 2000A — In September 2001, the Corporation sold $4,990,000 of revenue bonds, 2000 Housing Facilities Series A Bonds. The bonds are secured by and payable from the revenues of the student housing facilities and

certain funds held under the Indenture. The proceeds of the Bonds are being used (1) to pay all or part of the cost of constructing two ten-story apartment buildings, each containing four units to be used as student housing and (2) to pay a portion of the cost of issuing the bonds.

Board of Governors of Glenville State College, Facilities Improvement Revenue Bonds, Series 2006 — In November 2006, Glenville State College sold $1,500,000 of revenue bonds, 2006 Facilities Improvement Revenue Bonds, Series 2006. The bonds are secured by and payable from the revenues of Glenville State College's auxiliary and auxiliary capital fee and certain funds held under the Indenture. The proceeds of the 2006 Bonds are being used (1) to finance all or part of the cost of renovating the student center (Mollohan Campus Community Center), (2) to reimburse the Board for cash amounts previously expended to pay renovation costs, and (3) to pay the cost of issuing the bonds.

Board of Governors of Glenville State College, Student Fee Revenue Bonds, Glenville State College Science Building Project, Series 2007 — In December 2007, Glenville State College sold $4,125,000 of revenue bonds, 2007 Student Fee Revenue Bonds, Series 2007. The bonds are secured by and payable from the revenues of Glenville State College education and general capital fees and certain funds held under the Indenture. The proceeds of the bonds are being used (1) to finance all or part of the cost of renovating the science building, (2) to reimburse the Board for cash amounts previously expended to pay renovation costs, and (3) to pay the cost of issuing the bonds.

The County Commission of Gilmer Count, West Virginia, Commercial Development Revenue Bonds, Glenville State College Housing Corporation Project, Series 2009A — In December 2009, Glenville State College sold $255,000 of Commercial Development Revenue Bonds, Housing Facilities Series 2009 Bonds. The bonds are secured by and payable from the revenues of Glenville State College's student housing facilities and certain funds held under the Indenture. The proceeds of the bonds are being used (1) to pay all or part of the cost of constructing a 484-bed student residence hall and (2) to pay a portion of the cost of issuing the bonds.

Fairmont State College Facilities Revenue Bonds 2002 and 2003, Series A — On August 1, 2002, Fairmont State issued College Facilities Revenue Bonds 2002, Series A (the "2002A Bonds") amounting to $18,170,000. The 2002A Bonds were issued to (1) finance the costs of acquisition of student housing facilities, consisting of an existing 113-unit apartment complex, (2) to finance the costs of design, acquisition and construction of a new, approximately 1,000 space motor vehicle parking facility, (3) to establish a debt service reserve fund for the 2002A Bonds, (4) to capitalize interest on the 2002A Bonds, and (5) to pay the cost of issuance of the 2002A Bonds and related costs.

On March 1, 2003, Fairmont State issued College Facilities Revenue Bonds 2003, Series A (the "2003A Bonds") amounting $13,320,000. The 2003A Bonds were issued to (1) finance the costs of design, acquisition, construction, and equipping of a new dormitory facility anticipated to include approximately 400 units, (2) to make a deposit to the debt service reserve fund for the 2003A Bonds, (3) to capitalize interest on the 2003A Bonds, and (4) to pay the costs of issuance of the 2003A Bonds and related costs.

Fairmont State Infrastructure Revenue Bonds 2002, Series B — On August 1, 2002, Fairmont State issued Infrastructure Revenue Bonds 2002, Series B (the "2002B Bonds") amounting to $9,310,000. The 2002B Bonds were issued to (1) finance the costs of acquisition and construction of improvements to the campus infrastructure and utilities, including the entranceways to Fairmont State and the roads surrounding Fairmont State, and electrical, water and sewage systems, and (2) to pay the costs of issuance of the 2002B bonds and related costs.

Fairmont State Student Activity Revenue Bonds 2003, Series B — On March 1, 2003, Fairmont State issued student Activity Revenue Bonds (the "2003B Bonds") amounting to $22,925,000. The 2003B Bonds were issued to (1) finance the costs of designing, acquisition, construction and equipping a new student activities center (including demolition of an existing dining facility) to be located on the campus of Fairmont State, (2) to capitalize interest on the 2003B Bonds during reasonable time after the construction of the Project, and (3) to pay the costs of issuance of the 2003B Bonds and related costs.

Fairmont State Facilities Improvement Revenue Bonds, 2006 Series — On May 9, 2006, Fairmont State issued Facilities Improvement Revenue Bonds (the "2006 Bonds") amounting to $8,500,000. The 2006 Bonds were issued to (1) finance the design, acquisition, construction, and equipping of certain necessary improvements in the facilities of the main campus of Fairmont State University, including but not limited to a technology wing addition/renovation and elevator/HVAC improvements to infrastructure improvements, all of which will be owned by the Board and (2) pay the costs of issuance of the 2006 Bonds and related costs.

State of West Virginia, Shepherd University, Student Fee Revenue Bonds, Series 2003 — In January 2003, $5,990,000 of Shepherd University Student Fee Revenue Bonds, Series 2003 were sold. These bonds were issued to (1) finance the costs of planning, designing, acquiring equipment and constructing of certain capital improvements, including the Field House, the expansion and improvement of the Arts Center, a new parking lot and other capital renovations, repairs and improvements, (2) to establish a debt serve reserve fund, (3) to establish a capitalized interest fund to pay interest on these bonds due on December 1, 2003, and (4) to pay the costs of issuance of the bonds and related costs.

State of West Virginia, Shepherd University, Infrastructure Revenue Bonds, Series 2004 — In September 2004, $3,405,000 of Shepherd University Infrastructure Revenue Bonds, Series 2004 were sold. These bonds were issued to (1) finance the costs of planning, design, acquisition, construction, and equipping of certain capital improvements for Shepherd University, including certain roads, water and sewer system expansion, extensions and improvements and other infrastructure projects on the West Campus of Shepherd University and other capital renovations and improvements to Shepherd University's campus, and (2) to pay the costs of issuance of these bonds and related costs.

State of West Virginia, Shepherd University, Residence Facilities Revenue Bonds, Series 2005 — In May 2005, $22,925,000 of Shepherd University Revenue Bonds (Shepherd University Residence Facilities Projects) Series 2005 were sold. These bonds were issued to (1) finance the costs of planning, design, acquisition, construction, and equipping of a 300-bed apartment style residence complex on the West Campus of Shepherd University; (2) fund capitalized interest on the Series 2005 Bonds to January 1, 2007; (3) refund the Issuer's $1,865,000 University Facilities Revenue Notes, Series 2004A, which were issued to finance temporarily a portion of the costs of planning, design, acquisition, construction, and equipping of certain renovations and improvements to Shaw Hall and Thatcher Hall and other capital renovations and improvements to Shepherd University's residence facilities pending issuance of the Series 2005 Bonds; and (4) to pay the costs of issuance of the Series 2005 bonds.

State of West Virginia, Shepherd University, Wellness Center Facilities Revenue Bonds, Series 2007 — In October 2007, $20,090,000 of Shepherd University Wellness Center revenue bonds, Series 2007 were sold. The bonds were issued to finance the costs of planning, design, acquisition, construction, and equipping of a new wellness center on the Shepherd University's campus and other capital improvements for use by Shepherd University; and to pay the costs of issuance of the bonds and related costs.

State of West Virginia, West Virginia State College, Student Union Revenue Bonds, 2002 Series A — On August 1, 2002, the West Virginia State College issued Student Union Revenue Bonds 2002 Series A, of serial and term bonds in the amount of $5,500,000. The bonds were issued to (1) finance the costs of renovation of, construction of an addition to and acquisition of equipment for the College Union, (2) to establish a debt service reserve fund, and (3) to pay the costs of issuance of the Bonds and related costs.

Board of Governors of West Liberty State College, Capital Improvements, 2003 Series A, B and C — On September 3, 2003, the West Liberty State College issued Dormitory Revenue Bonds 2003 Series A, amounting to $8,870,000. The bonds were issued (1) to finance certain capital improvements consisting of repairs and renovations to West Liberty State College's (the "College") existing residence halls, including electrical upgrades, renovations of bathrooms, roof repairs, acquisition of new furniture, and upgrades to elevators, (2) to fund a Debt Service Reserve Fund for the 2003 Series A Bonds, and (3) to pay costs of issuance of the 2003 Series Bonds and related costs.

On September 3, 2003, the West Liberty State College issued College Union Revenue Bonds 2003 Series B, amounting to $1,145,000. The bonds were issued (1) to finance certain capital improvements consisting of improvements to the College's existing student union building located on the campus of the College known as the "College Union," including improvements to existing offices and meeting areas, the upgrading of entryways and façades, and parking lot and walking area upgrades, (2) to fund a Debt Service Reserve Fund for the 2003 Series B Bonds, and (3) to pay costs of issuance of the 2003 Series B Bonds and related costs.

On September 3, 2003, the West Liberty State College issued Capital Improvement Revenue Bonds 2003 Series C, amounting to $3,890,000. The bonds were issued (1) to finance certain capital improvements consisting of constructing a new communications wing and structural repairs to the roof and south façade of the College's Hall of Fine Arts, and to make certain improvements to roads, sidewalks and parking areas on the College's campus, (2) to fund a Debt Service Reserve Fund for the 2003 Series C Bonds, and (3) to pay costs of issuance of the 2003 Series C Bonds and related costs.

Condensed financial information for the Fund's segments as of June 30, 2010 and 2009, is as follows (dollars in thousands):

	2010															
	WVU 2004 Auxiliaries	Marshall 2001 Facilities Series A	Glenville 2000 Housing Series A	Glenville 2006 Facilities	Glenville 2007 Student Fees	Glenville 2009 Revenue	Fairmont Facilities 2002 and 2003 Series A	Fairmont Infrastructure 2002 Series B	Fairmont Student Activity 2003 Series B	Fairmont Improvement Series 2006	Shepherd 2003 Student Fees	Shepherd Infrastructure 2004	Shepherd Residence Facilities 2005	Shepherd Wellness Center 2007	WV State 2002 Student Union Series A	West Liberty Capital Improvements 2003 Series A, B & C
CONDENSED STATEMENT OF NET ASSETS:																
Assets:																
Current assets	$ 31,203	$ 8,391	$ -	$ 547	$ 648	$ -	$ 3,343	$ 1,082	$ 2,791	$ -	$ 1,102	$ 389	$ 6,566	$ 672	$ 154	$ 2,809
Noncurrent assets	437,318	44,733		9,190	9,633	16,604	30,966	8,630	23,331	8,641	4,404	2,626	21,751	19,782	5,876	12,887
Total assets	$ 468,521	$ 53,124	$	$ 9,737	$10,281	$16,604	$34,309	$ 9,712	$26,122	$ 8,641	$ 5,506	$3,015	$ 28,317	$ 20,454	$6,030	$15,696
Liabilities:																
Current liabilities	$ 39,336	$ 3,351	$ -	$ 62	$ 72	$ -	$ 891	$ 262	$ 709	$ 381	$ 147	$ 154	$ 1,635	$ 516	$ 257	$ 489
Noncurrent liabilities	200,780	40,304		1,264	3,845	16,604	26,946	7,567	20,170	6,977	5,161	2,444	22,103	18,221	3,549	10,880
Total liabilities	240,116	43,655	-	1,326	3,917	16,604	27,837	7,829	20,879	7,358	5,308	2,598	23,738	18,737	3,806	11,369
Net assets (deficit):																
Invested in capital assets — net of related debt	234,125	4,043		7,870	5,306	(1,222)	623	687	2,292	1,283	(1,435)	(39)	(1,280)	832	1,604	462
Restricted	8	82			410	1,299	5,849	1,196	2,551		531	66	284	285	470	1,109
Unrestricted	(5,728)	5,344		541	648	(77)				-	1,102	390	5,575	597	141	2,756
Total net assets	228,405	9,469	-	8,411	6,364	-	6,472	1,883	5,243	1,283	198	417	4,579	1,717	2,224	4,327
TOTAL	$ 468,521	$ 53,124	$ -	$ 9,737	$10,281	$16,604	$34,309	$ 9,712	$26,122	$ 8,641	$ 5,506	$3,015	$ 28,317	$ 20,454	$6,030	$15,696
CONDENSED STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS:																
Operating:																
Operating revenues	$ 125,188	$ 14,991	$ -	$ 276	$ 403	$ -	$ 5,388	$ 2,067	$ 5,999	$ 631	$ 458	$ 329	$ 14,608	$ 2,367	$ 933	$ 9,431
Operating expenses	(111,076)	(12,965)		(501)	(200)		(2,697)	(1,104)	(3,767)		(173)	(235)	(13,240)	(1,812)	(193)	(5,562)
Other																
Net operating income (loss)	14,112	2,026	-	(225)	203	-	2,691	963	2,232	631	285	94	1,368	555	740	3,869
Nonoperating:																
Transfers (to) from Institution	(7,257)	14														
Nonoperating revenues	13,435	179					53	20	5		12		16			10
Nonoperating expenses	(13,701)	(2,159)		(58)	(186)		(1,994)	(1,050)	(1,643)	(617)	(266)	(110)	(1,045)	(880)	(202)	(3,114)
INCREASE (DECREASE) IN NET ASSETS	6,589	60	-	(283)	17	-	750	(67)	594	14	31	(16)	339	(325)	538	765
NET ASSETS — Beginning of year	221,816	9,409	1,474	8,694	6,347		5,722	1,950	4,649	1,269	167	433	4,240	2,042	1,686	3,562
NET ASSETS — End of year	$ 228,405	$ 9,469	$1,474	$ 8,411	$ 6,364	$ -	$ 6,472	$ 1,883	$ 5,243	$ 1,283	$ 198	$ 417	$ 4,579	$ 1,717	$2,224	$ 4,327
CONDENSED STATEMENT OF CASH FLOWS:																
Net cash provided by operating activities	$ 20,797	$ 3,948	$ -	$ 104	$ 403	$ -	$ 2,569	$ 1,034	$ 2,050	$ -	$ 458	$ 329	$ 2,011	$ 1,242	$ 874	$ 3,868
Net cash (used in) provided by capital financing activities	(23,342)	(3,187)		(113)	(255)	1,299	(2,169)	(906)	(1,550)	(154)	(608)	(241)	(3,494)	(2,106)	(816)	(3,261)
Net cash provided by investing activities	118						9		5		266		1,079	865		
(DECREASE) INCREASE IN CASH	(2,427)	761		(9)	148	1,299	409	128	485	(154)	116	88	(404)	1	58	607
CASH — Beginning of year	33,288	* 10,660	* 231	* 546	* 500		4,765	* 1,074	* 2,065	* 154	* 982	296	5,768	654	95	2,202
CASH — End of year	$ 30,861	* $ 11,421	* $ 231	* $ 537	* $ 648	* $ 1,299	* $ 5,174	* $ 1,202	* $ 2,550	* $ -	* $ 1,098	$ 384	$ 5,364	$ 655	$ 153	$ 2,809

* The cash of WVU, Marshall, Glenville, and Fairmont includes current and noncurrent cash.

22. NATURAL CLASSIFICATIONS WITH FUNCTIONAL CLASSIFICATIONS

For the years ended June 30, 2010 and 2009, the following tables represent operating expenses within both natural and functional classifications (dollars in thousands):

	2010							
	Salaries and Wages	Benefits	Supplies and Other Services	Utilities	Scholarships and Fellowships	Depreciation	Other	Total
Instruction	$320,659	$124,354	$ 51,344	$ 374	$ 175	$ -	$ 1,859	$ 498,765
Research	74,897	36,737	48,518	1,374	22			161,548
Public service	49,932	16,026	30,063	230	63		31	96,345
Academic support	48,918	18,882	19,491	178	1		135	87,605
Student services	42,941	17,183	20,309	33	1,011		6	81,483
Operations and maintenance of plant	38,927	21,154	39,537	33,759	7		66	133,450
General institutional support	96,741	38,911	56,467	364	911		60	193,454
Total education and general	673,015	273,247	265,729	36,312	2,190	-	2,157	1,252,650
Student financial aid					115,175			115,175
Auxiliary enterprises	60,470	21,322	80,995	13,023			64	175,874
Depreciation						89,780		89,780
Other			203				3,839	4,042
Total	$733,485	$294,569	$346,927	$49,335	$117,365	$89,780	$ 6,060	$1,637,521

	2009														
	WVU 2004 Auxiliaries	Marshall 2001 Facilities Series A	Glenville 2000 Housing Series A	Glenville 2006 Facilities	Glenville 2007 Student Fees	Fairmont Facilities 2002 and 2003 Series A	Fairmont Infrastructure 2002 Series B	Fairmont Student Activity 2003 Series B	Fairmont Improvement Series 2006	Shepherd 2003 Student Fee	Shepherd Infrastructure 2004	Shepherd Residence Facilities 2005	Shepherd Wellness Center 2007	WV State 2002 Student Union Series A	West Liberty Capital Improvements 2003 Series A, B & C
CONDENSED STATEMENT OF NET ASSETS:															
Assets:															
Current assets	$ 27,050	$ 7,605	$ 35	$ 672	$ 500	$ 2,862	$ 1,095	$ 2,250	$ 14	$ 986	$ 301	$ 6,414	$ 673	$ 95	$ 2,203
Noncurrent assets	427,607	45,805	6,855	9,400	9,833	31,499	8,875	23,878	8,943	4,607	2,870	21,986	21,052	5,649	13,144
Total assets	$ 454,657	$ 53,410	$6,890	$10,072	$10,333	$34,361	$ 9,970	$26,128	$ 8,957	$ 5,593	$3,171	$ 28,400	$ 21,725	$5,744	$15,347
Liabilities:															
Current liabilities	$ 28,354	$ 3,088	$ 507	$ 57	$ 69	$ 937	$ 242	$ 711	$ 382	$ 142	$ 149	$ 1,472	$ 1,097	$ 263	$ 477
Noncurrent liabilities	204,487	40,913	4,909	1,321	3,917	27,692	7,776	20,768	7,306	5,284	2,589	22,688	18,586	3,795	11,308
Total liabilities	232,841	44,001	5,416	1,378	3,986	28,629	8,020	21,479	7,688	5,426	2,738	24,160	19,683	4,058	11,785
Net assets (deficit):															
Invested in capital assets — net of related debt	220,851	4,030	1,637	8,025	5,457	394	734	2,243		(1,386)	51	(1,623)	293	1,112	351
Restricted	1	92	202		410	5,328	1,216	2,406	1,136	566	81	394	1,224	511	1,109
Unrestricted	964	5,287	(365)	669	500				123	987	301	5,565	525	63	2,102
Total net assets	221,816	9,409	1,474	8,694	6,347	5,722	1,950	4,649	1,269	167	433	4,240	2,042	1,686	3,562
TOTAL	$ 454,657	$ 53,410	$6,890	$10,072	$10,333	$34,361	$ 9,970	$26,128	$ 8,957	$ 5,593	$3,171	$ 28,400	$ 21,725	$5,744	$15,347
CONDENSED STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS:															
Operating:															
Operating revenues	$ 120,233	$ 14,075	$ 706	$ 385	$ 416	$ 5,421	$ 990	$ 5,585	$ 631	$ 450	$ 317	$ 13,746	$ 1,892	$ 842	$ 8,268
Operating expenses	(108,203)	(12,005)	(337)	(538)	(200)	(2,825)	(10)	(3,555)	(83)	(136)	(235)	(12,155)	(571)	(722)	(5,222)
Other						(64)	(383)	48	348						
Net operating income (loss)	12,030	2,070	369	(153)	216	2,532	597	2,078	896	314	82	1,591	1,321	120	3,046
Nonoperating:															
Transfers to institution	(8,203)	(515)													
Nonoperating revenues	17,663	166	2	1	348	122	1	27	5	21		88	337	2	43
Nonoperating expenses	(12,930)	(2,206)	(315)	(61)	(189)	(2,592)	(1,146)	(1,659)	(639)	(270)	(113)	(1,062)	(896)	(211)	(2,489)
INCREASE (DECREASE) IN NET ASSETS	8,560	(485)	56	(203)	375	62	(548)	446	262	67	(31)	617	762	(89)	599
NET ASSETS — Beginning of year	213,256	9,894	1,418	8,897	5,972	5,660	2,498	4,203	1,007	100	464	3,623	1,280	1,775	2,963
NET ASSETS -- End of year	$ 221,816	$ 9,409	$1,474	$ 8,694	$ 6,347	$ 5,722	$ 1,950	$ 4,649	$ 1,269	$ 167	$ 433	$ 4,240	$ 2,042	$1,686	$ 3,562
CONDENSED STATEMENT OF CASH FLOWS:															
Net cash provided by operating activities	$ 11,861	$ 2,982	$ 515	$ 85	$ 416	$ 2,620	$ 980	$ 1,905	$ -	$ 448	$ 316	$ 2,246	$ 1,534	$ 278	$ 3,046
Net cash (used in) provided by capital financing activities	(32,075)	(3,203)	(696)	(122)	(133)	(2,215)	(594)	(1,549)	(767)	(464)	(248)	(3,612)	(1,921)	(438)	(2,534)
Net cash provided by investing activities	478					39		26		270		1,172	876		
(DECREASE) INCREASE IN CASH	(19,734)	(221)	(181)	(37)	283	444	386	382	(767)	254	68	(194)	489	(160)	512
CASH — Beginning of year	53,022 *	10,881 *	412 *	583 *	217 *	4,321 *	688 *	1,683 *	921 *	728	228	5,962	165	255	1,690
CASH — End of year	$ 33,288 *	$ 10,660 *	$ 231 *	$ 546 *	$ 500 *	$ 4,765 *	$ 1,074 *	$ 2,065 *	$ 154 *	$ 982	$ 296	$ 5,768	$ 654	$ 95	$ 2,202

* The cash of WVU, Marshall, Glenville, and Fairmont includes current and noncurrent cash.

	2009							
	Salaries and Wages	Benefits	Supplies and Other Services	Utilities	Scholarships and Fellowships	Depreciation	Other	Total
Instruction	$307,311	$ 91,557	$ 49,667	$ 439	$ 214	$ -	$ 1,798	$ 450,986
Research	71,808	29,797	43,292	501	23		7,114	152,535
Public service	47,546	13,319	26,352	355	47		52	87,671
Academic support	45,713	13,284	19,385	162	13			78,557
Student services	40,071	13,020	18,414	30	767			72,302
Operations and maintenance of plant	37,527	15,001	39,888	33,234	7		234	125,891
General institutional support	91,228	28,644	61,150	324	373		85	181,804
Total education and general	641,204	204,622	258,148	35,045	1,444	-	9,283	1,149,746
Student financial aid					88,230		2	88,232
Auxiliary enterprises	57,463	16,790	81,682	12,820			66	168,821
Depreciation						82,113		82,113
Other			285				1,963	2,248
Total	$698,667	$221,412	$340,115	$47,865	$89,674	$82,113	$11,314	$1,491,160

* * * * * *

ADDITIONAL INFORMATION

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING NET ASSETS INFORMATION
AS OF JUNE 30, 2010
(Dollars in thousands)

ASSETS	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
CURRENT ASSETS:			
Cash and cash equivalents	$ 454,455	$ 11,066	$ 465,521
Short-term investments		14,320	14,320
Appropriations due from Primary Government	15,867		15,867
Accounts receivable — net	82,241	4,437	86,678
Loans receivable — current portion	6,670	53	6,723
Other current assets	3,254	976	4,230
Inventories	5,992	11	6,003
Total current assets	568,479	30,863	599,342
NONCURRENT ASSETS:			
Cash and cash equivalents	103,701	340	104,041
Investments	151,222	163,012	314,234
Appropriations due from Primary Government	2,959		2,959
Loans receivable — net of allowance of $10,454	51,245	32	51,277
Other assets	18,156	26,758	44,914
Capital assets — net	1,941,703	100,895	2,042,598
Total noncurrent assets	2,268,986	291,037	2,560,023
TOTAL	$2,837,465	$321,900	$3,159,365

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING NET ASSETS INFORMATION
AS OF JUNE 30, 2010
(Dollars in thousands)

LIABILITIES	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
CURRENT LIABILITIES:			
Accounts payable	$ 56,223	$ 2,173	$ 58,396
Due to State of West Virginia	112		112
Accrued liabilities	43,980	4,219	48,199
Deferred revenue	85,530		85,530
Deposits/custodial/annuity liabilities	5,687	1,327	7,014
Other liabilities — current portion	162		162
Compensated absences — current portion	39,707		39,707
Notes payable — current portion	2,815	8,743	11,558
Capital lease obligations — current portion	13,925		13,925
Interest payable	4,997	364	5,361
Bonds payable — current portion	26,896	485	27,381
Total current liabilities	280,034	17,311	297,345
NONCURRENT LIABILITIES:			
Advances from federal sponsors	41,355		41,355
Compensated absences	3,142		3,142
Notes payable	30,302	2,009	32,311
Capital lease obligations	67,152		67,152
Deferred interest payable	29,917	1,338	31,255
Bonds payable	721,991	94,859	816,850
Other post employment benefit liability	113,543		113,543
Other noncurrent liabilities	28,608	13,278	41,886
Total noncurrent liabilities	1,036,010	111,484	1,147,494
Total liabilities	1,316,044	128,795	1,444,839
NET ASSETS (DEFICIT):			
Invested in capital assets — net of related debt	1,141,427	4,618	1,146,045
Restricted for:			
Expendable:			
Scholarships	12,775	26,123	38,898
Sponsored projects	78,599	12,937	91,536
Loans	25,720	302	26,022
Capital projects	66,869	5,593	72,462
Debt service	8,317		8,317
Other	3,881	4,450	8,331
Total restricted expendable	196,161	49,405	245,566
Nonexpendable	5,946	144,065	150,011
Unrestricted	177,887	(4,983)	172,904
Total net assets	1,521,421	193,105	1,714,526
TOTAL	$2,837,465	$321,900	$3,159,365

(Concluded)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING REVENUES, EXPENSES, AND CHANGES IN NET ASSETS INFORMATION FOR THE YEAR ENDED JUNE 30, 2010
(Dollars in thousands)

	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
OPERATING REVENUES:			
Student tuition and fees — net of scholarship allowance of $134,763	$ 467,933	$ -	$ 467,933
Gift and contributions		13,334	13,334
Federal and local land grants	9,760		9,760
Contracts and grants:			
Federal	149,728	149	149,877
State	58,500	9	58,509
Local	1,455		1,455
Private	66,316	662	66,978
Interest on student loans receivable	1,154		1,154
Sales and services of educational activities	23,471		23,471
Auxiliary enterprise revenue — net of scholarship allowance of $18,657	195,447		195,447
Other operating revenues	22,983	11,077	34,060
Total operating revenues	996,747	25,231	1,021,978
OPERATING EXPENSES:			
Salaries and wages	733,485	3,412	736,897
Benefits	294,569	669	295,238
Supplies and other services	346,927	2,128	349,055
Utilities	49,335	929	50,264
Student financial aid — scholarships and fellowships	117,365	6,043	123,408
Depreciation	89,780	3,876	93,656
Other operating expenses	6,060	11,031	17,091
Total operating expenses	1,637,521	28,088	1,665,609
OPERATING LOSS	(640,774)	(2,857)	(643,631)

(Continued)

WEST VIRGINIA HIGHER EDUCATION FUND
(A Component Unit of the State of West Virginia)

SCHEDULE OF COMBINING REVENUES, EXPENSES, AND CHANGES IN NET ASSETS INFORMATION FOR THE YEAR ENDED JUNE 30, 2010
(Dollars in thousands)

	Higher Education Fund	Aggregate Discretely Presented Component Units	Total
NONOPERATING REVENUES (EXPENSES):			
State appropriations	$ 449,305	$ -	$ 449,305
State fiscal stabilization funds (federal)	21,944		21,944
Federal Pell grants	133,211		133,211
Gifts	21,548		21,548
Investment income — net	10,947	12,129	23,076
Interest on indebtedness	(40,328)	(4,850)	(45,178)
Payments to other institutions	(14,915)		(14,915)
Other nonoperating expenses — net	(1,625)	322	(1,303)
Net nonoperating revenues	580,087	7,601	587,688
(LOSS) INCOME BEFORE OTHER REVENUES, EXPENSES, GAINS, OR LOSSES	(60,687)	4,744	(55,943)
CAPITAL GRANTS AND GIFTS	43,126	1,897	45,023
STATE CAPITAL GRANTS (FEDERAL)	4,242		4,242
(DECREASE) INCREASE IN NET ASSETS BEFORE CUMULATIVE EFFECT	(13,319)	6,641	(6,678)
NET ASSETS — Beginning of year	1,534,740	186,464	1,721,204
NET ASSETS — End of year	$ 1,521,421	$193,105	$ 1,714,526

(Concluded)

APPENDIX D

INFORMATION CONCERNING THE COMMISSION AND THE GENERAL RESOLUTION

The Commission is the successor to the University of West Virginia Board of Trustees (the "Board of Trustees") and the Board of Directors of the State College System (the "Board of Directors"). The Commission and its successors have adopted resolutions concerning the issuance of the Prior Bonds, as discussed herein.

The Board of Trustees and the Board of Directors 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 university system became the agreements and obligations of the Board of Trustees. 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 (the "State University System") and 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").

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 Trustees and the Board of Directors, effective June 30, 2000, and replaced them 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 Trustees and the Board of Directors, respectively, and there was transferred to the Interim Governing Board each valid agreement and obligation previously transferred or invested in the Board of Trustees and the Board of Directors. S.B. 653 also created the Commission.

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 University or College under specific functions and responsibilities to meet its higher education needs, the duty to prepare and submit the respective University's or 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 University or College, subject to approval and limited oversight by the Commission.

On March 13, 2004, the West Virginia Legislature enacted legislation granting greater responsibility to the Council for Community and Technical College Education (the "Council") over community and technical college education offered by the public higher education institutions and separated the State's community and technical college institutions

from the baccalaureate and graduate institutions. The Commission and Council were directed to work collaboratively in many areas relating to the provision of community and technical college education and in the adoption of rules. Though the Council is now responsible for approving tuition and fees for institutions under its jurisdiction, the Commission remains responsible for debt repayment and capital project initiatives and all previous revenues pledged remain under the Commission's control.

On March 21, 2004, the West Virginia Legislature enacted House Bill 101 ("HB 101") which amended portions of the Act with respect to fees to be charged to students at Institutions of Higher Education in West Virginia (the "Institutions") and consolidated a variety of fees (including tuition and registration fees that are pledged as Revenues under the Resolution) into several discrete categories. Pursuant to HB 101, such fees are consolidated (along with other fees) into the required educational and general capital fees category, provided, however, that HB 101 requires that the registration and tuition fees previously charged by the Institutions to support the Prior Bonds that were issued prior to the effective date of HB 101 (March 21, 2004) remain in effect in amounts not less than the amounts in effect as of such effective date until such Prior Bonds are no longer outstanding. Under the Resolution, the Commission has amended the definition of Revenues to add all of that component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004.

Pursuant to the Act, each Governing Board is empowered to fix educational and general capital fees (of which a component portion represents fees previously classified as registration and tuition fees), from students at the State Public Institutions of Higher Education, which formerly constituted the State University System and the State College System. All required educational and general capital 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 (sometimes referred to herein as the "capital improvement funds") and the Commission has pledged an amount equal to the previously classified registration and tuition fee component of the required educational and general capital fee to the payment of the 2010 Series Bonds, any Additional Bonds and the Prior Bonds (collectively hereinafter sometimes referred to herein as the "Bonds") all as more particularly provided for in the General Resolution and further described herein.

Notwithstanding the foregoing (i) required educational and general capital fees comprising tuition fees collected at West Virginia University Health Sciences Center; (ii) required educational and general capital fees comprising tuition and registration fees collected from students enrolled in West Virginia University graduate level extension and graduate level off-campus courses for credit taught off the campus of West Virginia University; (iii) required educational and general capital fees comprising tuition fees collected at West Virginia University at Parkersburg, (iv) Potomac State College of West Virginia University; (v) Southern West Virginia Community and Technical College; (vi) Eastern West Virginia Community and Technical College; and (vii) West Virginia Northern Community and Technical College are not required to be deposited in the capital improvement funds and are therefore not pledged for the payment of the Bonds.

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 2010 Series Bonds other than with respect to a Series of Additional Bonds shall be issued and secured by the pledge of Revenues paid into the capital improvement funds.

On October 13, 2004, the West Virginia Legislature, by adoption of Senate Concurrent Resolution 1001, authorized the payment of debt service on revenue bonds for capital improvements for institutions of higher education from excess lottery revenues under Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "Lottery Act"). In accordance with the Concurrent Resolution, the Commission has pledged the funds deposited on or after July 1, 2004 in the higher education improvement fund created under the Lottery Act to the payment of the 2010 Series Bonds, any Additional Bonds and the Prior Bonds. Payment of debt service on Bonds from such funds shall, to the extent payable from excess lottery revenues, be junior and subordinate to the payment of debt service on those certain West Virginia Economic Development Authority State of West Virginia Excess Lottery Revenue Bonds (Federally Taxable) Series 2004. See "WEST VIRGINIA LOTTERY" and APPENDIX E – "WEST VIRGINIA LOTTERY" herein.

On March 13, 2010, the West Virginia Legislature enacted Senate Bill 612, which increased the amount deposited annually in the Higher Education Improvement Fund, created under the Lottery Act, from $10 million to $15 million. The Commission will pledge those funds toward the payment of the 2010 Bonds and the Prior Bonds.

The Commission and its predecessors, as applicable, have issued bonds pursuant to the following resolutions, all of which remain outstanding as of the date of this Official Statement:

(i) the General Resolution of the Board of Trustees adopted September 9, 1992 (the "University System General Resolution") authorizing the issuance of the State University System Revenue Bonds, Series 1992 (the "1992 University Bonds,") and the First Supplemental Resolution (the "First University Supplemental Resolution") of the Board of Trustees, adopted September 9, 1992 authorizing the issuance of the 1992 University Bonds;

(ii) the Second Supplemental Resolution (the "Second University Supplemental Resolution") of the Board of Trustees, adopted January 15, 1993, amending certain provisions of the First Supplemental Resolution;

(iii) the Third Supplemental Resolution (the "Third University Supplemental Resolution") of the Board of Trustees, adopted February 23, 1996, pursuant to which the Board of Trustees issued its Revenue Bonds, Series 1996 (Marshall University Library/Information Center) (the "1996 University Bonds");

(iv) the Fourth Supplemental Resolution (the "Fourth University Supplemental

Resolution") of the Board of Trustees, adopted October 31, 1997, pursuant to which the Board of Trustees issued its Revenue Bonds (University Improvement Projects) 1997 Series A (the "1997 University Bonds");

(v) the Fifth Supplemental Resolution (the "Fifth University Supplemental Resolution") of the Board of Trustees, adopted April 3, 1998, pursuant to which the Board of Trustees issued its University System Revenue Bonds (West Virginia University Projects) 1998 Series A (the "1998 University Bonds");

(vi) the Sixth Supplemental Resolution (the "Sixth University Supplemental Resolution") of the Board of Trustees, adopted May 22, 2000, pursuant to which the Board of Trustees issued its University System Revenue Bonds (West Virginia University Projects) 2000 Series A (the "2000 A University Bonds");

(vii) the Seventh Supplemental Resolution (the "Seventh University Supplemental Resolution") of the Board of Trustees, adopted May 22, 2000, pursuant to which the Board of Trustees issued its University System Revenue Bonds (Marshall University Medical Center) 2000 Series B (the "2000 B University Bonds");

(viii) the Eighth Supplemental Resolution (the "Eighth University Supplemental Resolution") of the Commission, adopted March 17, 2003, pursuant to which the Commission issued its Revenue Refunding Bonds (University Facilities) (the "2003 University Bonds");

(ix) the Ninth Supplemental Resolution (the "Ninth University Supplemental Resolution") of the Commission, adopted April 24, 2003, amending certain provisions of the University System General Resolution;

(x) the Tenth Supplemental Resolution (the "Tenth University Supplemental Resolution,") of the Commission, adopted June 5, 2003, amending certain provisions of the University System General Resolution;

(xi) the Eleventh Supplemental Resolution (the "Eleventh University Supplemental Resolution" of the Commission, adopted April 2, 2004, pursuant to which the Commission issued its Revenue Refunding Bonds (University Facilities) (the "2004 Bonds");

(xii) the Twelfth Supplemental Resolution (the "Twelfth University Supplemental Resolution" of the Commission, adopted June 4, 2004, pursuant to which the Commission issued its Revenue Bonds (University Facilities), 2004 Series A (the "2004A University Bonds");

(xiii) the General Resolution of the Board of Directors adopted September 9, 1992 (the "College System General Resolution") authorizing the issuance of the State College System Revenue Bonds, Series 1992 (the "1992 College Bonds") and the First Supplemental Resolution (the "First College Supplemental Resolution") of the Board of

Directors, adopted September 9, 1992 authorizing the issuance of the 1992 College Bonds;

(xiv) the Second Supplemental Resolution (the "Second College Supplemental Resolution") of the Board of Directors, adopted January 15, 1993, amending certain provisions of the First Supplemental Resolution;

(xv) the Third Supplemental Resolution (the "Third College 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 College Bonds");

(xvi) the Fourth Supplemental Resolution (the "Fourth College Supplemental Resolution") of the Commission, adopted March 17, 2003, pursuant to which the Commission issued its Revenue Refunding Bonds (State College Facilities) (the "2003 College Bonds");

(xvii) the Fifth Supplemental Resolution (the "Fifth College Supplemental Resolution,") adopted April 24, 2003, amending certain provisions of the College System General Resolution;

(xviii) the Sixth Supplemental Resolution (the "Sixth College Supplemental Resolution,") of the Commission, adopted June 5, 2003, amending certain provisions of the College System General Resolution;

(xix) the First Consolidated Supplemental Resolution (the "First Consolidated Resolution"), adopted June 4, 2004, pursuant to which the Commission issued its Revenue Bonds (Higher Education Facilities) 2004 Series B (the "2004 B Bonds");

(xx) the Second Consolidated Supplemental Resolution (the "Second Consolidated Resolution"), adopted by the Commission July 29, 2004, pursuant to which the Commission amended certain provisions of the Resolution;

(xxi) the Third Consolidated Supplemental Resolution (the "Third Consolidated Resolution"), adopted by the Commission August 20, 2004, pursuant to which the Commission increased the authorized maximum of 2004 B Bonds to $180,000,000; and

(xxii) the Fourth Consolidated Supplemental Resolution (the "Fourth Consolidated Resolution"), adopted by the Commission March 15, 2007, pursuant to which the Commission issued its Revenue Refunding Bonds, 2007 A Bonds.

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APPENDIX E

WEST VIRGINIA LOTTERY

The West Virginia Lottery ("Lottery") was constitutionally authorized on November 6, 1984. The Lottery Act was enacted during the 1985 legislative session of the West Virginia Legislature. The Lottery Act created the State Lottery Commission ("Lottery Commission"), which sets policy and direction for the Lottery. The Lottery sold its first scratch-off tickets on January 9, 1986, and sales for online games began in November of that same year. In 1989, as part of a general reorganization of the State's government, the Lottery Commission was made a part of the newly created Department of Revenue, presided over by a Cabinet Secretary.

The Lottery Commission

The Lottery Commission consists of seven commissioners appointed to staggered terms by the Governor. The Lottery Act provides that one commissioner shall be a lawyer, one shall be a certified public accountant ("CPA"), one shall be a computer expert, one shall have not less than five years experience in law enforcement and one shall be qualified by experience and training in the field of marketing. The two remaining commissioners shall be representative of the public at large. The Lottery Commission sets the policies and the direction for the State Lottery, including the adoption of rules and regulations. The current commissioners and their respective qualifying positions are:

Name	Qualifying Position	End of Term
Douglas Bicksler	CPA	June 30, 2014
Kenneth L. Greear, Chairman	Computer Expert	June 30, 2012
Michael A. Adams	Attorney	June 30, 2012
Roy E. Shrewsbury, II	Public Member At-Large	June 30, 2014
William I. Clayton, Vice Chairman	Public Member At-Large	June 30, 2010*
David Lemmon	Law Enforcement	June 30, 2011
David McCormick, Jr.	Marketing Expert	June 30, 2012

* Term continues until successor is selected and duly appointed.

The Lottery Act creates the position of Director of the Lottery Office (the "Director") and three divisions within the West Virginia Lottery – a Security and Licensing Division (now "Racetrack and Traditional Security"), a Personnel, Accounting and Administration Division ("Finance and Administration") and a Marketing, Education and Information Division ("Marketing"). Four additional divisions have been administratively created by the Lottery Commission to oversee the Racetrack Video Lottery, Limited Video Lottery and Table Games. They are the Video Lottery Division, the Licensing Division, the Limited Video Lottery Security Division and the Table Games Division. A description of senior management and key staff of the West Virginia Lottery is set forth below.

Director: John C. Musgrave has been Director of the State Lottery since April 1997 and directs the day-to-day operation of the agency that is comprised of approximately 170 employees, including all aspects of lottery operations (administration, marketing, security, licensing, sales, advertising and production of games). He is a graduate of the University of Charleston. Prior to his appointment as State Lottery Director, Mr. Musgrave was a city mayor, and later held several high-level positions with the U.S. Department of Agriculture. In addition he also served as regional director of the Rural Development Administration for the seven-state, Mideast Region. Mr. Musgrave is serving as Acting Cabinet Secretary of the State Department of Revenue and has served as President of the North American Association of State and Provincial Lotteries.

Assistant Director: John A. Myers has been Assistant Director of the State Lottery since May 2008, and is second in charge after the Director. Prior to his association with the West Virginia Lottery, Mr. Myers was Corporate Administration Manager for Toyota Motor Manufacturing, WV for eight years. Prior to his service with Toyota Motor Manufacturing, he spent seventeen years with American Electric Power in consumer marketing. Mr. Myers is a graduate of The Ohio State University.

Finance and Administration: James M. Toney, CPA/MBA, is the Chief Financial Officer and Deputy Director for Finance and Administration. Mr. Toney joined the West Virginia Lottery in October 2005. Prior to that time he was employed as a sole practitioner, and was the CFO for The Center for Rural Health Development. He is a graduate of Marshall University, West Virginia State University and the University of Charleston.

Marketing: Elizabeth (Nikki) Orcutt, Deputy Director for Marketing, joined the West Virginia Lottery in August 2008. Prior to joining the West Virginia Lottery, Mrs. Orcutt was employed by Eli Lilly and Company and previously served as the Public Affairs Leader, West Virginia Operations for Dow Chemical Company. She is a graduate of The Ohio State University.

Racetrack and Traditional Security: David R. Bradley, Deputy Director for Traditional Lottery Security, joined the West Virginia Lottery in January 1991. Prior to joining the West Virginia Lottery, Mr. Bradley was employed by Kanawha County Schools. He is a graduate of West Virginia University Institute of Technology.

Video Lottery: Tacy M. Donovan, CPA, Deputy Director for Video Lottery joined the West Virginia Lottery in July 1995. Prior to joining the West Virginia Lottery, Ms. Donovan was employed as a staff accountant with Gibbons and Kawash, CPAs. Ms. Donovan is a graduate of West Virginia University.

Limited Video Lottery Security: M. Alvin Rose, Deputy Director for Video Security joined the West Virginia Lottery in September 1997. Prior to joining the West Virginia Lottery, Mr. Rose served as sergeant with West Virginia State Police, retiring with twenty-five years service. He holds a Masters Degree from West Virginia University.

Licensing: Kristin Radford, Licensing Supervisor joined the West Virginia Lottery in March 2002. Prior to joining the West Virginia Lottery, Ms. Radford was employed as an

Administrative Assistant by the West Virginia Society of Certified Public Accountants.

Table Games: Dean W. Patrick, CPA/MBA, Deputy Director for Table Games joined the West Virginia Lottery in April 2007. Prior to joining the West Virginia Lottery, Mr. Patrick was employed as CFO with Boll Medical. He is a graduate of the University of Charleston.

Overview of Lottery Operations

The headquarters of the West Virginia Lottery is located in Charleston, West Virginia in two adjacent facilities with approximately 42,400 total square feet of space. The West Virginia Lottery currently has approximately 170 employees. The West Virginia Lottery contracts with GTECH Corporation, based in West Greenwich, Connecticut, for the operation of its instant and online games. GTECH owns and operates the central computer system for Traditional games at a nearby facility. The nearly 1,570 retailers selling Traditional games are connected to this system.

In June 2010, the West Virginia Lottery closed on the acquisition of a new office facility located in Charleston, West Virginia. The new facility is in the process of being redesigned and remodeled. The West Virginia Lottery expects to occupy the new facility sometime in 2011.

The West Virginia Lottery owns and operates a Scientific Games *Aegis Video* central system that controls all video lottery machines for both racetrack and limited video lottery.

The West Virginia Lottery's computer operations, instant and online game systems, the *Aegis Video* system and the Lottery's internal computing and email systems are duplicated and run parallel in real time at the West Virginia Lottery's Fairmont, West Virginia facility. The Fairmont, West Virginia facility contains approximately 6,500 square feet and is designed to function as a backup for computer operations when it is from time to time necessary, and as the business recovery site for the West Virginia Lottery's operations. The facility is located 135 miles north of the West Virginia Lottery's headquarters and is within a separate grid system from the Charleston, West Virginia headquarters for both telecommunications and electrical power.

Sales for Traditional games are collected via electronic funds transfer (sweep) on a weekly basis from each retailers account. Such collections are net of commissions, bonuses earned and any prizes that may have been paid by each retailer.

Racetrack Video Lottery sales (net of prizes) are swept on a daily basis each banking day from each of the four racetracks. The racetracks and others' shares are remitted to each entity on a weekly basis.

West Virginia's share of limited video lottery proceeds (net of prizes), as well as the 2% administrative fee, is collected from each owner of limited video lottery machines on a monthly basis. Invoices are mailed after the first day of the month for the preceding month's activity. The funds are then swept on the 10th day of the month.

Racetrack Table Games are currently operated at Mountaineer Casino Racetrack and Resort located in Chester, West Virginia, Wheeling Island Hotel-Casino-Racetrack located in

Wheeling, West Virginia, Mardi Gras Casino & Resort (formerly Tri-State Casino & Resort) in Nitro, West Virginia, and Hollywood Casino at Charles Town Races (formerly Charles Town Races and Slots) located in Charles Town, West Virginia.

The Lottery has a series of blanket bonds covering business defaults. Racetracks provide individual bonds to the West Virginia Lottery.

Lottery Games - General

The West Virginia Lottery currently operates all of its games out of its Charleston, West Virginia office. Six different types of games are offered: Instant games (scratch-off tickets), online numbers games, Racetrack Video Lottery Games, Racetrack Table Games, Limited Video Lottery Games and casino games at the Greenbrier Resort. Instant games have been offered since the start of the West Virginia Lottery in January 1986 and accounted for 7.2% of Lottery sales for the fiscal year ended June 30, 2010. Sales of online numbers games began later in 1986 and accounted for 6.2% of Lottery sales in fiscal year 2010.

Racetrack Video Lottery was first introduced in 1990 and later expanded to all four racetracks in the State after the passage of the Racetrack Video Lottery Act in March 1994. For the fiscal year ended June 30, 2010, Racetrack Video Lottery accounted for 54.95% of total Lottery sales. Mountaineer Casino Racetrack & Resort accounted for 23.24% of total Lottery sales, Wheeling Island Hotel-Casino-Racetrack accounted for 17.16% of total Lottery sales, Mardi Gras Casino & Resort accounted for 6.04% of total Lottery Sales, and Charles Town Races and Slots accounted for 53.56% of total Lottery sales.

Limited Video Lottery legislation was passed in the spring of 2001 and the game sales started in mid-December of that year. During fiscal year 2010, Limited Video Lottery accounted for 29.25% of total Lottery sales.

Racetrack Table Games legislation was passed in March 2007, and became effective as of June 6, 2007. In October 2007, Mountaineer Casino Racetrack & Resort and Wheeling Island Hotel-Casino-Racetrack opened poker only table games. In December 2007, both opened full table game operations. During fiscal year 2010, table games accounted for approximately 2.34% of total sales of the West Virginia Lottery. In October 2008, Mardi Gras Casino & Resort began table games operations. Racetrack Table Games became operational at Charles Town Races and Slots located in Charles Town, West Virginia on July 1, 2010.

Recent legislation recently enacted authorized and governs the operation of casino games at the Greenbrier Resort and provides that the State's share of net profits derived therefrom be deposited into the Historic Resort Hotel Fund. Slot machines and table game operations at the Greenbrier Resort are nearly identical to the gaming offered at the four racetrack casinos. A detailed description of Traditional Games, Racetrack Video Lottery Games, Limited Video Lottery Games and Racetrack Table Games follows.

Traditional Games

A variety of instant tickets are offered to the public. Instant tickets are sold at each West Virginia Lottery retailer, currently numbering 1,570. Instant games are introduced once a month, with approximately thirty-eight games being introduced in a single year. Twenty (20) to twenty-four (24) games are available for participation at any given time. The West Virginia Lottery believes that the constant change of games increases player interest. Instant lottery games offer overall payouts of between 67 percent and 68 percent. Instant tickets that are scratch-off tickets are manufactured by the Lottery's instant ticket vendor, Scientific Games Corporation.

Traditional online numbers games with periodic drawings are currently comprised of three and four digit daily games, Cash25 (a cash lotto game), POWERBALL®, a multi-state lotto game, with a guaranteed starting jackpot of $20 million, MEGA MILLIONS®, a multi-state lotto game, with a guaranteed starting jackpot of $12 million and HOT LOTTO SIZZLER®™, also a multi-state game, with a guaranteed starting jackpot of $1 million. In the fall of 2009, the state lotteries that sell the POWERBALL® game and the state lotteries that sell the MEGA MILLIONS® game agreed to a cross-selling agreement whereby every such state lottery was to sell both of the interstate large-jackpot games. West Virginia began selling the MEGA MILLIONS® game on January 31, 2010. TRAVEL/KENO is West Virginia's quick draw Keno, online lottery game. TRAVEL/KENO is played with numbers from 1 to 80. In each game, 20 of the 80 numbers are randomly selected by the State Lottery's computer from a computer number generator. Winning numbers are displayed on monitors at certain retailers located throughout the State. A new game is played every five minutes. TRAVEL/KENO has an average payout of approximately 60 percent. By statute, TRAVEL/KENO is limited to adult drinking establishments and retail liquor stores. The top prize in TRAVEL/KENO is $200,000.

Racetrack Video Lottery Games

Racetrack Video Lottery, consisting of slot machines and video lottery terminals, began in West Virginia in July 1990, with the placement of video lottery terminals at Mountaineer Park, a thoroughbred racetrack in Chester, West Virginia. By legislation passed in March of 1994, Racetrack Video Lottery was legalized at all four racing facilities in West Virginia. These locations include Mountaineer Casino Racetrack & Resort (thoroughbred horse racing), Wheeling Island Hotel-Casino-Racetrack (greyhound dog racing), Charles Town Races and Slots (thoroughbred horse racing) and Mardi Gras Casino & Resort (greyhound dog racing) located in Nitro, near Charleston, West Virginia. Before implementation, each county where a track is located must have a local referendum. Voters passed such a referendum for the three tracks other than Charles Town Races and Slots in May 1994. Racetrack Video Lottery sales in such tracks commenced in early September 1994. Voters approved video lottery gaming at the Charles Town Races and Slots at the November 1996 general election, and Racetrack Video Lottery sales began in October 1997. Under the Racetrack Video Lottery Act, subject to certain conditions, voters in a county previously approving Racetrack Video Lottery can petition for a new local option election to reconsider the matter.

During the 1996 legislative session, video lottery was enhanced through the addition of simulated reel games to video lottery machines. Coin drop and mechanical reels (slot machines)

were approved during the 1999 legislative session and the maximum bet was increased from $2 to $5 in the first extraordinary legislative session of 2001. As of June 30, 2010, 98.7% of the 9,938 terminals at the four tracks were ticket in ticket out (slot machines) and 69% of all machines permitted bets in excess of $2. Currently, the number of terminals that has been approved for the four tracks is a maximum aggregate amount of 13,900. The Lottery Act provides that an increase in approved terminals in later periods could occur as demand increases.

Racetrack Table Games

On March 8, 2007, the West Virginia Legislature enacted the West Virginia Lottery Racetrack Table Games Act (the "Table Games Act"), which became effective as of June 6, 2007. The Table Games Act authorizes the West Virginia Lottery Commission to issue up to four racetrack table games licenses to racetracks located in West Virginia that hold racetrack video lottery licenses and licenses to conduct horse or dog racing after the citizens of the respective counties in which the racetracks are located approve racetrack table games by referendum ("Racetrack Table Games"). Referenda for approving Racetrack Table Games were conducted in Jefferson, Hancock, Ohio and Kanawha Counties in West Virginia in 2007. In 2007, voters in Jefferson County rejected the referendum, while voters in Hancock, Ohio and Kanawha Counties approved the referenda. In December 2009, however, voters in Jefferson County approved a second referendum authorizing racetrack table games in Jefferson County. Accordingly, Racetrack Table Games are now authorized under the Table Games Act at Mountaineer Casino Racetrack & Resort in Chester, West Virginia, Wheeling Island Hotel-Casino-Racetrack in Wheeling, West Virginia, Mardi Gras Casino & Resort in Nitro, West Virginia and at Charles Town Races & Slots in Charles Town, West Virginia. The Lottery Commission has issued Racetrack Table Games licenses to Mountaineer Casino Racetrack & Resort, Wheeling Island Hotel-Casino-Racetrack, Mardi Gras Casino & Resort and Charles Town Races and Slots. Mountaineer Casino Racetrack & Resort and Wheeling Island Hotel-Casino-Racetrack began operating Racetrack Table Games in October 2007. Mardi Gras Casino & Resort began operating Racetrack Table Games in October 2008. Charles Town Races & Slots began operating table games on July 1, 2010. The tax rate for each racetrack participating in this new form of legal gaming is thirty five percent of adjusted gross receipts. Eighteen and 24/100% of a total rate of thirty-five percent is earmarked by statute for the reduction of state debt and unfunded liabilities.

NO REVENUES GENERATED FROM CASINO GAMING AT THE GREENBRIER RESORT OR FROM RACETRACK TABLE GAMES ARE DEPOSITED INTO THE STATE EXCESS LOTTERY REVENUE FUND OR THE STATE LOTTERY FUND. NO PORTION OF REVENUES GENERATED BY CASINO GAMING AT THE GREENBRIER RESORT OR BY RACETRACK TABLE GAMES WILL BE DEPOSITED INTO THE EXCESS LOTTERY HIGHER EDUCATION IMPROVEMENT FUND AND, THERFORE, ARE NOT PART OF THE PLEDGED REVENUES THAT SECURE THE 2010 SERIES BONDS.

A description of each of the racetracks follows:

Mountaineer Casino Racetrack & Resort (sometimes hereinafter referred to as "Mountaineer") located in the Northern Panhandle Region of West Virginia at Chester is a thoroughbred racing and gaming facility. The track's owner is MTR Gaming Group, Inc (NASDAQ: MNTG). The destination resort offers three hundred and fifty-nine rooms in a new luxury hotel with amenities that include a fitness center, spa, indoor and outdoor pools, gift shop, golf course, tennis courts, and basketball court. There is a total gaming area of 111,220 square feet with 2,645 video lottery gaming machines (currently approved for 3,500). The facility includes six gaming areas, eight restaurants, and five lounge areas. A conference center (52,750 square feet) and an entertainment center that seats an audience of 4,200 can accommodate large gatherings. 1,000 horses can be stabled on the property and race on a one-mile thoroughbred racetrack. 5,412 parking spaces are available for patrons. Mountaineer Casino Racetrack & Resort currently owns approximately 2,350 acres, of which 1,885 acres are available for future development.

Hollywood Casino at Charles Town Races (sometimes hereinafter referred to as "Charles Town") entertainment complex is a thoroughbred racetrack and gaming facility located in Charles Town, West Virginia. The facility is in the State's Eastern Panhandle and is located in the D.C. metropolitan area, which is also inclusive of the Northern Virginia suburbs and in close proximity to the Baltimore, Maryland area. The track's owner is Penn National Gaming, Inc. (NASDAQ: PENN). The facility includes a total gaming area of 151,450 square feet with 6,000 approved and 4,491 operating video lottery gaming machines and a 150,000 square feet of racing and support facilities for a total of 301,450 square feet. Included in the facility are seven gaming areas, four restaurants, five themed bars and one gift shop. The facility also includes The Inn at Charles Town, which offers one hundred fifty-five hotel rooms. 1,400 horses are stabled on the property and race on a ¾ mile thoroughbred racetrack. 6,048 parking spaces are available for patrons. Hollywood Casino at Charles Town Races currently owns a 300 acre parcel of which 114 acres is currently developed.

Wheeling Island Hotel-Casino-Racetrack (sometimes hereinafter referred to as "Wheeling" or "Wheeling Island Gaming") is a greyhound racing and gaming center located on an island in the Ohio River at Wheeling, West Virginia, also in the State's northern panhandle. The track's owner is Delaware North Companies Gaming and Entertainment, Inc., which is a wholly owned subsidiary of Delaware North Companies, Inc. a corporation privately owned and controlled by Jeremy Jacobs, Sr. and his family. A one hundred fifty-one room high-rise hotel is centrally located to the three gaming areas, eight restaurants, gift shop, and show room that has a capacity for an audience of over 1,000. There is a total gaming area of 61,412 square feet with 1,810 video lottery gaming machines (currently approved for 2,400). 1,368 greyhounds can be housed in the kennel and race on the ¼ mile racetrack. Parking is available for 2,880 vehicles. Wheeling Island Gaming currently owns an 87 acre tract of which 74 acres is currently developed.

Mardi Gras Casino & Resort (sometimes hereinafter referred to as "Mardi Gras") is a greyhound racing and gaming facility located approximately ten miles from the State Capitol in Charleston, West Virginia. The track's owner is Hartman and Tyner, Inc., owned by Bernard Hartman and Herbert Tyner and their children. The facility includes a total gaming area of 90,000 square feet with 1,272 video lottery gaming machines (currently approved for 2,000) and

132,000 square feet of racing and support areas. There are three gaming areas, two restaurants, seven bars, and a conference center that can accommodate 250 patrons. 1,440 greyhounds can be housed in the kennel and race on the 1,350-foot long racetrack. The facility has approximately 1,000 parking spaces for patrons. Mardi Gras Casino & Resort currently owns 132 acres of which 57 acres are currently developed. In connection with its deployment of Table Games, Mardi Gras remodeled its facility to include two gaming areas for Table Games and has constructed and opened a four-story, one hundred fifty-seven room hotel.

During the six calendar years ended December 31, 2009, the four racetracks had invested $110.6 million in capital expenditures for additions and improvements to the racetracks.

Patrons of Racetrack Video Lottery

Each of the tracks receives a substantial portion of its sales from out-of-state patrons. Legislative bodies in contiguous states are considering, have previously considered or recently implemented some form of legislation authorizing video lottery in their states. See "OTHER MATTERS" herein.

The percentage of patrons from all states with at least 5% participation for each of the tracks is indicated below:

West Virginia Racetrack Video Lottery
Patrons by State (%)

Mountaineer Park		Wheeling Island		**Mardi Gras**		Charles Town	
Pennsylvania	23%	Pennsylvania	42%	Ohio	22%	Pennsylvania	10%
Ohio	72%	Ohio	41%	Kentucky	9%	Maryland	38%
West Virginia	2%	West Virginia	5%	North Carolina	11%	Virginia	35%
Other	3%	Other	12%	Virginia	10%	Washington DC	4%
				West Virginia	38%	West Virginia	5%
				Other	10%	Other	8%

Source: West Virginia Lottery

Limited Video Lottery Games

The Limited Video Lottery Act was enacted to restrict (limit) and regulate video lottery machines that had been illegally operated for several years throughout the State. Limited Video Lottery is also a self-activated video version of lottery games, which were first placed in operation in December 2001. The games allow a player to use currency to place bets for the chance to receive free games or vouchers that may be redeemed for cash. The Limited Video Lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

The Limited Video Lottery Act has established specific requirements for Limited Video Lottery and imposed certain restrictions limiting the licensing for the operation of Limited Video Lottery games to 9,000 video lottery terminals placed in limited licensed retailer areas restricted for adult amusement. As of June 30, 2010, there were 7,940 machines operating in 1,613 locations. These licensed retailers must hold a qualifying license for the sale on premises of alcohol or non-intoxicating beer. The Limited Video Lottery Act limits the placement of no more than five (5) machines in licensed establishments (ten (10) machines in the case of veteran's and fraternal organizations). The Limited Video Lottery Act further provides that no person can own, directly or indirectly, more than 675 video terminals. The West Virginia Lottery has been charged with the administration, monitoring and regulation of these machines. The Limited Video Lottery Act further stipulates the distribution of revenues from the Limited Video Lottery games, and requires any licensed retailers to comply with all related rules and regulations of the lottery in order to continue its retailer status.

Existing Limited Video Lottery Permits expire on June 30, 2011. Bids are being solicited for the Limited Video Lottery Permits that will become effective on July 1, 2011.

There are currently Limited Video Lottery machines in 54 of the states 55 counties. The top 5 counties as of June 30, 2010 were Kanawha – 682, Wood – 611, Ohio – 481, Cabell – 472 and Hancock – 462. These five counties represent 34% of the total machines in the Limited Video Lottery - market; the remaining 49 counties represent 66% ranging from 5 to 459 machines.

The State Excess Lottery Revenue Fund

The Lottery Act creates the State Excess Lottery Revenue Fund as a special revenue fund in the State Treasury. The State Excess Lottery Revenue Fund receives the State's share of net profits from two sources: (1) Racetrack Video Lottery, and (2) Limited Video Lottery, as well as certain fees related to Limited Video Lottery.

Transfer of Racetrack Video Lottery Net Profits to the State Excess Lottery Revenue Fund

The Racetrack Video Lottery Act establishes two permanent benchmarks for each racetrack based on fiscal year ended June 30, 2001 results. The first of these two benchmarks is based on a track's gross terminal income, net of prizes (the "Gross Benchmark"). The aggregate Gross Benchmark for all tracks equals $438.1 million. The Racetrack Video Lottery Act also establishes a benchmark based on a track's net terminal income (the "Net Benchmark"). No deposit to the State Excess Lottery Revenue Fund occurs until the benchmarks for a given racetrack is exceeded during the fiscal year.

The Gross Benchmark and Net Benchmark for each of the racetracks are summarized below.

Track	Gross Benchmark ($ Millions)	Net Benchmark ($ Millions)
Mountaineer	161.9	160.3
Wheeling	97.9	96.9
Mardi Gras	44.8	44.4
Charles Town	133.5	132.2
	438.1	433.8

Source: West Virginia Lottery

The deposits to the State Excess Lottery Revenue Fund from Racetrack Video Lottery sales are comprised of four (4) calculations, which utilize either the Gross Benchmark or Net Benchmark. The calculations are provided below:

First, the State receives 4% of the Racetrack Video Lottery gross terminal income in excess of the Gross Benchmark (the "4% Receipt"). Gross terminal income in excess of the Benchmark was approximately $308 million for the fiscal year ended June 30, 2010.

Second, a 10% surcharge is applied to the net terminal income in excess of the Net Benchmark. 58% of the surcharge is allocated to the State Excess Lottery Revenue Fund with the remainder deposited for capital reinvestment at the tracks as described below.

Third, the State Excess Lottery Revenue Fund receives 41% of the net terminal income in excess of the Net Benchmark, after deducting the surcharge. This is known as the State share.

Fourth, the State Excess Lottery Revenue Fund receives revenues equal to the excess of allowed administrative costs ($8.3 million) over actual incurred administrative costs. Fiscal year 2010 actual incurred administrative costs were $6.3 million.

Racetrack Video Lottery profits not deposited to the State Excess Lottery Revenue Fund are allocated for a variety of purposes including, but not limited to, racing activities, providing funds to municipalities and counties, and providing funds to various State agencies. In particular, the remaining 42% of the surcharge is deposited into the racetrack capital reinvestment fund to encourage track improvements. If prescribed conditions are met, a racetrack may recoup part or all funds placed into its capital reinvestment fund. Any portion of the amounts deposited into a racetrack's capital reinvestment fund that does not qualify for reimbursement is also deposited into the State Excess Lottery Revenue Fund. To date, no funds have been transferred from the capital reinvestment fund to the State Excess Lottery Revenue Fund. The West Virginia Lottery does not currently expect funds to be transferred in such manner in the future.

For the fiscal year ended June 30, 2010, $136.1 million was transferred from the Racetrack Video Lottery into the State Excess Lottery Revenue Fund. The components of the fiscal year 2010 transfers from the Racetrack Video Lottery to the State Excess Lottery Revenue Fund are provided below.

	$ Millions
4% Receipt	$ 12.3
58% of Surcharge	16.4
41% State share	104.7
Interest/Other	.4
Excess Administrative Costs	2.3
Total Deposit to the State Excess Lottery Revenue Fund	$ 136.1

Transfer of Limited Video Lottery Net Profits to the State Excess Lottery Revenue Fund

The Limited Video Lottery Act sets forth the manner by which a portion of Limited Video Lottery net profits are transferred to the State Excess Lottery Revenue Fund. The State Excess Lottery Revenue Fund receives revenues from limited lottery operations in three ways.

The first is through the imposition of an administrative fee of two percent (2%) of gross terminal income (net of prizes) derived from video lottery terminals.

Second, the State's share of gross profits is transferred to the State Excess Lottery Revenue Fund. The State's share is determined by calculating the amount of aggregate average daily gross terminal income for the three-month period prior to the date of calculation and applying a percentage rate for transfer based on the gross terminal income. The State share rate is based on a sliding scale as provided in the Limited Video Lottery Act. The aggregate average daily gross income was first calculated in May 2002 and is calculated each August, November, February and May. The Limited Video Lottery Act provides that such percentage will not be less then 30% or more than 50%. The table below provides the State's share calculation as provided in the Limited Video Lottery Act.

STATE'S SHARE CALCULATION

Aggregate Average Daily Income	State's Share[1]
$60 or below	29%
above $60 to $80	33%
above $80 to $100	37%
above $100 to $120	41%
above $120 to $140	45%
Greater than $140	49%

[1] *Net of 2% distribution to counties and municipalities within the State.*

Two percent of the State's share is distributed to counties and municipalities in the manner prescribed for in the Limited Video Lottery Act. Since the inception of Limited Video Lottery the State share percentage has averaged 45%. Aggregate average daily gross terminal

income has averaged $126.54 with a high of $221.44 and a low of $96.36.

Third, the Limited Video Lottery Act also provides for all fees related to licensing and permitting of limited video terminals be deposited in the State Excess Lottery Revenue Fund. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Limited Video Lottery Act.

For the fiscal year ended June 30, 2010, $199.3 million was transferred from the Limited Video Lottery to the State Excess Lottery Revenue Fund. The components of the fiscal year 2010 transfers from the Limited Video Lottery to the State Excess Lottery Revenue Fund are provided below:

	$ Millions
2% Administrative Fee	$ 2.2[2]
State Share	186.9
Limited Video Lottery Fees	10.1
Interest Earned	.5
Total Deposit to the State Excess Lottery Revenue Fund	$ 199.3

State Excess Lottery Revenue Fund

The Lottery Act creates the "State Excess Lottery Revenue Fund" as a special revenue fund in the State Treasury. The State Excess Lottery Revenue Fund receives the State's share of net profits from two sources: (1) Racetrack Video Lottery, and (2) Limited Video Lottery, as well as certain fees related to Limited Video Lottery.

The Racetrack Video Lottery Act, as set forth in Chapter 29, Article 22A of the Code of West Virginia, 1931, as amended, and the Limited Video Lottery Act, as set forth in Chapter 29, Article 22B of the Code of West Virginia, 1931, as amended, together provide a system through which a portion of the net profits from Racetrack Video Lottery and from Limited Video Lottery, as well as Limited Video Lottery licensing, permit and other fees, are transferred to the State Excess Lottery Revenue Fund.

The Racetrack Video Lottery Act establishes two permanent benchmarks for each racetrack based on fiscal year ended June 30, 2001 results. The first of these two benchmarks is based on a track's gross terminal income, net of prizes (the "Gross Benchmark"). The aggregate Gross Benchmark for all tracks equals $438.1 million. The Racetrack Video Lottery Act also establishes a benchmark based on a track's net terminal income (the "Net Benchmark"). No deposit to the State Excess Lottery Revenue Fund occurs until the benchmarks for a given racetrack is exceeded during the respective fiscal year.

[2] 2% Administrative Fee is transferred to the Lottery's operating fund and is not available to be used to pay debt service on any bonds payable from revenues of the State Excess Lottery Revenue Fund. Accordingly, adjusted for the transfer of the 2% Administrative Fee to the Lottery's operating fund, $205.7 million was transferred from the Limited Video Lottery to the State Excess Lottery Revenue Fund to fund the transfers required by Section 18a of the Lottery Act.

Transfers from the State Excess Lottery Revenue Fund are prescribed by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the State Excess Lottery Revenue Fund is transferred to West Virginia Department of Revenue for the purpose of providing funding for a senior citizen tax credit for real estate taxes paid on the first $20,000 of assessed value of the taxpayer's owner-occupied dwelling (the "Refundable Credit"). The Refundable Credit totaled approximately $7,371,723 for the year ended June 30, 2009 and $8,370,988 for the year ended June 30, 2010. The Lottery Commission projects that the annual Refundable Credit will be $10,000,000 during the next three fiscal years.

Second Priority Transfers: Second, a portion of the State Excess Lottery Revenue Fund is then transferred to the following eight funds:[1].

General Purpose Account	$65 million
Education Improvement Fund (Promise Scholarship Fund)	$29 million
Economic Development Project Fund	$19 million
Excess Lottery School Building Debt Service Fund	$19 million
West Virginia Infrastructure Fund	$40 million
Higher Education Improvement Fund	$15 million
State Park Improvement Fund	$ 5 million
Thoroughbred Development Fund	$ 2 million

If, after funding the Refundable Credit, the remaining funds in the State Excess Lottery Revenue Fund are insufficient to fund all of the forgoing seven transfers, the remaining funds on deposit in the State Excess Lottery Revenue Fund, will be transferred in the following priority:

[1] Prior to the issuance of bonds payable from revenues of the State Excess Lottery Revenue Fund, the Lottery Act does not prescribe the timing or manner in which the Lottery Director must make the transfers to these seven funds in years when the revenues of the State Excess Lottery Revenue Fund are sufficient to make all such transfers. Following the issuance of bonds, however, the Lottery Act provides that the Lottery Director shall, on a monthly basis, first transfer to the Economic Development Project Fund one-tenth of the projected annual principal, interest and coverage requirements coming due on the EDA Excess Lottery Grant Bonds in a particular year, as certified to the Lottery Director, and second transfer to the fund or funds from which debt service is paid on bonds issued for the School Building Authority, infrastructure, Commission and park improvements in an amount equal to one-tenth of the projected annual principal, interest and coverage requirements coming due on those respective bonds in a particular year, as certified to the Lottery Director. Presently, this second required transfer is only made to the Higher Education Improvement Fund and the Excess Lottery School Building Debt Service Fund to pay such amounts coming due in a particular year. In years when revenues of the State Excess Lottery Revenue Fund are sufficient to make all of the transfers to these seven funds, the Lottery Act does not prohibit the Lottery Director from making transfers to funds from which debt service is not payable in the manner he deems appropriate following the one-tenth transfers referred to above. For a discussion of the priority in which transfers must be made from the State Excess Lottery Revenue Fund in years where revenues are insufficient to make all transfers required by the Lottery Act, see discussion in (2) of this section, below.

(1) First, a transfer of approximately $19 million to the Economic Development Project Fund to pay debt service on the $249,895,000 West Virginia Economic Development Authority State of West Virginia Excess Lottery Revenue Bonds (Federally Taxable), Series 2004 (the "EDA - Excess Lottery Grant Bonds") coming due in a particular year, as certified to the Lottery Director, which shall be transferred by the Lottery Director to the Economic Development Project Fund in one-tenth increments on a monthly basis.

(2) Second, transfers to such of the other six funds from which debt service is payable in amounts necessary to pay the respective debt service on such bonds coming due in a particular year, as certified to the Lottery Director, which shall be transferred to such funds in one-tenth increments on a monthly basis; provided that, to the extent that sufficient State Excess Lottery Revenues are not available to pay debt service on all such revenue bonds, transfers will be made on a pro rata, parity basis. Presently, the second-priority, parity transfers include a $15 million transfer to the Higher Education Improvement Fund to pay debt service on bonds issued by the Commission and a transfer to the Excess Lottery School Building Debt Service Fund of approximately $19 million to pay debt service on bonds issued by the School Building Authority of West Virginia. Additional second-priority, parity transfers may be required in the future as a result of the Authority's issuance of Additional Bonds and/or the issuance of revenue bonds the debt service on which is payable out of the West Virginia Infrastructure Fund or the State Park Improvement Fund.

(3) Third, transfers to the Education Improvement Fund.

(4) Fourth, transfers to the General Purpose Account.

(5) Last, transfers to the remaining Funds.

Third Priority Transfers: Last, the remaining funds on deposit in the State Excess Lottery Revenue Fund are required to be transferred to the State Lottery Fund in amount equal to those amounts that were transferred from the State Lottery Fund to the State Excess Lottery Revenue Fund to pay debt service on bonds payable from revenues of the State Excess Lottery Revenue Fund.

NO PORTION OF THE STATE EXCESS LOTTERY REVENUE FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. ONLY AMOUNTS ON DEPOSIT IN THE EXCESS LOTTERY HIGHER EDUCATION IMPROVEMENT FUND CONSTITUTE PLEDGED REVENUES.

State Lottery Fund

The Lottery Act creates the "State Lottery Fund" as a special revenue fund in the State Treasury. The State Lottery Fund receives the State's share of net profits from lottery tickets, materials and games (except the Veterans' Instant Lottery) and a portion of the net terminal income from the Racetrack Video Lottery.

A minimum annual average of forty-five percent of the gross amount received from each lottery is allocated and disbursed as prizes, and not more than fifteen percent of the gross amount received from each lottery can be allocated to and disbursed, as necessary, for fund operation and administrative expenses. The excess of the gross amount received from the lotteries described above over the sum of the amount distributed for prizes and administrative expenses shall be allocated as net profit. Thirty percent of net terminal income up to the Gross Benchmark from the Racetrack Video Lottery is also transferred to the State Lottery Fund each fiscal year.

Transfers from the State Lottery Fund are required by the Lottery Act to be made in the following priority:

First Priority Transfers: First, a portion of the net profits of the State Lottery Fund is transferred monthly to the School Building Debt Service Fund established under the Lottery Act to pay the annual principal, interest and coverage requirement on all revenue bonds and refunding bonds issued, or to be issued after April 1, 1994, payable from revenues of the State Lottery Fund (the "SBA Lottery Bonds").

Second Priority Transfers: Second, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Education, Arts, Sciences and Tourism Debt Service Fund established under the Lottery Act as necessary to pay debt service on revenue bonds issued and payable from such source pursuant to the Lottery Act (the "EAST Lottery Bonds"). The maximum monthly amount cannot exceed $1,000,000 and the total allocation of net profits cannot exceed the lesser of the principal and interest required to be annually paid or $10,000,000. The EAST Lottery Bonds matured by their terms on July 1, 2010. Pursuant to HB 113 enacted by the State Legislature in the First Special Session of 2009 ("HB 113"), the authority to issue revenue bonds payable from funds deposited into the Education, Arts, Sciences and Tourism Debt Service Fund (the "EAST Fund") from the State Lottery Fund was transferred from the State Building Commission to the West Virginia Economic Development Authority. The West Virginia Economic Development Authority issued bonds payable from funds on deposit in the EAST Fund in August 2010 (the "New EAST Lottery Bonds"). The New EAST Lottery Bonds were issued in an amount that will fully leverage the $10,000,000 allocation of revenues deposited into the EAST Fund from the State Lottery Fund.

Third Priority Transfers: Third, a portion of the remaining net profits of the State Lottery Fund is then transferred to the Community and Technical College Capital Improvement Fund to pay the annual principal, interest and coverage ratio requirements on all revenue bonds payable from the Community and Technical College Capital Improvement Fund pursuant to the Lottery Act (the "CTC Lottery Bonds"). The maximum monthly amount cannot exceed $500,000 and the total allocation cannot exceed the lesser of the principal and interest required to be annually paid or $5,000,000. The current annual principal and interest on the CTC Lottery Bonds is approximately $5,000,000 and these bonds mature by their terms in 2039. Upon the maturity of the CTC Lottery Bonds, the $5,000,000 allocated annually to the Community and Technical College Capital Improvement Fund shall become available for debt service on additional CTC Lottery Bonds ("Additional CTC Lottery Bonds"). The priority of the transfer of $5,000,000 from the State Lottery Fund to the Community and Technical College Capital Improvement Fund to pay debt service on Additional CTC Lottery Bonds, if issued, vis-à-vis the priority of the

transfer of up to $10,000,000 from the State Lottery Fund to the Education, Arts, Sciences and Tourism Debt Service Fund to pay debt service on any bonds payable therefrom shall be determined as provided in the Lottery Act at the time of issuance of the Additional CTC Lottery Bonds.

Fourth Priority Transfers: Fourth, after first satisfying the requirements for funds dedicated to retire the SBA Lottery Bonds, the EAST Lottery Bonds and the CTC Lottery Bonds or Additional CTC Lottery Bonds, as the case may be, the remaining net profits of the State Lottery Fund are then made available to pay debt service in connection with any bonds issued pursuant to Section 18a of the Lottery Act (that is bonds payable from revenues of the State Excess Lottery Revenue Fund) if and to the extent needed for such purpose from time to time.

Fifth Priority Transfers: Last, subject to certain limitations described in this paragraph, the remaining net profits of the State Lottery Fund may be appropriated by the West Virginia Legislature annually, in such proportions as it deems beneficial, to (i) the Lottery Education Fund; (ii) the School Construction Fund; (iii) the Lottery Senior Citizens Fund; and (iv) the Division of Natural Resources and West Virginia Development Office; provided, however, these fifth priority payments may only be made if: (i) a default does not exist with respect to the debt service on the bonds issued by the School Building Authority, the State Building Commission, the Higher Education Policy Commission, the Economic Development Authority, or bonds that are otherwise secured by lottery proceeds; and (ii) the net profits of the State Lottery Fund for the preceding twelve months is equal to at least 150% of the debt service on bonds issued by the School Building Authority, the State Building Commission or the Higher Education Policy Commission, which are secured by the net profits of the lottery.

NO PORTION OF THE STATE LOTTERY FUND IS PLEDGED AS PART OF THE TRUST ESTATE TO SECURE THE 2010 SERIES BONDS. AS DESCRIBED ABOVE, HOWEVER, REVENUES OF THE STATE LOTTERY FUND IN EXCESS OF THE AMOUNT OF REQUIRED TRANSFERS TO THE SCHOOL BUILDING DEBT SERVICE FUND, THE EDUCATION, ARTS, SCIENCES AND TOURISM DEBT SERVICE FUND AND THE COMMUNITY AND TECHNICAL COLLEGE CAPITAL IMPROVEMENT FUND TO PAY DEBT SERVICE ON BONDS SECURED THEREBY SHALL BE MADE AVAILABLE FOR TRANSFER TO THE STATE EXCESS LOTTERY REVENUE FUND TO PAY DEBT SERVICE ON BONDS REFERRED TO IN SECTION 18A OF THE LOTTERY ACT TO THE EXTENT THAT REVENUES IN THE STATE EXCESS LOTTERY REVENUE FUND ARE INSUFFICIENT TO PAY ALL SUCH DEBT SERVICE.

Historical, Estimated West Virginia Lottery Revenues

The following Table I displays historical lottery revenues for the last four fiscal years as well as projected lottery revenues for the five-year period beginning in fiscal year 2010 through fiscal year 2014. Table I shows sales and profits for each lottery game and into which lottery funds the State's share is deposited. For the period of July 1, 2009 through March 31, 2010, actual lottery revenues realized were approximately two percent (2%) below projected revenues for that same period based on the Lottery's unaudited financial statements.

Racetrack Video Lottery revenues are projected to decrease by six percent (6%) during fiscal year 2010 due to increased competition from Pennsylvania and soft economic conditions, and then decrease an additional fifteen percent (15%) during fiscal years 2011 through 2014 due to competition from Maryland and Ohio. Traditional sales (Instant and Online number games) are projected to decrease approximately five percent (5%) during fiscal year 2010 and then remain flat during fiscal years 2011 through 2014. Limited Video Lottery sales are projected to decrease nine percent (9%) in fiscal year 2010 and then remain flat during fiscal years 2011 through 2014. Limited Video Lottery fees are projected to decrease approximately three percent (3%) in fiscal year 2010, remain flat during fiscal year 2011, increase significantly in fiscal year 2012 as a result of the reissuance of ten-year limited video lottery licenses in fiscal year 2012, and then return to fiscal year 2011 levels during fiscal years 2013 and 2014. It is anticipated that the Lottery will re-evaluate these projections in the coming months as it continues to gather information regarding the effect that competition from surrounding states and soft economic conditions are having on the Lottery's overall revenues. The outcome of this re-evaluation is unknown, but could be material.

For purposes of calculating sales of racetrack video games and limited video lottery games, as represented on Table I, sales are reported net of prizes. This method of reporting video lottery was chosen due to the unusual volume of play and replay of winnings in these types of games.

Table I
Historical, Estimated and Projected Revenues*
(In Millions)

	Actual**					Projected			
	2006	2007	2008	2009	2010	2011	2012	2013	2014
Lottery Revenues [1]									
Instant games	$ 119.1	106.5	110.9	114.0	97.5	105.3	105.3	105.3	105.3
On-line games	99.0	86.2	87.1	84.1	83.7	82.8	82.8	82.8	82.8
Racetrack video lottery	942.2	972.6	898.0	848.2	746.2	680.7	680.7	680.7	680.7
Limited video lottery	362.2	397.0	411.6	412.4	397.3	369.3	369.3	369.3	369.3
Total Gross Revenues	**1,522.5**	**1,562.3**	**1,507.6**	**1,458.7**	**1,324.7**	**1,238.1**	**1,238.1**	**1,238.1**	**1,238.1**
Net Revenues [2]									
Instant games	23.6	30.5	13.6	17.7	13.9	12.4	12.4	12.4	12.4
On-line games	19.6	24.7	27.2	22.2	25.9	24.1	24.1	24.1	24.1
Sub-Total (Traditional)	43.2	55.2	40.8	39.9	39.8	36.5	36.5	36.5	36.5
Racetrack Video Lottery - State Lottery Fund	130.1	130.1	130.6	130.2	138.7	130.3	130.3	130.3	130.3
Racetrack Video Lottery - State Excess Lottery Revenue Fund	221.2	227.9	205.3	180.2	136.0	105.2	105.1	105.2	105.2
Limited Video Lottery - State Excess Lottery Revenue Fund	160.0	170.0	191.7	195.6	189.6	175.3	175.3	175.3	175.3
Limited Video Lottery Fees - State Excess Lottery Revenue Fund	10.2	9.6	10.7	10.1	9.8	9.8	36.8	9.8	9.8
Total Racetrack and Limited Video Lottery Net Revenues	**521.5**	**537.6**	**538.3**	**516.1**	**474.1**	**420.6**	**447.5**	**420.6**	**420.6**
Total Net Revenues Available for Appropriation	**564.7**	**592.8**	**579.1**	**556.0**	**513.9**	**457.1**	**484.0**	**457.1**	**457.1**
Available for Appropriation									
State Excess Lottery Revenue Fund	**391.4**	**407.5**	**407.7**	**385.9**	**335.4**	**290.3**	**317.2**	**290.3**	**290.3**
State Lottery Fund	**173.3**	**185.3**	**171.4**	**170.1**	**178.5**	**166.8**	**166.8**	**166.8**	**166.8**
Total	**564.7**	**592.8**	**579.1**	**556.0**	**513.9**	**457.1**	**484.0**	**457.1**	**457.1**

* Totals may not add due to rounding
** Based on audited financial statements
[1] Represents Total Sales
[2] Represents amount Available to State
Source: West Virginia Lottery

Revenues of State Excess Lottery Revenue Fund Available For Second-Priority Debt Service Transfers

The following Table II shows the amount of revenues of the State Excess Lottery Revenue Fund available for making the second-priority debt service transfers therefrom. See "State Excess Lottery Revenue Fund" above.

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Table II
Revenues of State Excess Lottery Revenue Fund Available For Second-Priority Debt Service Transfers*
(In Millions)

	Actual				Projected				
	2006	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Deposit to State Excess Lottery Revenue Fund ("SELRF")	391.4	407.5	407.7	385.9	335.4	290.3	317.2	290.3	290.3
Less: Refundable Credit	5.0	6.0	8.6	7.4	8.4	10.0	10.0	10.0	10.0
Less: First-Priority Debt Service Transfer* From SELRF - EDA Excess Lottery Grant Bonds	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0
Revenues of SELRF Available For Second-Priority Debt Service Transfers* From SELRF	**367.4**	**382.5**	**380.1**	**359.5**	**308.0**	**261.3**	**288.2**	**261.3**	**261.3**
Second-Priority Debt Service Transfers* From SELRF									
School Building Authority Excess Lottery Revenue Bonds	0.0	0.0	0.0	19.0	19.0	19.0	19.0	19.0	19.0
HEPC Higher Education Facilities Bonds	10.0	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0
Total Second-Priority Debt Service Transfers* From SELRF	10.0	10.0	10.0	29.0	29.0	34.0	34.0	34.0	34.0
Coverage of Second-Priority Debt Service Transfers* From SELRF Using Revenues of SELRF	**36.7**	**38.3**	**38.0**	**12.4**	**10.6**	**7.7**	**8.5**	**7.7**	**7.7**

Source: West Virginia Lottery

* For a complete discussion of the priority in which transfers are made from the SELRF to pay debt service on bonds, see "PLEDGED REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION - State Excess Lottery Revenue Fund" above. Debt service transfers are only prioritized to the extent of the monthly transfers of one-tenth of the debt service coming due on such bonds in a particular year.

Revenues of State Excess Lottery Revenue Fund and State Lottery Fund Available For Second-Priority Debt Service Transfers

The following Table III shows the combined amount of revenues of the State Excess Lottery Revenue Fund and the State Lottery Fund available for making the second-priority debt service transfers from the State Excess Lottery Revenue Fund. See "State Excess Lottery Revenue Fund" and "State Lottery Fund" above.

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Table III

Revenues of State Excess Lottery Revenue Fund and State Lottery Fund

Available For Second-Priority Debt Service Transfers* From State Excess Lottery Revenue Fund

(In Millions)

	Actual				Projected				
	2006	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Deposit to State Excess Lottery Revenue Fund ("SELRF")	391.4	407.5	407.7	385.9	335.4	290.3	317.3	290.3	290.3
Less: Refundable Credit	5.0	6.0	8.6	7.4	8.4	10.0	10.0	10.0	10.0
Less: First-Priority Debt Service Transfer* From SELRF - EDA Excess Lottery Grant Bonds	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0	19.0
Revenues of SELRF Available For Second-Priority Debt Service Transfers* From SELRF	**367.4**	**382.5**	**380.1**	**359.5**	**308.0**	**261.3**	**288.3**	**261.3**	**261.3**
Deposit to State Lottery Fund ("SLF")	173.3	185.3	171.4	170.1	178.5	166.8	166.8	166.8	166.8
Less: First-Priority Debt Service Transfer From SLF - SBA Lottery Bonds	18.0	18.0	18.0	18.0	18.0	18.0	18.0	18.0	18.0
Less: Second-Priority Debt Service Transfer From SLF - EAST Lottery Bonds	10.0	10.0	10.0	10.0	8.2	10.0	10.0	10.0	10.0
Less: Third-Priority Debt Service Transfer From SLF - CTC Lottery Bonds	0.0	0.0	0.0	0.0	3.5	5.0	5.0	5.0	5.0
Revenues of SLF Available For Second-Priority Debt Service Transfers* From SELRF	**145.3**	**157.3**	**143.4**	**142.1**	**148.8**	**133.8**	**133.8**	**133.8**	**133.8**
Combined Revenues of SELRF and SLF Available For Second-Priority									
Debt Service Transfers* From SELRF	**512.7**	**539.8**	**523.5**	**501.6**	**456.8**	**395.1**	**422.1**	**395.1**	**395.1**
Second-Priority Debt Service Transfers* From SELRF									
School Building Authority Excess Lottery Revenue Bonds	0.0	0.0	0.0	19.0	19.0	19.0	19.0	19.0	19.0
HEPC Higher Education Facilities Bonds	10.0	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0
Total Second-Priority Debt Service Transfers* From SELRF	**10.0**	**10.0**	**10.0**	**29.0**	**29.0**	**34.0**	**34.0**	**34.0**	**34.0**
Coverage of Second-Priority Debt Service Transfers* From SELRF									
Using Combined Revenues of SELRF and SLF	**51.3**	**54.0**	**52.4**	**17.3**	**15.8**	**11.6**	**12.4**	**11.6**	**11.6**

Source: West Virginia Lottery

* For a complete discussion of the priority in which transfers are made from the SELRF to pay debt service on bonds, see "PLEDGED REVENUES, DEBT SERVICE COVERAGE AND SELECT FINANCIAL INFORMATION - State Excess Lottery Revenue Fund" above. Debt service transfers are only prioritized to the extent of the monthly transfers of one-tenth of the debt service coming due on such bonds in a particular year.

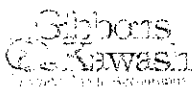
APPENDIX F

FINANCIAL STATEMENTS OF THE WEST VIRGINIA LOTTERY

Audited Financial Statements

West Virginia Lottery

Years Ended June 30, 2010 and 2009



WEST VIRGINIA LOTTERY

Audited Financial Statements

Years Ended June 30, 2010 and 2009

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INDEPENDENT AUDITORS' REPORT

West Virginia Lottery Commission
Charleston, West Virginia

We have audited the accompanying balance sheets of the West Virginia Lottery (the Lottery), a component unit of the State of West Virginia, as of and for the years ended June 30, 2010 and 2009, and the related statements of revenues, expenses and changes in fund net assets and cash flows for the years then ended. These financial statements are the responsibility of the Lottery's 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 and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits 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.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Lottery as of June 30, 2010 and 2009, and the respective changes in financial position and cash flows thereof for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 24, 2010, on our consideration of the Lottery's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through 12 be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in appropriate operational, economic, or historical context. We have applied certain

limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Gibbons & Kawash

September 24, 2010

Management's Discussion and Analysis

-Unaudited-

Our discussion of the West Virginia Lottery's (the Lottery) financial performance provides for an overview of the Lottery's financial activities for the fiscal years ended June 30, 2010 and 2009. In reading the Management's Discussion and Analysis (MD & A), the current year refers to fiscal year ending June 30, 2010, and the prior year refers to fiscal year ending June 30, 2009. This analysis is to be considered in conjunction with the financial statements, which begin on page 13.

Financial Highlights

The Lottery's operating income declined in 2010 and 2009. The revenue and related decreases are primarily the result of increased competition in neighboring states and the downturn in the overall economy. The following summary is provided below:

- Lottery revenues for the current year decreased $134.9 million or 9% compared to the prior year, which decreased $30.4 million or 2% over 2008.
- Commissions for the current year decreased $57.4 million or 8.3% compared to the prior year, which decreased $19.9 million or 2.8% over 2008.
- Gross profit for the current year decreased $67.8 million or 10.1% compared to the prior year, which decreased $8.6 million or 1.3% over 2008.
- Nonoperating expenses decreased $49.7 million or 7.8% compared to the prior year, which decreased $9.2 million or 1.4% over 2008. The predominant nonoperating expense is the distributions to the State of West Virginia, which decreased $47.7 million or 7.7% compared to the prior year, which decreased $14.5 million or 2.3% over 2008.

Using This Annual Report

The Lottery is a component unit of the State of West Virginia, and is accounted for as a proprietary type enterprise fund using the accrual basis of accounting much like a private business entity. As such, this report consists of a series of financial statements, along with explanatory notes to the financial statements. To assess the Lottery's financial position, the reader of these statements should pay particular attention to changes in the components of assets and liabilities as set forth in the Balance Sheets and changes in operating revenues, expenses and nonoperating distributions to the State of West Virginia as set forth in the Statements of Revenues, Expenses and Changes in Fund Net Assets.

Balance Sheets

As shown in Table 1, current assets increased $24.4 million or 9.3% compared to the prior year, which increased $41.7 million or 18.9% over 2008, due to the timing of distributions to the State of West Virginia at year-end.

Restricted assets decreased due to the acquisition of a Lottery headquarters building on June 30, 2010 and the accrued distribution of surplus funds from the revenue center construction fund. See Notes 11 and 12 to the financial statements for additional information on restricted assets and these special items.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Balance Sheets (Continued)

Capital assets, net of accumulated depreciation and amortization, increased in 2010 by $20 million or 606.3% and decreased by $1.9 million or 37% in 2009 due to the acquisition of a Lottery headquarters building on June 30, 2010, which is offset by continuing depreciation of capital assets. For additional information on capital assets, please refer to Note 4 to the financial statements.

Table 1
Assets
(in $000's)

	2010	2009	2008
Current assets	$ 286,297	$ 261,868	$ 220,215
Restricted assets	8,355	69,871	58,487
Capital assets, net of accumulated depreciation and amortization	23,349	3,306	5,251
Long-term portion of investments held in trust	-	-	126
Total assets	$ 318,001	$ 335,045	$ 284,079

As shown in Table 2, the Lottery's current liabilities increased $29.8 million or 11.8% compared to the prior year, which increased $32.3 million or 14.7% when compared to 2008 due to the timing of distributions that are reflected as accrued liabilities until actually paid.

Net assets – restricted decreased due to the acquisition of a Lottery headquarters building on June 30, 2010 and the accrued distribution of surplus funds from the revenue center construction fund. See Notes 11 and 12 to the financial statements for additional information on restricted net assets and special items.

Net assets – invested in capital assets increased in 2010 by $20 million or 606.3% due to the acquisition of a Lottery headquarters building on June 30, 2010. Refer to Note 4 to the financial statements for additional information on capital assets.

Net assets – unrestricted changed in fiscal years 2010, 2009 and 2008 as a result of Lottery Commission orders setting aside or distributing funds committed by the Commission for acquisition of capital assets. In 2010, with the purchase of a building and land to serve as Lottery headquarters, the unrestricted net assets set aside for this purpose by Lottery Commission orders were no longer needed and were accrued for distribution to the State of West Virginia.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Balance Sheets (Continued)

Table 2
Liabilities and Net Assets
(in $000's)

	2010	2009	2008
Current liabilities	$ 281,618	$ 251,857	$ 219,594
Net assets - restricted	8,355	69,871	58,487
Net assets - invested in capital assets	23,349	3,306	5,251
Net assets - unrestricted	4,679	10,011	747
Total net assets	36,383	83,188	64,485
Total liabilities and net assets	$ 318,001	$ 335,045	$ 284,079

The content of Table 3 is a summary of activities and is related to the discussion of Table 4.

Table 3
Revenues, Expenses and Changes in Fund Net Assets
(in $000's)

	2010	2009	2008
Revenues:			
On-line games	$ 83,741	$ 84,241	$ 87,177
Instant games	97,483	113,854	110,862
Racetrack video lottery	746,208	848,233	897,953
Limited video lottery	397,287	412,489	411,587
Table games	31,726	34,219	15,877
Historic resort	1,649	-	-
	1,358,094	1,493,036	1,523,456
Less:			
Commissions:			
On-line games	5,849	5,901	6,114
Instant games	6,824	7,970	7,763
Racetrack video lottery	414,988	463,649	487,276
Limited video lottery	194,671	202,120	205,637
Table games	12,473	13,458	6,249
Historic resort	847	-	-
	635,652	693,098	713,039

(Continued)

Management's Discussion and Analysis
(Continued)

-Unaudited-

Table 3 (Continued)
Revenues, Expenses and Changes in Fund Net Assets
(in $000's)

	2010	2009	2008
Prizes, ticket and vendor costs:			
On-line prize costs	41,818	42,451	44,544
Instant ticket prize costs	66,165	76,998	76,625
Ticket costs	1,511	1,528	1,676
Vendor fees and costs	7,744	5,935	5,928
	117,238	126,912	128,773
Gross profit	605,204	673,026	681,644
Administrative expenses:			
Advertising and promotions	7,349	7,160	8,658
Wages and related benefits	10,921	9,648	7,885
Telecommunications	648	2,208	2,275
Contractual and professional	4,741	5,030	4,099
Rental	697	727	685
Depreciation and amortization	1,840	1,988	732
Other administrative expenses	1,042	994	1,540
	27,238	27,752	25,874
Other operating income:	11,059	11,401	11,937
Operating income	589,025	656,675	667,707
Nonoperating income (expense):			
Investment income	390	2,720	9,572
Nonoperating income-OPEB	-	-	472
Interest expense	-	(1)	(13)
Distributions to municipalities and counties	(7,787)	(8,085)	(8,067)
Distributions to racetracks-capital reinvestment	(11,968)	(15,983)	(17,988)
Distributions to the State of West Virginia	(568,945)	(616,623)	(631,155)
	(588,310)	(637,972)	(647,179)
Net income before special item	715	18,703	20,528
Special item - restricted net assets accrued for distribution to the State of West Virginia	(40,000)	-	-
Special item - unrestricted net assets accrued for distribution to the State of West Virginia	(7,520)	-	-
Net income (loss)	(46,805)	18,703	20,528
Net assets, beginning of year, as restated*	83,188	64,485	43,957
Net assets, end of year	$ 36,383	$ 83,188	$ 64,485

* $468 adjustment to OPEB liability at beginning of year in 2008.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Sales and Prizes, Commissions, Ticket Costs and Vendor Fees

Table 4 compares sales (referred to as lottery revenues in financial statements), prizes, commissions, ticket printing costs, vendor fees and costs and gross profit for each lottery game category for fiscal years 2010, 2009 and 2008. Sales and gross profits fluctuated in certain categories, however, gross profit percentages remained consistent from year to year.

Table 4
Lottery Sales
(in $000's)

	Instant			On-Line*		
	2010	2009	2008	2010	2009	2008
Gross sales	$ 97,385	$ 117,534	$ 110,862	$ 93,741	$ 88,241	$ 87,177
Less direct costs:						
Prizes and bonuses	66,165	76,999	76,625	41,616	42,451	44,544
Commissions	6,824	7,970	7,763	5,849	5,901	6,314
Ticket printing costs	1,511	1,528	1,670	-	-	-
Vendor fees and costs	4,202	4,311	3,326	3,541	2,524	2,608
Total direct costs	78,703	89,807	89,384	51,208	50,876	53,266
Gross Profit	$ 18,682	$ 27,847	$ 21,478	$ 42,533	$ 37,365	$ 33,911
Gross profit percentage	19.30%	23.70%	19.40%	36.40%	36.60%	38.90%

	Racetrack Video Lottery			Limited Video Lottery		
	2010	2009	2008	2010	2009	2008
Gross sales	$ 746,208	$ 846,253	$ 897,953	$ 397,287	$ 412,489	$ 411,587
Less direct costs:						
Prizes and bonuses	-	-	-	-	-	-
Commissions	414,998	463,649	487,276	194,671	202,120	205,637
Ticket printing costs	-	-	-	-	-	-
Vendor fees and costs	-	-	-	-	-	-
Total direct costs	414,998	463,649	487,276	194,671	202,120	205,637
Gross Profit	$ 331,220	$ 382,604	$ 410,677	$ 202,616	$ 210,369	$ 205,950
Gross profit percentage	44.40%	45.20%	45.70%	51.00%	51.00%	50.00%

	Table Games			Historic Resort			Total		
	2010	2009	2008	2010	2009	2008	2010	2009	2008
Gross sales	$ 31,726	$ 34,219	$ 15,877	$ 1,640	$ -	$ -	$ 1,358,094	$ 1,493,036	$ 1,522,456
Less direct costs:									
Prizes and bonuses	-	-	-	-	-	-	107,783	119,449	121,169
Commissions	12,473	13,458	6,249	847	-	-	635,652	693,098	715,039
Ticket printing costs	-	-	-	-	-	-	1,511	1,528	1,670
Vendor fees and costs	-	-	-	-	-	-	7,744	6,835	5,928
Total direct costs	12,473	13,458	6,249	847	-	-	752,890	820,910	843,812
Gross Profit	$ 19,253	$ 20,761	$ 9,628	$ 793	$ -	$ -	$ 605,204	$ 672,126	$ 678,644
Gross profit percentage	60.7%	60.7%	60.6%	48.6%	0.0%	0.0%	44.6%	45.1%	44.7%

* On-line games include the results of Powerball® which is a significant component of the results described above.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Instant Sales

Instant ticket sales decreased in 2010 by $16.4 million or 14.4% compared to the 2009 increase of $3.0 million or 2.7% over 2008. Forty-two games were introduced in 2010 and approximately twenty-six game options were available for play in both years. The Lottery continues to implement the results of research and design efforts, including increased ticket font size for easier reading by players, simplified play styles for faster play and continued monitoring of the mix of play styles and colors more closely to create a better variety of game presentation available at one time. One ten-dollar and four five-dollar games were introduced in 2010, down from the previous year based on less demand from the public. There was an increase in the one-dollar and two-dollar game introductions, to meet player demand.

Instant prizes and commissions have a direct correlation to sales, therefore, as sales increase, so do the related prizes and commissions paid by the Lottery. Prize expenses for instant games are controllable by designing and printing a predetermined number and value of winning tickets. While each game has a designed prize payout structure, the overall amount paid as prize expense is consistent.

Vendor fees and costs are primarily 4.3% of instant and on-line ticket sales for 2010 and 3% for 2009 and 2008. The Lottery (as is the case with most lotteries located in North America) has elected to enter into a long-term contract to provide a central computer system, retailer terminals and related equipment to sell and cash all tickets for instant and on-line games.

Powerball® Sales

Powerball® is a multi-state lotto game offering larger jackpots with occasional jackpots in excess of $100 million. Sales decreased in 2010 by $2.4 million or 4.8% and decreased in 2009 by $3.0 million or 5.6%. Sales are generally driven by the jackpot size.

Prize costs are 50% of sales and over time such prize payouts generally reflect the design of the game and the related mathematical odds of winning.

Traditional retailers are those retailers licensed by the Lottery to sell instant and/or all or certain on-line games (which includes Powerball®) and by statute were paid 7% of such sales.

Mega Millions® Sales

Mega Millions sales began in January 2010 offering jackpots starting at $12 million and other prizes ranging from $2 to $250,000. Sales were $2.7 million in 2010.

Approximately 50% of every dollar wagered goes back to the players in prizes and approximately 7% goes to retailer commissions.

All Other On-line Games

All other on-line games consist of Daily 3, Daily 4, Cash 25, Travel Keno and the multi-state game Hot Lotto™. Sales decreased in 2010 by $755.9 thousand or 2.3% and increased slightly in 2009 by $100 thousand or 0.3%.

Management's Discussion and Analysis
(Continued)

-Unaudited-

All Other On-line Games (Continued)

In general, prize costs by game will increase or decrease from year-to-year in proportion to the sales for a particular game. Prizes and commissions have remained consistent as presented in Table 4.

Racetrack Video Lottery

Racetrack video lottery revenues are reported net of total wagers. Revenues decreased $102 million or 12% in 2010 and decreased $49.7 million or 5.5% in 2009.

A portion of racetrack video lottery sales, as prescribed by statute, are paid to racetracks and other private entities associated with the racing industry and are reported as commissions. See Note 6 in the financial statements for further discussion of racetrack video lottery distributions. The decreases in commissions of $48.7 million or 10.5% in 2010 and $23.6 million or 4.8% in 2009 was due to the economy as well as competition from neighboring states which recently legalized video lottery games. This competition has decreased the revenue at two of the state's four race tracks licensed to operate video lottery games and which border that state.

As noted in the accompanying tables, and in following with industry trends, "coin drop" machines are being phased out in favor of ticket in ticket out (TITO) machines. This increase in TITO machines has helped to lessen the decline in racetrack video lottery revenues from competition.

The changes in active machines are presented in Tables 5 through 8 below which illustrate the fluctuations during the last three fiscal years.

Table 5

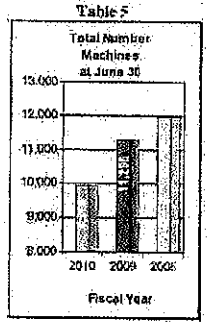
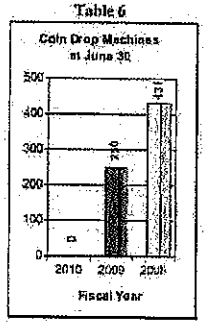


Table 6



Management's Discussion and Analysis
(Continued)

-Unaudited-

Racetrack Video Lottery (Continued)

Table 7

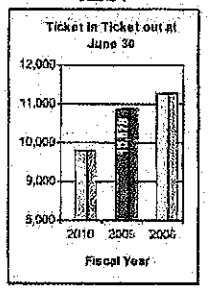
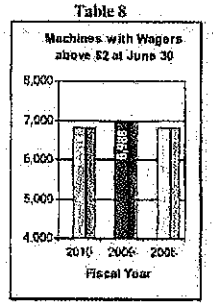


Table 8

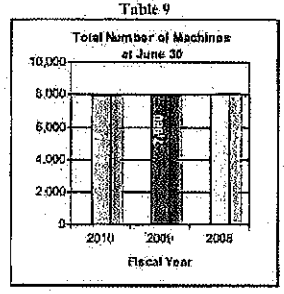


Limited Video Lottery

Sales decreased by $15.2 million or 3.7% in 2010 over 2009, which increased slightly by $902 thousand or 0.2% over 2008. The decrease in commissions of $7.4 million or 3.7% in 2010 over 2009 and the decrease of $3.5 million or 1.7% over 2008, are paid to operators and retailers as provided for by statute and have a direct correlation to changes in sales.

- Table 9 illustrates the decrease in machines by 20 in 2010 as compared to the decrease of 93 in 2009

Table 9



Management's Discussion and Analysis
(Continued)

-Unaudited-

Table Games

West Virginia Lottery table games were implemented at three of the state's four racetracks during fiscal year 2010 and 2009. Revenues from table games are calculated at a 35% privilege tax of adjusted gross receipts. Revenues for 2010 were $31.7 million and were $34.2 million in 2009.

All table games revenues are distributed according to statute. A portion of table games revenues are paid to entities associated with the racetracks and are reported as commissions. See Note 8 to the financial statements. Commissions were $12.5 million in 2010 and $13.5 million in 2009.

Historic Resort

On November 4, 2008 Greenbrier County voters passed a local referendum to allow The Greenbrier Resort (Historic Resort) to implement gaming at their facility. Video lottery and table games were implemented at The Greenbrier Resort during fiscal year 2010 at a temporary site. Revenues from video lottery are calculated as defined in Note 9 to the financial statements. Revenues from table games are calculated at a 35% privilege tax of adjusted gross receipts. Combined revenues for video lottery and table games in 2010 at the Greenbrier Resort were $1.6 million.

All revenues are distributed according to statute. A portion of revenues are paid to entities associated with the Historic Resort and are reported as commissions. Commissions were $847 thousand in 2010.

Other Operating Income

Refer to Table 3. Changes in other operating income are primarily related to fees collected for the permitting and licensure of manufacturers, operators, retailers and service technicians. Every May 1, a $1,000 permit fee is assessed on each limited video lottery permit held by operators and retailers. These permit fees comprise the most significant concentration of revenue in this financial statement category.

Nonoperating Income (Expense)

Refer to Table 3. Nonoperating expenses reflect a 2% distribution to counties and incorporated municipalities of net terminal income from limited video lottery operations. This distribution will fluctuate with any changes in limited video lottery revenues.

A portion of net revenue from racetrack video lottery is accrued and distributed to each racetrack for capital improvements.

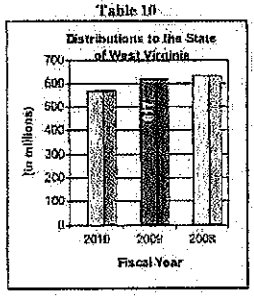
Refer to Table 10. The Lottery's payments to the State Lottery Fund and State Excess Lottery Revenue Fund decreased by $48 million for the current fiscal year compared to a decrease of $14 million in 2009.

Management's Discussion and Analysis
(Continued)

-Unaudited-

Nonoperating Income (Expense) (Continued)

Table 10



Net Income (Loss) and Special Items

Effective June 30, 2006, the West Virginia Legislature directed the Lottery to set aside certain unexpended administrative funds of up to $20 million per year for six years into the Revenue Center Construction Fund. In fiscal year 2010 the Lottery purchased a building and land to serve as the Lottery headquarters and it was determined that unexpended excess funds set aside in restricted net assets for the purchase of capital assets were surplus funds and would be returned by distribution to the State of West Virginia. This distribution is reported as a special item.

In June 2010, the Lottery Commission approved the distribution of funds previously set aside as unrestricted net assets for future capital asset purchases to be returned by distribution to the State of West Virginia. This distribution is also reported as a special item. Refer to Notes 11 and 12 to the financial statements for additional information.

Other Currently Known Facts

On December 5, 2009 Jefferson County, West Virginia voters passed a local referendum which allows Charles Town Races and Slots to implement table games at their facility. Charles Town Races and Slots began table games operations in July 2010.

WEST VIRGINIA LOTTERY

BALANCE SHEETS
(In Thousands)

June 30, 2010 and 2009

ASSETS	2010	2009
Current assets:		
Cash and cash equivalents	$ 256,355	$ 225,354
Accounts receivable	26,986	33,311
Inventory	683	648
Other assets	2,273	2,555
Total current assets	286,297	261,868
Noncurrent assets:		
Restricted cash and cash equivalents	8,355	69,871
Capital assets	39,524	17,641
Less accumulated depreciation and amortization	(16,175)	(14,335)
	23,349	3,306
Total noncurrent assets	31,704	73,177
Total assets	$ 318,001	$ 335,045
LIABILITIES AND NET ASSETS		
Current liabilities:		
Accrued nonoperating distributions to the State of West Virginia	$ 241,039	$ 202,184
Estimated prize claims	13,128	12,938
Accounts payable	3,050	1,716
Other accrued liabilities	24,401	35,019
Total liabilities	281,618	251,857
Net assets:		
Restricted by enabling legislation	8,355	69,871
Invested in capital assets	23,349	3,306
Unrestricted	4,679	10,011
Total net assets	36,383	83,188
Total liabilities and net assets	$ 318,001	$ 335,045

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY

STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET ASSETS
(In Thousands)

Years Ended June 30, 2010 and 2009

	2010	2009
Lottery revenues:		
On-line games	$ 83,741	$ 84,241
Instant games	97,482	113,854
Racetrack video lottery	746,208	848,223
Limited video lottery	397,287	412,489
Table games	31,726	34,219
Historic resort	1,649	-
	1,358,094	1,493,026
Less commissions:		
On-line games	5,849	5,991
Instant games	6,824	7,970
Racetrack video lottery	414,988	463,049
Limited video lottery	194,671	202,120
Table games	12,473	13,458
Historic resort	847	-
	635,652	693,098
Less on-line prize costs	41,818	42,451
Less instant prize costs	66,165	76,998
Less ticket costs	1,511	1,520
Less vendor fees and costs	7,744	5,935
	117,238	126,912
Gross profit	605,204	673,020
Administrative expenses:		
Advertising and promotions	7,349	5,160
Wages and related benefits	10,921	9,645
Telecommunications	648	2,208
Contractual and professional	4,741	5,016
Rental	697	727
Depreciation and amortization	1,840	1,988
Other administrative expenses	1,042	958
	27,238	27,752
Other operating income	11,059	11,401
Operating income	589,025	656,675
Nonoperating income (expense):		
Investment income	390	2,720
Interest expense	-	(1)
Distributions to municipalities and counties	(7,787)	(8,085)
Distributions for capital reinvestment	(11,968)	(15,983)
Distributions to the State of West Virginia	(568,945)	(616,623)
	(588,310)	(637,972)
Income before special item	715	18,703
Special item - restricted net assets accrued for distribution to the State of West Virginia	(40,000)	-
Special item - unrestricted net assets accrued for distribution to the State of West Virginia	(7,520)	-
Net income (loss)	(46,805)	18,703
Net assets, beginning of year	83,188	64,485
Net assets, end of year	$ 36,383	$ 83,188

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY

STATEMENTS OF CASH FLOWS
(In Thousands)

Years Ended June 30, 2010 and 2009

	2010	2009
Cash flows from operating activities:		
Cash receipts from customers and other sources	$ 1,375,478	$ 1,507,972
Cash payments for:		
Personnel costs	(9,636)	(9,121)
Suppliers	(13,567)	(20,508)
Other operating costs	(760,068)	(819,997)
Cash provided by operating activities	592,207	658,346
Cash flows from noncapital financing activities:		
Nonoperating distributions to the State of West Virginia	(577,610)	(581,406)
Distributions to municipalities and counties	(7,797)	(8,108)
Distributions to racetracks from racetrack capital reinvestment fund	(15,822)	(15,369)
Interest paid on deferred jackpot prize obligations	-	(1)
Cash used in noncapital financing activities	(601,229)	(604,884)
Cash flows from capital and related financing activities		
Purchases of capital assets	(21,883)	(43)
Cash flows from investing activities:		
Maturities of investments held in trust	-	136
Investment earnings	390	2,720
Cash provided by investing activities	390	2,856
Increase (decrease) in cash and cash equivalents	(30,515)	56,275
Cash and cash equivalents (including restricted cash and cash equivalents), beginning of year	295,225	238,950
Cash and cash equivalents (including restricted cash and cash equivalents), end of year	$ 264,710	$ 295,225

(Continued)

WEST VIRGINIA LOTTERY

STATEMENTS OF CASH FLOWS
(In Thousands)
(Continued)

Years Ended June 30, 2010 and 2009

	2010	2009
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	$ 589,025	$ 656,675
Adjustments to reconcile operating income to cash provided by operating activities:		
Depreciation and amortization	1,840	1,988
Changes in operating assets and liabilities:		
(Increase) decrease in:		
Accounts receivable	6,325	3,535
Inventory	(35)	(347)
Other assets	282	40
Increase (decrease) in:		
Estimated prize claims	190	(29)
Accounts payable	1,334	(977)
Other accrued liabilities	(6,754)	(2,410)
Deferred jackpot prize obligations	-	(129)
Cash provided by operating activities	$ 592,207	$ 658,346

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS

1 - LEGISLATIVE ENACTMENT

The West Virginia Lottery (the Lottery) was established by the State Lottery Act (the Act) passed April 13, 1985, which created a fund in the State Treasury designated as the "State Lottery Fund." The purpose of the Act was to establish and implement a state-operated lottery under the supervision of a state lottery commission (the Commission) and a director. The Commission, consisting of seven members, and the Director are appointed by the Governor. Under the Act, the Commission has certain powers and the duty to establish rules for conducting games, to select the type and number of gaming systems or games, to enter into contracts and agreements, and to do all acts necessary or incidental to the performance of its duties and exercise of its power and duty to operate the Lottery in a highly efficient manner. The Act provides that a minimum annual average of 45% of the gross amount received from each lottery shall be allocated for prizes and also provides for certain limitations on expenses necessary for operation and administration of the Lottery. To the extent available, remaining net profits are to be distributed to the State of West Virginia (the State) and local governments as required by law. As the State is able to impose its will over the Lottery, the Lottery is considered a component unit of the State and its financial statements are presented in the comprehensive annual financial report of the State as a blended proprietary fund component unit.

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The West Virginia Lottery is accounted for as a proprietary fund special purpose government engaged in business type activities. In accordance with accounting principles generally accepted in the United States of America for governmental entities, the financial statements are prepared on the accrual basis of accounting which requires recognition of revenue when earned and expenses when incurred. As permitted by Governmental Accounting Standards Board (GASB) Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, the Lottery has elected not to adopt Financial Accounting Standards Board (FASB) statements, interpretations and Auditing Standards Updates issued after November 30, 1989, unless the GASB specifically adopts such FASB statements, interpretations or Auditing Standards Updates.

The Lottery is included in the State's basic financial statements as a proprietary fund and business type activity using the accrual basis of accounting. Because of the Lottery's presentation in these financial statements as a special purpose government engaged in business type activities, there may be differences in presentation of amounts reported in these financial statements and the basic financial statements of the State as a result of classification of balances and major fund determination.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain estimates and develop assumptions that affect the amounts reported in the financial statements and related notes to financial statements. Actual results could differ from management's estimates.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Lottery Game Operations

The West Virginia Lottery derives its revenues from four basic types of lottery games: instant, on-line, video type games, and table games. The Lottery develops multiple game themes and prize structures to comply with its enabling legislation, including aggregate annual minimum prize provisions. All bonded retailers and agents comprised principally of grocery and convenience stores serve as the primary distribution channel for instant and on-line lottery sales to the general public.

The Lottery has contracted with a private vendor to manufacture, distribute, and provide data processing support for instant and on-line lottery games. Under the terms of the agreements, the Lottery pays a percentage of gross revenues for the processing and manufacturing of the games.

Revenue from instant games is recognized when game tickets are sold to the retailers, and the related prize expense is recorded based on the specific game prize structure. Instant ticket sales and related prizes do not include the value of free plays issued for the purpose of increasing the odds of winning a prize.

Sales of on-line lottery tickets are made by licensed agents to the public with the use of computerized terminals. On-line games include POWERBALL®, a multi-state "jackpot" game; HOT LOTTO™, a multi-state "lotto" game; MEGA MILLIONS®, a multi-state lotto game; Cash25 "lotto" game; Daily 3 and 4 "numbers" games; and Travel, an online "keno" game. Revenue is recognized when the agent sells the tickets to the public. Prize expense is recognized on the basis of actual drawing results.

Commissions are paid to instant game retailers and on-line agents at the rate of seven percent of gross sales. A portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys. The amount paid from unclaimed prize moneys is credited against prize costs. In addition, retailers and agents are paid limited bonus incentives that include prize shares on winning tickets they sold and a ticket cashing bonus on winning tickets they cash. On a weekly basis, retailers and agents must remit amounts due to the Lottery. Retailers may not be able to order additional instant tickets if payment has not been made for the previous billing period, while an agent's on-line terminal may be rendered inactive if payment is not received. No one retailer or agent accounts for a significant amount of the Lottery's sales or accounts receivable. Historically credit losses have been nominal and no allowance for doubtful accounts receivable is considered necessary.

Racetrack video lottery is a self-activated video version of lottery games. The board-operated games allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The games allow a player to use coins, currency, tokens, or tickets, to place bets for the chance to receive coin, token, or ticket awards which may be redeemed for cash or used for replay in the games. The racetrack video lottery games' prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as racetrack video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private and local government entities are reported as commissions.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Lottery Game Operations (Continued)

Racetrack video lottery legislation has established specific requirements for racetrack video lottery and imposed certain restrictions limiting the licensing for the operation of racetrack video lottery games to horse and dog racetracks in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from racetrack video lottery games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Limited video lottery is also a self-activated video version of lottery games located in limited licensed retailer areas restricted for adult amusement. The games allow a player to use currency to place bets for the chance to receive free games or vouchers which may be redeemed for cash. The limited video lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as limited video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private entities are reported as commissions. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

Table games legislation has established specific requirements for table games and imposed certain restrictions limiting the licensing for operation of table games to horse and dog racetracks and a historic resort in West Virginia, subject to local county elections permitting the same. Each location licensed as an agent of the Commission to operate West Virginia table games shall have written rules of play for each table game it operates which must be approved by the Commission. All wagers and pay-offs of winning wagers shall be made according to those rules of play. For the privilege of holding a table games license, there is levied a privilege tax of thirty-five percent of each licensee's adjusted gross receipts from the operation of Lottery table games which the Lottery records as revenue. Amounts required by statute to be paid to private and local government entities are reported as commissions. The legislation further stipulates the distribution of revenues from West Virginia table games, and requires any licensed location to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Historic resort lottery games are a combination of self-activated video lottery games as well as table games which are located at a licensed historic resort hotel as defined by the WV Code. Video lotteries at the historic resort are board-operated games that allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The coin operated games allow a player to use coins, currency, or tokens to place bets for the chance to receive coin or token awards which may be redeemed for cash or used for replay in the coin operated games.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Lottery Game Operations (Continued)

The historic resort video lottery games' prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes video lottery revenue consisting of "gross terminal income" equivalent to all wagers, net of related prizes; and historic resort table games revenue consisting of a privilege tax of thirty-five percent of adjusted gross receipts for the operation of table game as historic resort lottery revenues.

Amounts required by statute to be paid to the private and local government entities are reported as commissions. The Lottery Act as amended has established specific requirements for historic resort video and table games lotteries and imposed certain restrictions limiting the licensing for operation of historic resort lottery games in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from historic resort lottery games, and requires the licensed historic resort to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Cash and Cash Equivalents

Cash and cash equivalents consist primarily of interest-earning deposits in a State internal investment pool maintained by the West Virginia Board of Treasury Investments (BTI). The BTI pool is a 2a-7-like pool carried at amortized cost which approximates the fair value of the underlying securities.

Inventory

Inventory consists of instant game tickets available for sale to approved Lottery retailers and are carried at cost as determined by the specific identification method.

Other Assets

Other assets consist of deposits restricted for payment of certain Multi-State Lottery Association activities and prepaid expenses.

Capital Assets

The Lottery has adopted a policy of capitalizing assets with individual amounts exceeding $25,000 and a useful life greater than one year. These assets include leasehold improvements and purchased equipment comprised principally of technology property, office furnishings and equipment necessary to administer lottery games, and are carried at cost. Depreciation is computed by the straight-line method using useful lives of three to ten years.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Capital Assets (Continued)

The Lottery leases, under a cancelable operating lease, its office and warehouse facilities. The Lottery also leases various office equipment under agreements considered to be cancelable operating leases. Rental expense for the years ended June 30, 2010 and 2009, was $697,279 and $727,138, respectively.

Accrued Employee Benefits

The Lottery has accrued $500,740 and $467,815 of vacation at June 30, 2010 and 2009, respectively, for estimated obligations that may arise in connection with compensated absences at the current rate of employee pay. Employees fully vest in all earned but unused vacation. In accordance with State personnel policies, employees hired prior to July 1, 2001, vest in unused sick leave only upon retirement, at which time such unused leave can be converted into post-retirement health care coverage or additional periods of credited service for purposes of determining retirement benefits. To the extent that eligible conversion benefits are determined, a liability has been accrued as a result of the Lottery's participation in the State's post-employment benefits plan, in accordance with GASB Statement No. 45 (See Note 14).

Net Assets

Net assets are presented as either unrestricted, restricted by enabling legislation, as amended, or invested in capital assets which represents the net book value of all property and equipment of the Lottery. When an expense is incurred for purposes for which both restricted and unrestricted net assets are available, restricted resources are applied first.

Operating Revenues and Expenses

Operating revenues and expenses for proprietary funds such as the Lottery are revenues and expenses that result from providing services and producing and delivering goods and/or services. Operating revenues for the Lottery are derived from providing various types of lottery games. Operating expenses include commissions, prize costs, other direct costs of providing lottery games, and administrative expenses. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

Advertising and Promotions

The Lottery expenses the costs of advertising and promotions as they are incurred.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

3 - CASH AND CASH EQUIVALENTS

At June 30, 2010 and 2009, the carrying amounts of deposits (overdrafts) with financial institutions were ($60) thousand and ($23) thousand, respectively, with bank balances of $6 and $29 thousand, respectively, which is covered by federal depository insurance. It is the Lottery's policy to require any balances over the insured amount be collateralized with securities held by the State of West Virginia's agent in the State's name.

At June 30, 2010 and 2009, the carrying amounts of deposits with financial institutions, the State Treasurer, and the West Virginia Board of Treasury Investments (BTI) were as follows (in thousands):

	2010	2009
Deposits with financial institutions	$ (60)	$ (23)
Cash on hand at the Treasurer's Office	40,006	22,710
Investments with BTI reported as cash equivalents	224,764	273,138
	$ 264,710	$ 295,225

The State Treasurer has statutory responsibility for the daily cash management activities of the State's agencies, departments, boards and commissions and transfers funds to the BTI for investment in accordance with West Virginia statutes, policies set by the BTI and by provisions of bond indentures and trust agreements when applicable. The Lottery's cash balances are invested by the BTI in the BTI's West Virginia Money Market Pool.

The deposits with the BTI are part of the State of West Virginia's consolidated money market pool. Investment income is pro-rated to the Lottery at rates specified by the BTI based on the balance of the deposits maintained in relation to the total deposits of all state agencies participating in the pool. Such funds are available to the Lottery with overnight notice.

Credit risk - Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The West Virginia Money Market Pool has been rated AAAm by Standard & Poor's. A fund rated "AAAm" has extremely strong capacity to maintain principal stability and to limit exposure to principal losses due to credit, market, and/or liquidity risks. "AAAm" is the highest principal stability fund rating assigned by Standard & Poor's. The BTI itself has not been rated for credit risk by any organization.

The BTI limits the exposure to credit risk in the West Virginia Money Market Pool by requiring all corporate bonds to be rated AA- by Standard & Poor's (or its equivalent) or higher. Commercial paper must be rated A-1 by Standard & Poor's and P1 by Moody's. Additionally, the pool must have at least 15% of its assets in United States Treasury issues.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

3 - CASH AND CASH EQUIVALENTS (Continued)

The following table provides information on the credit ratings of the West Virginia Money Market Pool's investments (in thousands):

Security Type	Credit Rating Moody's	Credit Rating S&P	Carrying Value	Percent of Assets
Commercial paper	P1	A-1	$ 855,844	29.75%
Corporate bonds and notes	Aa1-Aa2	AA	20,000	.70
U.S. agency bonds	Aaa	AAA	246,990	8.59
U.S. Treasury notes*	Aaa	AAA	65,153	2.26
U.S. Treasury bills *	Aaa	AAA	476,670	16.57
Negotiable certificates of deposit	P1	A-1	281,000	9.77
U.S. agency discount notes	P1	A-1	606,048	21.07
Money market funds	Aaa	AAA	150,026	5.21
Repurchase agreements, with Underlying U.S. agency and Treasury notes	Aaa	AAA	174,980	6.08
			$ 2,876,711	100.00%

* U.S. Treasury issues are explicitly guaranteed by the United States government and are not subject to credit risk.

Interest rate risk - Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The weighted average maturity of the investments of the West Virginia Money Market Pool cannot exceed 60 days. Maximum maturity of individual securities cannot exceed 397 days from date of purchase. The following table provides the weighted average maturities for the various asset types in the West Virginia Money Market Pool:

Security Type	Carrying Value (In Thousands)	Weighted Average Maturity In Days
Commercial paper	$ 855,844	18
US Treasury bills	476,670	35
US Treasury notes	65,153	140
Repurchase agreements	174,980	1
U.S. Agency bonds	246,990	55
Corporate bonds and notes	20,000	19

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

3 - CASH AND CASH EQUIVALENTS (Continued)

Interest rate risk (Continued)

Security Type	Carrying Value (In Thousands)	Weighted Average Maturity In Days
U.S. Agency discount notes	606,048	52
Certificates of deposit	281,000	45
Money market funds	150,026	1
Total assets	$ 2,876,711	

The combined weighted average maturity of the investments of the West Virginia Money Market Pool as of June 30, 2010, is 33 days.

Concentration of credit risk - West Virginia statutes prohibit the West Virginia Money Market Pool from investing more than 5% of its assets in securities issued by one corporate name or corporate issue. At June 30, 2010, the pool did not have investments in any one private corporation or association that represented more than 5% of assets.

Custodial credit risk - At June 30, 2010, the West Virginia Money Market Pool held no securities that were subject to custodial credit risk. Repurchase agreements are collateralized at 102%, and the collateral is held in the name of the BTI. Securities lending collateral that is reported in the BTI's audited Statement of Assets and Liabilities is invested in the lending agent's money market fund.

Foreign currency risk - The West Virginia Money Market Pool has no securities that are subject to foreign currency risk.

4 - CAPITAL ASSETS

A summary of capital asset activity is as follows (in thousands):

	Historical cost at June 30, 2008	Additions	Deletions	Historical cost at June 30, 2009	Additions	Deletions	Historical cost at June 30, 2010
Building	$ -	$ -	$ -	$ -	$ 20,174	$ -	$ 20,174
Construction in progress	285	-	(285)	-	-	-	-
Land	-	-	-	-	1,434	-	1,434
Improvements	1,120	50	-	1,170	-	-	1,170
Equipment	16,193	278	-	16,471	275	-	16,746
	$ 17,598	$ 328	$ (285)	$ 17,641	$ 21,883	$ -	$ 39,524

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

4 - CAPITAL ASSETS (Continued)

	Accumulated depreciation at June 30, 2008	Additions	Deletions	Accumulated depreciation at June 30, 2009	Additions	Deletions	Accumulated depreciation at June 30, 2010
Building	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Improvements	1,002	78	-	1,080	51	-	1,131
Equipment	11,345	1,910	-	13,255	1,789	-	15,044
	$ 12,347	$ 1,988	$ -	$ 14,335	$ 1,840	$ -	$ 16,175

5 - PARTICIPATION IN THE MULTI-STATE LOTTERY

The Lottery is a member of the Multi-State Lottery (MUSL), which operates the semi-weekly POWERBALL® jackpot lotto game, the HOT LOTTO™ game, and MEGA MILLIONS® jackpot game on behalf of other participating lotteries. MUSL is currently comprised of 33 member state lotteries, including the District of Columbia and the United States Virgin Islands. MUSL is managed by a Board of Directors, which is comprised of the lottery directors or their designee from each of the party states. The Board of Directors' responsibilities to administer the Multi-State Lottery POWERBALL®, HOT LOTTO™, and MEGA MILLIONS® games are performed by advisory committees or panels staffed by officers and independent contractors appointed by the board. These officers and consultants serve at the pleasure of the board and the board prescribes their powers, duties and qualifications. The Executive Committee carries out the budgeting and financing of MUSL, while the board contracts the annual independent audit. A copy of the audit may be obtained by writing to the Multi-State Lottery Association, 1701-48th Street, Suite 210, West Des Moines, Iowa 50266-6723.

Each MUSL member sells game tickets through its agents and makes weekly wire transfers to the MUSL in an amount equivalent to the total prize pool less the amount of prizes won in each state. Lesser prizes are paid directly to the winners by each member lottery. The prize pool for POWERBALL®, HOT LOTTO™, and MEGA MILLIONS® is 50% of each drawing period's sales, with minimum jackpot levels.

Revenues derived from the Lottery's participation in the MUSL POWERBALL® jackpot game were $48,593,678 and $51,016,100 for the years ended June 30, 2010 and 2009, respectively, and related prize costs were $24,299,364 and $25,510,333, respectively.

Revenues derived from the Lottery's participation in the HOT LOTTO™ game were $6,447,315 and $4,881,127 for the years ended June 30, 2010 and 2009, respectively, and related prize costs were $3,224,120 and $2,440,802, respectively.

Revenues derived from the Lottery's participation in the MEGA MILLIONS® game were $2,678,674 for the year ended June 30, 2010, and related prize costs were $1,384,136

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

5 - PARTICIPATION IN THE MULTI-STATE LOTTERY (Continued)

MUSL places a percentage of game sales from each game in separate prize reserve funds that serve as a contingency reserve to protect the respective MUSL Product Groups from unforeseen prize liabilities. These funds can only be used at the discretion of the respective MUSL Product Group. Once the prize reserve funds exceed the designated limit, the excess becomes part of that particular prize pool. Prize reserve fund monies are refundable to MUSL Product Group members if the MUSL disbands or, after one year, if a member leaves the MUSL. The applicable sales percentage contribution as well as the reserve fund limit for the MUSL games is as follows:

	POWERBALL®	HOT LOTTO™	MEGA MILLIONS®
Required Contribution (% of sales)	2%	3%	1%
Reserve Fund Cap	$125,000,000	$9,000,000	-

The Lottery's share of the prize reserve fund balances with MUSL as of June 30, were as follows:

	2010		2009	
	Total Prize Reserve	Lottery Share	Total Prize Reserve	Lottery Share
POWERBALL®	$ 113,399,532	$ 2,385,173	$ 112,776,975	$ 2,380,055
HOT LOTTO™	6,491,541	392,458	5,443,110	324,177
MEGA MILLIONS®	(629,706)	(11,044)	-	-
	$ 119,261,367	$ 2,766,587	$ 118,220,085	$ 2,704,232

Lottery prize reserves held by the MUSL are invested according to a Trust agreement the Lottery has with MUSL outlining investment policies. The policies restrict investments to direct obligations of the United States Government, perfected repurchase agreements, and obligations issued or guaranteed as to payment of principal and interest by agencies or instrumentalities of the United States Government, and mutual funds of approved investments. The average portfolio maturity is never more than one year, except that up to one third of the portfolio may have an average maturity of up to two years. The maximum maturity for any one security does not exceed five years.

The interest earned on prize reserve fund monies is used to pay MUSL operating expenses and any amounts over and above that are credited to an unreserved fund. The Lottery records this as interest when earned. This fund had a balance of $15,991,948 and $19,908,618 at June 30, 2010 and 2009, of which the Lottery's share was $1,752,719 and $1,775,925, respectively.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

6 - RACETRACK VIDEO LOTTERY

The racetrack video lottery legislation stipulates the distribution of racetrack video lottery revenues. This legislation has been amended since inception to restate revenue distribution based on revenue benchmarks. Initially, four percent (4%) of gross terminal revenue is allocated for lottery administrative costs. Sixty-six percent (66%) of net terminal revenue (gross less 4%) is allocated in lieu of commissions to: the racetracks (47%); other private entities associated with the racing industry (17%); and the local county and municipal governments (2%). The remaining thirty-four percent (34%) of net terminal revenue is allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 10 titled "Nonoperating Distributions to the State of West Virginia."

The first benchmark occurs when the current year net terminal revenue meets the fiscal year 1999 net terminal revenue. The counties and incorporated municipalities split 50/50 the two percent (2%) net terminal revenue.

The second benchmark occurs when the current year gross terminal revenue meets the fiscal year 2001 gross terminal revenue. The four percent (4%) is no longer allocated for lottery administrative costs; instead the State receives this for distribution as specified by legislation or the State budget.

The final benchmark occurs when the current year net terminal revenue meets the fiscal year 2001 net terminal revenue. At this point a 10% surcharge is applied to net terminal revenue, with 58% of the surcharge allocated for distribution to the State as specified by legislation or the State budget, and 42% of the surcharge allocated to separate capital reinvestment funds for each licensed racetrack. After deduction of the surcharge, 55% of the net terminal revenue is allocated in lieu of commissions to: the racetracks (42%); other private entities associated with the racing industry (11%); and the local county and incorporated municipality governments (2%). The remaining net terminal revenue (45%) is allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 10.

Amounts from the capital reinvestment fund may be distributed to each racetrack if qualifying expenditures are made within the statutory timeframe; otherwise amounts accumulated in the fund revert to the state excess lottery revenue fund. The Lottery, along with the Rhode Island and Delaware state lotteries, participate in Multi-Jurisdictional Wide Area Progressive (MWAP) video games. This allows each of the lotteries to offer a higher progressive jackpot than they could generate alone. MUSL manages the progressive games and charges each participant a MWAP contribution fee of 4% of the amount wagered.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

6 - RACETRACK VIDEO LOTTERY (Continued)

A summary of racetrack video lottery revenues for the years ended June 30, 2010 and 2009, follows (in thousands):

	2010	2009
Total credits (bets) played	$ 8,188,573	$ 8,690,994
Credits (prizes) won	(7,372,586)	(7,838,424)
Promotional credits played	(66,022)	-
MWAP Contributions	(3,757)	(4,337)
Gross terminal income	746,208	848,233
Administrative costs	(17,524)	(17,524)
Net terminal income	728,684	830,709
Commissions	(414,988)	(463,649)
Racetrack video lottery revenues available for distribution	$ 313,696	$ 367,060

A summary of racetrack video lottery revenues paid or accrued for certain State funds to conform with the legislation follows (in thousands):

	2010	2009
State Lottery Fund	$ 129,799	$ 130,125
State Excess Lottery Revenue Fund	133,462	178,902
Capital Reinvestment Fund	11,915	15,983
Tourism Promotion Fund	9,460	10,673
Development Office Promotion Fund	2,580	2,911
Research Challenge Fund	3,440	3,881
Capitol Renovation and Improvement Fund	4,730	5,337
Parking Garage Fund	930	988
Cultural Facilities and Capitol Resources Fund	1,500	1,500
Capitol Dome and Capitol Improvements Fund	4,880	5,763
Workers Compensation Debt Reduction Fund	11,000	11,000
Total nonoperating distributions	$ 313,696	$ 367,060

7 - LIMITED VIDEO LOTTERY

The limited video lottery legislation established specific requirements imposing certain restrictions limiting the licensing for the operation of limited video lottery games to 9,000 terminals placed in licensed retailers. These licensed retailers must hold a qualifying permit for the sale and consumption on premises of alcohol or non-intoxicating beer. The Lottery has been charged with the administration, monitoring and regulation of these machines. The legislation further stipulates the distribution of revenues from limited gross terminal income be deposited into the state lottery fund for administrative costs. Then, the state share percentage of gross profit is to be transferred to the State Excess Lottery

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

7 - LIMITED VIDEO LOTTERY (Continued)

Revenue Fund. Such percentage is between 30 and 50 percent and is subject to change on a quarterly basis. Two percent is distributed to counties and incorporated municipalities in the manner prescribed by the statute. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Act and is recorded as limited video lottery commissions in the financial statements. Municipal and county distributions are accounted for as nonoperating expenses. A summary of limited video lottery revenues for the years ended June 30, 2010 and 2009 follows (in thousands):

	2010	2009
Total credits played	$ 4,659,212	$ 4,925,431
Credits (prizes) won	(4,261,925)	(4,512,942)
Gross terminal income	397,287	412,489
Administrative costs	(7,946)	(8,249)
Gross profit	389,341	404,240
Commissions	(194,671)	(202,120)
Distributions to municipalities and counties	(7,787)	(8,085)
Limited video lottery revenues available for distribution	$ 186,883	$ 194,035

8 - TABLE GAMES

The passage of table games legislation allowed local referendums in each of the four counties in which a race track is located to approve table games. Three of the four race tracks were authorized to operate table games and the fourth will begin operating table games in fiscal year 2011.

Table games include blackjack, roulette, craps, and various types of poker. The Lottery receives a privilege tax of 35% of adjusted gross receipts, from each licensed racetrack, which is deposited weekly into the Lottery's racetrack table games fund.

From the gross amounts deposited into the table games fund, the Lottery, on a monthly basis retains 3% of the adjusted gross receipts for administrative expenses of which at least $100,000 and not more than $500,000 annually will be transferred to the Lottery's compulsive gambling treatment fund.

The Lottery then transfers 2.5% of adjusted gross receipts from all thoroughbred and greyhound racetracks participating in licensed table games to the special funds established by each racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee. A transfer of 2% of the adjusted gross receipts is made from all licensed racetracks to the thoroughbred development fund and the greyhound breeding development fund to be divided pro rata among the development funds.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

8 - TABLE GAMES (Continued)

A transfer of 1% of the adjusted gross receipts is made from each licensed racetrack to the county commissions of the counties where racetracks participating in licensed table games are located to be divided pro rata among the counties. A transfer of 2% of the adjusted gross receipts is made from each licensed racetrack to the governing bodies of municipalities within counties where racetracks participating in licensed table games are located as prescribed by statute. Finally, a transfer of .5% of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located is to be divided equally among the municipalities. The Lottery, in accordance with the enabling legislation, will distribute the remaining amounts hereinafter referred to as the net amounts in the racetrack table games funds as follows:

- A transfer of 4%, into a special fund to be established by the West Virginia Racing Commission to be used for payment into the pension plan for all employees of each licensed racing association.
- A transfer of 10%, to be divided and paid in equal shares, to each county commission in the state where table games are not located.
- A transfer of 10%, to be divided and paid in equal shares, to the governing bodies of each municipality in the state where table games are not located.
- A transfer of 76%, to the state debt reduction fund.

The transfer to the state debt reduction fund is included in Note 10 - Nonoperating Distributions to the State of West Virginia. The table games adjusted gross receipts for the year ended June 30, 2010 and 2009 was $90,644,701 and $97,768,861, respectively. A summary of table games revenues for the year ended June 30, 2010 and 2009 follows (in thousands):

	2010	2009
Table games privilege tax	$ 31,726	$ 34,219
Interest on table games fund	3	22
Administrative costs	(2,720)	(2,933)
Total available for distribution	29,009	31,308
Less distributions:		
Racetrack purse funds	2,266	2,444
Thoroughbred & greyhound development funds	1,813	1,955
Racing commission pension plan	870	939
Municipalities/counties	7,524	8,120
Total distributions	12,473	13,458
Table games distribution to the state debt reduction fund	$ 16,536	$ 17,850

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

9 – HISTORIC RESORT HOTEL

In 2009, the Legislature passed Senate Bill 575 which permits video lottery and table games at a licensed historic resort hotel which is defined as "a resort hotel registered with the United States Department of the Interior as a national historic landmark in its National Registry of Historic Places having not fewer than five hundred guest rooms under common ownership and having substantial recreational guest amenities in addition to the gaming facility."

Historic Resort Video Lottery

According to Senate Bill 575, thirty six percent (36%) of gross terminal income is allocated to Historic Resort Hotel Fund and seventeen percent (17%) of gross terminal income is allocated to the Human Resource Benefit Fund. The remaining forty-seven percent (47%) of gross terminal income is then subject to a ten percent (10%) surcharge which is allocated to separate capital reinvestment funds for the licensed historic resort hotel. After deduction of the surcharge, the remaining forty-two and three-tenths percent (42.3%) of gross terminal income is retained by the historic resort hotel. A summary of historic resort hotel video lottery revenues for year ended June 30, 2010 follows (in thousands):

	2010
Total credits played	$ 11,333
Credits (prizes) won	(10,175)
Promotional credits played	(25)
Gross terminal income	1,133
Capital reinvestment	(53)
Administrative costs	(61)
Hotel commissions	(479)
Net terminal income	$ 540
Historic Resort Hotel Fund	$ 347
Human Resource Benefit Fund	193
Total	$ 540

Historic Resort Table Games

Each historic resort hotel licensee is subject to a privilege tax of thirty five percent (35%) of adjusted gross receipts, of which thirty percent (30%) is deposited directly into the Historic Resort Hotel Fund and five percent (5%) is deposited directly into the Human Resource Benefit Fund. The historic resort hotel table games adjusted gross receipts for the year ended June 30, 2010 was $1,475,617.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

9 – HISTORIC RESORT HOTEL (continued)

The following table shows the month and year -to- date totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	2010
Table games privilege tax	$ 516
Administrative costs	(66)
Total available for distribution	$ 450
Historic Resort Hotel Fund	376
Human Resource Benefit Fund	74
Total distributions	$ 450

Historic Resort Hotel Fund

Historic Resort Hotel Fund deposits are allocated after a fifteen percent (15%) lottery administrative cost. The remaining Historic Resort Hotel Fund net income (gross deposits less 15%) are distributed as follows:

- 64% is paid to the State of West Virginia General Revenue Fund;
- 19% is paid to the State Debt Reduction Fund;
- 3% is paid to the State of West Virginia Tourism Promotion Fund;
- 4% is paid to the county where the gaming facility is located;
- 2.5% is paid to the municipality where the gaming facility is located as prescribed by statute;
- 2.5% is divided and paid in equal shares to the remaining municipalities in the county where the gaming facility is located;
- 2.5% is divided and paid in equal shares, to each county commission in the state where the gaming facility is not located;
- 2.5% is divided and paid in equal shares, to each municipality in the State not already receiving a distribution.

A summary of Historic Resort Hotel Fund revenues and related distributions is as follows (in thousands):

	2010
Historic Resort Hotel video lottery	$ 347
Historic Resort table games	376
Historic Resort Hotel Fund net income	$ 723
Municipalities/ Counties	104
State General Revenue Fund	463
State Debt Reduction Fund	137
State Tourism Promotion Fund	22
Total distributions	$ 723

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

10 - NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA

The Lottery periodically distributes surplus funds, exclusive of amounts derived from limited video lottery and a portion of racetrack video lottery funds, to the State of West Virginia in accordance with the current governing legislation. For the years ended June 30, 2010 and 2009, the State Legislature budgeted $164,503,245, and $168,151,542 respectively of estimated profits of the Lottery for distributions to designated special revenue accounts of the State of West Virginia. With regard to the State Lottery Fund, legislation stipulates that debt service payments be given a priority over all other transfers in instances where estimated profits are not sufficient to provide for payment of all appropriated distributions. Debt service payments of $1,800,000 and $1,000,000 per month for the first ten months of each fiscal year currently have such priority. Transfers made pursuant to the State Excess Lottery Revenue Fund have similar requirements; currently debt service payments are $3,920,843 per month for the first ten months of each fiscal year. In addition, Legislation provides that, if in any month, there is a shortage of funds in the State Excess Lottery Revenue Fund to make debt service payments, the necessary amount shall be transferred from the State Lottery Fund to cover such shortfall, after the State Lottery Fund debt service payments have been made. Repayments to the State Lottery Fund are required to be made in subsequent months as funds become available. During the years ended June 30, 2010 and 2009, the Lottery made or accrued all budgeted distributions and accrued additional distributions of $43,420,445 and $29,970,243, respectively. The Lottery does not have a legally adopted annual budget.

Since the enactment of the Racetrack Video Lottery Act, the Lottery is also statutorily required to distribute income from racetrack video lottery operations as described in Note 6. As of June 30, 2010 and 2009, the Lottery accrued additional distributions relating to racetrack video lottery operations in the amounts of $228,319 and $766,083, respectively.

Note 7 describes the Limited Video Lottery Act and the statutory distributions required to be made from limited video lottery operations. Note 8 describes the Table Games Act and the statutory distributions required to be made from table games operations. As of June 30, 2010 and 2009, the Lottery accrued additional distributions relating to table games operations in the amounts of $1,387,400 and $1,521,375, respectively. Note 9 describes the Historic Resort Hotel statutory distributions to be made from historic resort operations. As of June 30, 2010 the Lottery accrued additional distributions relating to Historic Resort operations of $73,228.

A summary of the cash distributions made to certain state agencies to conform with the various legislation follows (in thousands):

	2010	2009
Budgetary distributions:		
State Lottery Fund:		
Bureau of Senior Services	$ 57,187	$ 58,815
Department of Education	34,343	36,636
Library Commission	11,195	11,554
Higher Education - Central Office	13,916	13,449
Tourism	7,606	7,961
Natural Resources	3,450	3,492
Division of Culture & History	5,881	5,860
Department of Education & Arts	1,192	1,213
Building Commission	8,240	9,997

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

10 - NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA (Continued)

	2010	2009
School Building Authority	17,997	18,000
Community and Technical College	3,497	5,000
Total State Lottery Fund	164,504	171,997
State Excess Lottery Revenue Fund:		
General Purpose Account	65,000	65,000
Education Improvement Fund	29,000	27,000
WV Infrastructure Council Fund	40,000	40,000
Higher Education Improvement Fund	10,000	10,000
State Park Improvement Fund	5,000	5,000
School Building Authority	19,000	19,000
Economic Development Fund	19,000	19,000
Refundable Credit - General Revenue Fund	8,371	7,372
Department of Education	45,530	-
Division of Finance (ERP)	25,000	-
Department of Environmental Protection	2,000	-
Division of Corrections	5,375	-
Racing Commission	2,500	-
Excess Lottery Surplus (General Fund)	69,588	62,900
Excess Lottery Surplus (Capitol Complex)	-	18,200
Excess Lottery Surplus (OPEB)	-	46,600
Excess Lottery Surplus (School Safety)	-	8,000
Public Defender Services	11,000	21,000
Total State Excess Lottery Revenue Fund	356,364	349,072
Total Budgetary Distributions	520,868	521,069
Veterans Instant Ticket Fund	467	862
Other racetrack video lottery distributions:		
Tourism Promotion Fund	9,645	10,668
Development Office Promotion Fund	2,630	2,910
Research Challenge Fund	3,507	3,879
Capitol Renovation and Improvement Fund	4,822	5,334
Parking Garage Funds	939	985
Cultural Facilities and Capitol Resources Fund	1,500	1,500
Capitol Dome and Capitol Improvements Fund	5,014	5,759
Workers Compensation Debt Reduction Fund	11,000	11,000
	39,057	42,035
Table games state reduction fund	16,670	17,440

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

10 - NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA (Continued)

	2010	2009
Historic resort hotel distributions:		
State General Revenue Fund	408	-
State Debt Reduction Fund	121	-
Tourism Promotion Fund	19	-
Total	548	-
Total nonoperating distributions to the State of West Virginia (cash basis)	577,610	581,406
Accrued nonoperating distributions, beginning of year	(202,184)	(166,967)
Accrued nonoperating distributions, end of year	241,039	202,184
Special item - restricted net assets accrued for distribution to State of West Virginia	(40,000)	-
Special item - unrestricted net assets accrued for distribution to State of West Virginia	(7,520)	-
Total nonoperating distributions to the State of West Virginia	$ 568,945	$ 616,623

11 - RESTRICTED NET ASSETS

On June 14, 2006, House Bill 106 was enacted by the West Virginia State Legislature to set aside unexpended administrative expenses of the Lottery up to the limits for such expenses established by the enabling legislation of traditional, racetrack video lottery, and limited video lottery games in an amount not to exceed $20,000,000 beginning in fiscal year 2006 and each year through fiscal year 2012. These assets are to be set aside in the revenue center construction fund for the design and construction of a building in the West Virginia Capitol Complex for the use of the Lottery and certain other State of West Virginia governmental entities. The Lottery set aside interest income of $91,452 for the year ended June 30, 2010 and $10,817,391 with related interest income of $566,293 for the year ended June 30, 2009.

Restricted net asset activity is as follows for the years ending June 30, 2010 and 2009 (in thousands):

	2010	2009
Beginning restricted net assets	$ 69,871	$ 58,487
Enabling legislation additions to net assets	-	10,817
Interest earned on restricted net assets	92	567
Aquisition of capital assets in accordance with enabling legislation	(21,608)	-
Accrued distributions of surplus restricted net assets to the State of West Virginia	(40,000)	-
Ending restricted net assets	$ 8,355	$ 69,871

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

12 - SPECIAL ITEMS

On June 30, 2010, the Lottery purchased a building to serve as its new headquarters. Coinciding with the building purchase, the Lottery determined that certain restricted net assets and other unrestricted net asset funds previously set aside for the construction or purchase of capital assets (described in Note 11) were surplus funds and accordingly, were to be distributed to the State of West Virginia. The return of these surplus funds is recorded as a special item accrued for distribution to the State of West Virginia and represents an expense of the Lottery for the year ending June 30, 2010.

13 - RETIREMENT BENEFITS

All full-time Lottery employees are eligible and required to participate in the State of West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer defined benefit public employee retirement system. The PERS is one of several plans administered by the West Virginia Consolidated Public Retirement Board (CPRB) under the direction of its Board of Trustees, which consists of the Governor, State Auditor, State Treasurer, Secretary of the Department of Administration, and nine members appointed by the Governor. CPRB prepares separately issued financial statements for each retirement system it administers, which can be obtained from Consolidated Public Retirement Board, 4101 MacCorkle Avenue S.E., Charleston, West Virginia 25304-1636 or by calling 1-800-654-4406.

Employees who retire at or after age sixty with five or more years of contributory service or who retire at or after age fifty-five and have completed twenty-five years of credited service with age and credited service equal to eighty or greater are eligible for retirement benefits as established by State statute. Retirement benefits are payable monthly for life, in the form of a straight-line annuity equal to two percent of the employee's final average salary, multiplied by the number of years of the employee's credited service at the time of retirement.

Covered employees are required to contribute 4.5% of their salary to the PERS. The Lottery is required to contribute 11% of covered employees' salaries to the PERS. The required employee and employer contribution percentages have been established and changed from time to time by action of the State Legislature. The required contributions are not actuarially determined; however, actuarial valuations are performed to assist the Legislature in determining appropriate contributions. The Lottery and employee contributions, which equaled the required contributions for the three years ended June 2010, 2009, and 2008, were as follows (in thousands):

	2010	2009	2008
Lottery contributions	$ 532	$ 666	$ 556
Employee contributions	312	290	337
Total contributions	$ 1,144	$ 956	$ 393

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

14 - OTHER POSTEMPLOYMENT BENEFITS (OPEB)

The GASB has issued Statement No. 43, "*Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*", and Statement No. 45, "*Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*" (OPEB). The GASB statements are based on the premise that the "costs" of employee services should be reported during the periods when the services are rendered. The State implemented accounting and financial reporting requirements as an employer under GASB Statement No. 45. The financial statements report OPEB funded status and funding progress and any "premium subsidy" resulting from the pooling of retiree participants with active employees in the health benefit plans. For "employer" OPEB reporting the State will report "expense" on an accrual basis in the amount of the "annual required contribution" and a "liability" for the amount of the "annual required contribution" that was not actually paid.

In response to the GASB statements, the Legislature made statutory changes to create the West Virginia Retiree Health Benefit Trust Fund (RHBT), an irrevocable trust fund, in which employer contributions for future retiree health costs may be accumulated and invested, and which facilitates the separate financial reporting of OPEB. The legislation requires the RHBT to determine through an actuarial study, as prescribed by GASB Statement No. 43, the Annual Required Contribution (the ARC) which shall be sufficient to maintain the RHBT in an actuarially sound manner. The ARC shall be allocated to respective employers including the Lottery who are required by law to remit at least the minimum annual premium component of the ARC. Revenues collected by RHBT shall be used to fund current OPEB healthcare claims and administrative expenses with residual funds held in trust for future OPEB costs.

Plan Description

The Lottery participates in the West Virginia Other Postemployment Benefits Plan (OPEB Plan) of the West Virginia Retiree Health Benefit Trust Fund, a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the West Virginia Public Employee Insurance Agency (WVPEIA). The OPEB Plan provides retiree post-employment health care benefits for participating state and local government employers. The provisions of the Code of West Virginia, 1931, as amended (the Code), assigns the authority to establish and amend benefit provisions to the WVPEIA board of trustees. The WVPEIA issues a publicly available financial report that includes financial statements and required supplementary information for the OPEB Plan. That report may be obtained by writing to Public Employees Insurance Agency, 601 57th Street, S.E., Suite 2, Charleston, West Virginia, 25304-2345, or by calling 1-888-680-7342.

Funding Policy

The Code requires the OPEB Plan bill the participating employers 100% of the annual required contribution (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) of the plan over a period not to exceed thirty years. State of West Virginia plan employers are billed per active health policy per month.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

14 - OTHER POSTEMPLOYMENT BENEFITS (OPEB) (Continued)

Funding Policy (Continued)

The ARC rate is $911 and $388 per employee per month for the years ending June 30, 2010 and 2009, respectively. The Lottery's ARC was $1,458,892, $620,360, and $508,599 and the Lottery has paid premiums of $226,212, $185,563, and $98,625, which represent 15.5%, 29.9%, and 19.2% of the ARC, respectively, for the years ending June 30, 2010, 2009, and 2008. The State of West Virginia, on the Lottery's behalf, contributed $472,247 of the 2008 ARC. As of June 30, 2010 and 2009 the Lottery has recorded a liability of $1,484,546 and $251,867, respectively, for OPEB.

15 - RISK MANAGEMENT

The Lottery is exposed to various risks of loss related to torts; theft of, or damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Lottery participates in several risk management programs administered by the State of West Virginia and other providers. Each of these risk pools have issued separate audited financial reports on their operations. Those reports include the required supplementary information regarding the reconciliation of claims liabilities by type of contract and ten-year claim development information. Complete financial statements of the individual insurance enterprise funds can be obtained directly from their respective administrative offices.

Public Employees' Insurance Agency (PEIA)

The Lottery participates in the Public Employees Insurance Agency (PEIA) which provides an employee benefit insurance program to employees. PEIA was established by the State of West Virginia for State agencies, institutions of higher education, Boards of Education and component units of the State. In addition, local governmental entities and certain charitable and public service organizations may request to be covered by PEIA. PEIA provides a base employee benefit insurance program which includes hospital, surgical, major medical, prescription drug and basic life and accidental death. Underwriting and rate setting policies are established by PEIA. The cost of all coverage, as determined by PEIA shall be paid by the participants. Premiums are established by PEIA and are paid monthly, and are dependent upon, among other things, coverage required, number of dependents, state vs. non state employees and active employees vs. retired employees and level of compensation. Coverage under these programs is limited to $1 million for lifetime for health and $10,000 of life insurance coverage.

The PEIA risk pool retains all risks for the health and prescription features of its indemnity plan. PEIA has fully transferred the risks of coverage of the Managed Care Organization (MCO) Plan to the plan provider, and has transferred the risks of the life insurance coverage to a third party insurer. PEIA presently charges equivalent premiums for participants in either the indemnity plan or the MCO Plan. Altogether, PEIA insures approximately 205,000 individuals, including participants and dependents.

WEST VIRGINIA LOTTERY

NOTES TO FINANCIAL STATEMENTS
(Continued)

15 - RISK MANAGEMENT (Continued)

Board of Risk and Insurance Management (BRIM)

The Lottery participates in the West Virginia Board of Risk and Insurance Management (BRIM), a common risk pool currently operating as a common risk management and insurance program for all State agencies, component units, and other local governmental agencies who wish to participate. The Lottery pays an annual premium to BRIM for its general insurance coverage. Underwriting and rate setting policies are established by BRIM. The cost of all coverage as determined by BRIM shall be paid by the participants. The BRIM risk pool retains the risk of the first $1 million per property event and purchases excess insurance on losses above that level. Excess coverage through an outside insurer under this program is limited to $200 million per event, subject to limits on certain property. BRIM has $1 million per occurrence coverage maximum on all third-party liability claims.

Workers Compensation Insurance

The Lottery carries workers compensation insurance coverage through a commercial insurance carrier. The commercial insurance carrier is paid a monthly rated premium to provide compensation for injuries sustained in the course of employment.

16 - COMMITMENTS

The Lottery Commission has designated unexpended administrative funds for the acquisition of capital assets. As of June 30, 2010 and 2009, $5,921,057 and $12,817,601, respectively, are included in unrestricted net assets and invested in capital assets for this purpose.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

West Virginia Lottery Commission
Charleston, West Virginia

We have audited the financial statements of the West Virginia Lottery (the Lottery), a component unit of the State of West Virginia, as of and for the year ended June 30, 2010, and have issued our report thereon dated September 24, 2010. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Lottery's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Lottery's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Lottery's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Lottery's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those

provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain other matters that we reported to management of the Lottery in a separate letter dated September 24, 2010.

This report is intended solely for the information and use of the Lottery Commission, members of management, and the State of West Virginia, and is not intended to be and should not be used by anyone other than these specified parties.

Gilbert & Associates

September 24, 2010

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APPENDIX G

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, and (ii) the General Resolution adopted by the University of West Virginia Board of Trustees on September 9, 1992 (collectively, the "General Resolution"), as amended and supplemented from time to time, including as supplemented by the Fifth Consolidated Supplemental Resolution adopted by the Higher Education Policy Commission (the "Commission") on December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General Resolution, 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.

"2010 Bond Fund (Higher Education Facilities)" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds" means the Commission's Revenue Bonds (Higher Education Facilities), 2010 Series, in such aggregate principal amount not to exceed $90,000,000 as shall be set forth in the Certificate of Determination.

"2010 Bonds (Higher Education Facilities) Proceeds Fund" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Costs of Issuance Fund" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Interest Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund" means the fund by that name established pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Principal Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Bonds (Higher Education Facilities) Redemption Account" means the account by that name established in the 2010 Bond Fund (Higher Education Facilities) pursuant to Section 3.01 of the Fifth Consolidated Supplemental Resolution.

"2010 Projects" means any of the capital improvement projects at the higher education facilities identified on Exhibit A to the Fifth Consolidated Supplemental Resolution, with the final determination as to which of the 2010 Projects will be funded by the proceeds of the 2010 Bonds to be made by the Chancellor of the Commission.

"Act" means, collectively Chapter 18B, Article 10, Chapter 29, Article 22, Section 18a and Chapter 13, Article 4 of the Code of West Virginia, 1931, and as the same have been and may from time to time be amended, and the Senate Concurrent Resolution 41.

"Additional Bonds" means any Bonds issued, executed, authenticated and delivered pursuant to the General Resolution, 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.

"Authorized Officer" means the Chairman and Vice Chairman, the Chancellor, the Vice Chancellor of Administration, and the Chief Financial Officer of the Commission, whether acting jointly or severally, as Authorized Officers of the Commission with respect to the 2010 Bonds.

"Board of Directors" 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.

"Board of Trustees" means the University of West Virginia Board of Trustees, 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 2010 Bonds, the Prior 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 Documents" means the documents described in the recitals to the Fifth Consolidated Supplemental Resolution.

"Bond Purchase Agreement" means the Bond Purchase Agreement between the Commission and the Original Purchasers pertaining to the sale of the 2010 Bonds.

"Bond Year" means, with respect to the 2010 Bonds, the period commencing July 1 in each year and ending on June 30 of each subsequent calendar year during the term of the 2010 Bonds, except that the first Bond Year shall commence on the Closing Date and end on June 30, 2011 (unless a different period is permitted or required by the Code).

"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.

"Certificate of Determination" means the certificate executed by an Authorized Officer setting forth the final terms and provisions of the Bonds (including, but not limited to, the form of the 2010 Bonds), the Bond Purchase Agreement and the other Bond Documents as provided in Section 2.03 of the Fifth Consolidated Supplemental Resolution.

"Closing Date" means the date upon which the 2010 Bonds are delivered to the Original Purchaser upon payment of the purchase price set forth in the Bond Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

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

now 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 of Directors and the Board of Trustees.

"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, and (ii) 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.

"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.

"Fifth Consolidated Supplemental Resolution" means the Fifth Consolidated Supplemental Resolution adopted by the Commission on December 3, 2010, 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.

"Government Agency Obligations" means bonds, votes 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.

"Higher Education Improvement Fund" means the special revenue fund created and existing in the State Treasury pursuant to Section 18a of the Lottery Act.

"Institutions" means those state institutions of higher education under the jurisdiction of the Commission.

"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 2010 Bonds, "Interest Payment Date" means each April 1 or October 1 commencing April 1, 2011.

"Interest Subsidy Reserve Requirement" means an amount equal to thirty-five percent (35%) of the maximum amount of interest which shall be payable during the current or any succeeding Bond Year on any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

"Lottery Act" means Chapter 29, Article 22 of the Code of West Virginia, 1931, as the same has been and may from time to time be amended

"Municipal Bond Commission" means the West Virginia Municipal Bond Commission or its successor, to serve as fiscal agent for the 2010 Bonds.

"Original Purchasers" means, collectively, Citigroup Global Markets Inc., acting on behalf of itself, Raymond James & Associates, Inc. and Crews & Associates, Inc.

"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 or its successors, or a banking institution with offices within or without West Virginia or its successors, designated as a paying agency or place of payment for the 2010 Bonds in the Certificate

of Determination.

"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 other than a date for optional or mandatory redemption of Bonds (other than redemption from Sinking Fund Payments).

"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 2010 Bonds.

"Recovery Act" means the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009).

"Registrar" means such banking institution with offices in West Virginia or its successors, designated as registrar for the 2010 Bonds in the Certificate of Determination.

"Revenues" means, collectively

> (i) all tuition and registration fees collected at Institutions under the jurisdiction of the Commission and earnings thereon, except tuition collected at Southern West Virginia Community and Technical College, Eastern West Virginia Community and Technical College, West Virginia University at Parkersburg, West Virginia University Health Sciences Center, West Virginia University graduate level extension and graduate level off-campus courses for credit taught off the campus of West Virginia University, 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 Institutions under the jurisdiction of 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 and Universities previously governed by the Board of Directors and the Board of Trustees, respectively, and now supervised by the Commission and earnings thereon.

(vi) all tuition and registration fees in effect on March 21, 2004, and pledged under the General Resolution, which after such date are a component part of the general capital fees of the Institutions.

"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.

"Senate Concurrent Resolution 41" means the Senate Concurrent Resolution 41 adopted by the West Virginia Legislature on March 13, 2010, authorizing the payment of debt service on revenue bonds for capital improvements for higher

education facilities from the excess lottery revenues under West Virginia Code § 29-22-18a in an annual amount equal to Fifteen Million Dollars ($15,000,000).

"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.

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

"Subsidy Receipt" means an amount equal to thirty-five percent (35%) of the amount of interest which shall be payable on any interest payment date on any series of bonds issued by the Commission as Build America Bonds (Direct Payment), as claimed by the Commission on a Form 8038-CP filed by the Commission with the Internal Revenue Service for any such interest payment date.

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

"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.

"Universities" means, collectively, the State institutions of higher education formerly under the supervision, management and control of the Board of Trustees and now under the supervision, management and control of the Commission.

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

THE GENERAL 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.

Bonds are Limited Obligations. The 2010 Bonds issued under the General Resolution are limited obligations of the Commission payable solely from the Revenues, excess lottery revenues deposited into the Higher Education Improvement Fund pursuant to the Lottery Act, and the Subsidy Receipts. 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 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 such coverage requirement 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 or a Trustee, as the case may be:

(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 or 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 excess lottery revenues deposited into the Higher Education Improvement Fund as provided for in the Lottery Act, and the Commission pledges said funds 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. 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, 2004, 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 Institution 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 Institution and will only release funds for such Institution's use in excess of the Institution'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 Institutions to the Municipal Bond Commission or 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 Institution as its Semi-Annual Debt Service Requirements for each Annual Payment Period prior to September 1 of such Annual Payment Period.

The Director of the State Lottery Commission agrees to commence transferring the excess lottery proceeds allocated to the Higher Education Improvement Fund by W.Va. Code Section 29-22-18a (the "Excess Lottery Act") to the aforementioned capital improvement funds held by the Treasurer on a monthly basis on July 28, 2011 (or as soon thereafter as the determination described in the last sentence of the following paragraph has been made) and on the 28th day of each month thereafter until the amount required by the "Excess Lottery Act", to be deposited therein in each fiscal year has been deposited to the capital improvement funds.

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, 2004, 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 Institution 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 Institution and will release funds for such Institution's use in excess of the Institution's allocable share of the Semi-Annual Debt Service Requirement. Such ability of the Treasurer to release funds for each Institution's use in excess of the Institution'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 the State Treasury or a Trustee, may be invested and 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, the State Treasury or a Trustee shall be continuously invested and reinvested or deposited and redeposited by the Municipal Bond Commission, the State Treasury or a Trustee in the highest yield Permitted Investments that may be reasonably known to the Municipal Bond Commission the State Treasury or a Trustee, 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, the State Treasury or a Trustee to, or in the absence of direction, the Municipal Bond Commission, the State Treasury or a Trustee 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, the State Treasury or a Trustee and shall be deemed at all times to be part of

such fund or account, and the Municipal Bond Commission, the State Treasury or a Trustee 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 Funs 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 on 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 Article VIII of the General Resolution 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 Article VIII of the General Resolution 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 bankrupt 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 statue 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 thereunder other than as permitted by the foregoing section, in any particular, may be made by a Supplemental Resolution, with the written consent (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 Section 10.02 of the General Resolution.

(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 Section

10.02 of the General Resolution, 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 Bonds 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.

FIFTH CONSOLIDATED SUPPLEMENTAL RESOLUTION

Authorization for Issuance of Bonds. The Fifth Consolidated Supplemental Resolution authorizes the issuance of not to exceed $90,000,000 in aggregate principal amount of the Commission's 2010 Bonds to finance the 2010 Projects, to fund the Interest Subsidy Reserve Fund, and to pay the costs associated with the issuance of the 2010 Bonds.

Pledge of Excess Lottery Proceeds. Pursuant to the authorization contained in Senate Bill 612 and under the provisions of Section 2.09 of the Fifth Consolidated Supplemental Resolution, the Commission confirmed its pledge of the excess lottery revenues under WV Code § 29-22-18a deposited on or after July 1, 2004 in the Higher Education Improvement Fund created under WV Code § 29-22-18a to the payment of the 2010 Bonds and the Prior Bonds. The Treasurer shall deposit such funds described in Section 2.09 of the Fifth Consolidated Supplemental Resolution into the capital improvement funds held for State Institutions of Higher Education.

Pledge of Refundable Interest Credit. Pursuant to the authorization contained in Chapter 13, Article 4 of the West Virginia Code and Section 2.10 of the Fifth Consolidated Supplemental Resolution, the Commission agreed that in the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment),

it pledged, to the extent permissible by law, for the benefit of the respective holders from time to time of any such federally taxable Build America Bonds (Direct Payment), all right, title and interest of the Commission in and to any refundable interest credit.

Funds and Accounts. The Fifth Consolidated Supplemental Resolution creates the following funds and accounts to be established with the Trustee (if any), Registrar and Paying Agent in connection with the 2010 Bonds;

(i) A 2010 Bond Fund (Higher Education Facilities), and therein:

(a) A 2010 Bonds (Higher Education Facilities) Interest Account; and

(b) A 2010 Bonds (Higher Education Facilities) Principal Account; and

(c) A 2010 Bonds (Higher Education Facilities) Redemption Account.

The Fifth Consolidated Supplemental Resolution creates the following funds to be established with the Trustee (if any), Registrar and Paying Agent in connection with the 2010 Bonds:

(i) A 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund; and

(ii) A 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; and

(iii) A 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund.

Application of 2010 Proceeds. The net proceeds of the sale of the 2010 Bonds shall initially be deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund to be held by the Trustee (if any), and if none by the Municipal Bond Commission. Thereafter, such proceeds or portions thereof shall be applied by the Trustee (if any), and if none by the Municipal Bond Commission, as follows:

(i) All amounts, if any, paid as accrued interest on the 2010 Bonds from their date to the date of delivery of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest Account;

(ii) A sum equal to the Interest Subsidy Reserve Requirement shall be deposited in the 2010 Bonds (Higher Education Facilities) Interest

Subsidy Reserve Fund;

(iii) A sum equal to the Costs of Issuance of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund; and

(iii) The balance of the proceeds of the 2010 Bonds shall be deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund (which Fund shall contain separate subaccounts for each series of bonds in the event that there are multiple series of 2010 Bonds).

As set forth more particularly in the Certificate of Determination, the 2010 Bonds (Higher Education Facilities) Bonds Proceeds Fund subaccounts established by the Commission for each series of 2010 Bonds shall contain one or more project subaccounts.

Flow of Funds. So long as any 2010 Bonds are Outstanding, amounts deposited and to be deposited in the funds and accounts established by Section 3.01 of the Fifth Consolidated Supplemental Resolution shall be applied by the Trustee (if any), and if none by the Municipal Bond Commission in the manner and order of priority as set forth in the Fifth Consolidated Supplemental Resolution and in Article VII of the General Resolution

Disbursements. The proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Bond Proceeds Fund (or the subaccounts therein for each series of 2010 Bonds and the separate project subaccounts thereunder) shall be disbursed by the Trustee, if any, or if none by the Treasurer upon proper requisition by an Authorized Officer for payment of costs of the 2010 Projects. The proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund shall be disbursed by the Trustee, if any, or if none by the Treasurer upon requisition by an Authorized Officer. Any funds remaining in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund 180 days after the initial issuance of the 2010 Bonds shall be transferred to the 2010 Bonds (Higher Education Facilities) Interest Account.

Interest Subsidy Reserve Fund. The Fifth Consolidated Supplemental Resolution establishes an Interest Subsidy Reserve Fund in accordance with the following terms:

(A) So long as any series of Build America Bonds (Direct Payment) are outstanding, the Commission shall maintain with the Trustee (if any), Registrar and Paying Agent the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund established by Section 3.01 hereof. On the date of issuance of any series of Build America Bonds (Direct Payment), there shall be deposited to the credit of the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund an amount equal to the Interest Subsidy Reserve Requirement. In the event that any Subsidy Receipt is not

received by the Commission in connection with any series of Build America Bonds (Direct Payment) on or before any interest payment date of April 1 or October 1 of each year, the Trustee (if any), Registrar and Paying Agent shall transfer to the Commission an amount on deposit in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund equal to the amount of the anticipated Subsidy Receipt for that interest payment date as claimed by the Commission on its Form 8038-CP. The amounts paid to the Commission pursuant to the terms of Section 3.05 of the Fifth Consolidated Supplemental Resolution shall be restored to the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Account by the Commission immediately upon receipt of any Subsidy Receipt. If, at any time, the balance in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund is greater than the Interest Subsidy Reserve Requirement, the Trustee (if any), Registrar and Paying Agent shall transfer the excess to the 2010 Bond Fund (Higher Education Facilities) for payment of Debt Service on any series of Build America Bonds (Direct Payment). Any balance on hand on the last interest payment date on the Build America Bonds (Direct Payment) shall be transferred to the Commission and applied to the payment of Debt Service on such date.

(B) All monies on deposit in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund shall be invested solely in any of the following:

(i) cash (insured at all times by the Federal Deposit Insurance Corporation); or

(ii) interest bearing accounts, demand deposits, including interest bearing money market accounts, time deposits, trust deposits, overnight bank deposits or certificates of deposit which are fully secured by obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, whether such obligations are backed by the full faith and credit of the U.S., or which are issued by banks or trust companies organized under the laws of the United States of America or any state thereof, which have combined capital and surplus of at least $25,000,000.

Build America Bond Covenants. The Commission has covenanted in the Fifth Consolidated Supplemental Resolution as follows:

(A) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission covenants to do and perform all acts and things permitted by law and necessary or desirable in order to assure that any series of Build America Bonds (Direct Payment) issued by the Commission shall qualify for designation as "Build America Bonds" under the Recovery Act.

(B) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), the Commission covenants to comply with all conditions set forth in the Recovery Act necessary to maintain its right to receive and retain Subsidy Receipts with respect to any series of bonds issued by the Commission as

Build America Bonds (Direct Payment).

(C) In the event the Commission issues a series of federally taxable Build America Bonds (Direct Payment), each Authorized Officer is authorized to sign and file or cause to be filed with the Internal Revenue Service a "Return for Credit Payments to Issuers of Qualified Bonds," Form 8038-CP at least forty-five (45) days but not more than ninety (90) days prior to each April 1 and October 1, with respect to any series of bonds issued by the Commission as Build America Bonds (Direct Payment).

General Resolution. The Fifth Consolidated 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 2010 Bonds, the Fifth Consolidated Supplemental Resolution and matters relating thereto as if set forth verbatim therein. In the event of any conflict between the General Resolution and the Fifth Consolidated Supplemental Resolution, the Fifth Consolidated Supplemental Resolution shall control. The Fifth Consolidated Supplemental Resolution, the General Resolution 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.

OTHER AMENDMENTS TO THE GENERAL RESOLUTION

Consolidation of Financings. Under the provisions of Section 2.10 of the First Consolidated Supplemental Resolution adopted by the Commission on June 4, 2004, the Commission consolidated the financings previously issued by the Board of Trustees and the Board of Directors and the Commission as the successor thereto, as authorized by Section 10.08 of the General Resolution.

Amendment to Definition of "Revenues". Pursuant to Section 1.01 of the Second Consolidated Supplemental Resolution adopted by the Commission on July 29, 2004, the Commission amended the General Resolution by adding to the definition of "Revenues" a new clause (vi) to read as follows:

(vi) all of the tuition and registration fees in effect as of March 21, 2004, and pledged under the General Resolution, which after such date are a component part of the required education and general capital fees of the Institutions.

Further, pursuant to the provisions of Section 1.02 of the Second Consolidated Supplemental Resolution, the Commission covenanted and agreed that the Revenues described in clause (vi) of the definition thereof may not be reduced until all the Bonds payable from such Revenues are no longer Outstanding under the General Resolution.

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APPENDIX H

PROPOSED FORM OF OPINIONS OF BOND COUNSEL

[LETTERHEAD OF SPILMAN THOMAS & BATTLE, PLLC]

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

December 23, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $16,520,000 Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), dated December 23, 2010 (the "2010 Series A Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series A Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution," and collectively with the Higher Education Policy Commission Act, and the State Lottery Act, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series A 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, (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series A Bonds when due. Proceeds of the 2010 Series A Bonds will be used to pay for a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series A Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Bond Purchase Agreement dated December 17, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Bond Purchase Agreement") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Bond Purchase Agreement and the General Resolution, and (iii) the binding effect and enforceability of the Bond Purchase Agreement and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Without undertaking to verify the same by independent investigation, we have relied on certifications by representatives of the Issuer with respect to certain facts relevant to both our opinion and the requirements of the Internal Revenue Code of 1986, as amended (the "Code"). The Issuer has covenanted to comply with the provisions of the Code regarding, among other matters, the use, expenditure and investment of the proceeds of the 2010 Series A Bonds, and the timely payment to the United States of any arbitrage rebate amounts with respect to the 2010 Series A Bonds, all as set forth in the proceedings and documents providing for the issuance of the 2010 Series A Bonds (the "Covenants").

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series A Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance

with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series A Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series A Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series A Bonds. The 2010 Series A Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series A Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series A Bonds is excludable from gross income for federal income tax purposes under Section 103 of the Code, and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The preceding opinion is subject to the condition that all requirements of the Code that must be satisfied subsequent to the issuance of the 2010 Series A Bonds in order that interest on the 2010 Series A Bonds be, or continue to be, excludable from gross income for federal income tax purposes are so satisfied, and therefore failure by the Issuer to comply with the Covenants, among other things, could cause interest on the 2010 Series A Bonds to be included in gross income for federal income tax purposes retroactively to their date of issuance. Except as set forth in this Paragraph 8, we express no opinion regarding any other tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series A Bonds. Furthermore, we express no opinion as to the effect on the excludability of the interest on the 2010 Series A Bonds from gross income of (a) any event for which the General Resolution requires the obtaining of an opinion of bond counsel or (b) any amendment of the General Resolution or waiver of the terms thereof.

It is to be understood that the rights of the holders of the 2010 Series A Bonds and the enforceability of the 2010 Series A Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series A Bonds (except to the

extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series A Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. AR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

[LETTERHEAD OF SPILMAN THOMAS & BATTLE, PLLC]

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE – ISSUER SUBSIDY – BUILD AMERICA BONDS)

December 23, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $50,265,000 Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds), dated December 23, 2010 (the "2010 Series B Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series B Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended (the "Federal Subsidy Bonds Act"), Senate Concurrent Resolution 41 (the "Concurrent Resolution") and the American Recovery and Reinvestment Act of 2009 ("ARRA" and together with the Higher Education Policy Commission Act, the State Lottery Act, the Federal Subsidy Bonds Act and the Concurrent Resolution, collectively, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted on December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised

of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series B 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, (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (collectively, the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series B Bonds when due. Proceeds of the 2010 Series B Bonds will be used to pay for a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series B Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Bond Purchase Agreement dated December 17, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Bond Purchase Agreement") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Bond Purchase Agreement and the General Resolution, and (iii) the binding effect and enforceability of the Bond Purchase Agreement and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Based on the foregoing, we are of the opinion that:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series B Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series B Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series B Bonds are limited obligations of the Issuer payable solely out

of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series B Bonds. The 2010 Series B Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series B Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series B Bonds is included in gross income for Federal income tax purposes. Except as set forth in this Paragraph 8, we express no opinion regarding other Federal tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series B Bonds.

It is to be understood that the rights of the holders of the 2010 Series B Bonds and the enforceability of the 2010 Series B Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series B Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series B Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. BR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

[LETTERHEAD OF SPILMAN THOMAS & BATTLE, PLLC]

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

December 23, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $10,080,000 Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable), dated December 23, 2010 (the "2010 Series C Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series C Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution," and collectively with the Higher Education Policy Commission Act, and the State Lottery Act, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series C 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, (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series C Bonds when due. Proceeds of the 2010 Series C Bonds will be used to pay for all or a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series C Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Bond Purchase Agreement dated December 17, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Bond Purchase Agreement") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Bond Purchase Agreement and the General Resolution, and (iii) the binding effect and enforceability of the Bond Purchase Agreement and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series C Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series C Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series C Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or

interest on the 2010 Series C Bonds. The 2010 Series C Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series C Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series C Bonds is included in gross income for Federal income tax purposes. We express no opinion regarding other Federal tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series C Bonds.

It is to be understood that the rights of the holders of the 2010 Series C Bonds and the enforceability of the 2010 Series C Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series C Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series C Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. CR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

APPENDIX I

FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this "Agreement") dated as of December 23, 2010, is by and between the West Virginia Higher Education Policy Commission (the "Commission") and Wells Fargo Bank, N.A. (the "Dissemination Agent"), in connection with the issuance of the $16,520,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), $50,265,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) and $10,080,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (collectively, the "2010 Series Bonds"). Capitalized terms used in this Agreement shall have the respective meanings specified above or in Article IV hereof. The Commission agrees as follows:

SECTION 1. Purpose of Agreement. This Agreement is being executed and delivered by the Commission and the Dissemination Agent for the benefit of the holders and beneficial owners of the 2010 Series Bonds and in order to assist the Underwriters in complying with SEC Rule 15c2-12(b)(5).

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution and the Bond Purchase Agreement, which apply to any capitalized term used in this Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP")) and operating data with respect to the Commission and the Lottery, provided at least annually, of the type included in those sections of the final official statement with respect to the 2010 Series Bonds entitled "Revenues, Debt Service Coverage and Select Financial Information," and Appendices C and F, which Annual Financial Information shall include Audited Financial Statements if available on the due date set forth herein, and, if not then available, unaudited financial statements.

"Audited Financial Statements" means the Commission's and the Lottery's annual financial statements, prepared in accordance with GAAP, which financial statements shall have been audited by a firm of independent certified public accountants.

"Beneficial Owner" shall mean any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any 2010 Series Bonds (including persons holding 2010 Series Bonds through nominees, depositories or other intermediaries).

"Bond Purchase Agreement" shall mean the Bond Purchase Agreement dated December 17, 2010, among Citigroup Global Markets Inc., on behalf of Crews & Associates, Inc., Raymond James & Associates, Inc. and itself (collectively, the "Underwriters"), and the

Commission, by which the Underwriters agreed to purchase the 2010 Series Bonds from the Commission upon the terms set forth therein.

"Dissemination Agent" shall initially mean Wells Fargo Bank, N.A. and any later appointed Dissemination Agent or any successor Dissemination Agent designated in writing by the Commission and which has filed with the Commission a written acceptance of such designation.

"EMMA" means the Electronic Municipal Market Access system described in 1934 Act Release No. 59062 and maintained by the Municipal Securities Rulemaking Board for purposes of the Rule.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Agreement.

"Lottery" shall mean the West Virginia Lottery.

"National Repository" shall mean the Municipal Securities Rulemaking Board, Washington, D.C., the sole Nationally Recognized Municipal Securities Information Repository for purposes of the Rule.

"Participating Underwriters" shall mean the original underwriters of the 2010 Series Bonds who are required to comply with the Rule in connection with offering of the 2010 Series Bonds.

"Repository" shall mean each National Repository and the State Repository.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"2010 Series Bonds" shall mean the $16,520,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), $50,265,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) and $10,080,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable).

"State" shall mean the State of West Virginia.

"State Repository" shall mean any public or private repository or entity designated by the State as the state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Agreement, there is no State Repository.

SECTION 3. Provision of Annual Reports.

(a) The Commission shall, or shall cause the Dissemination Agent to, not later than 270 days after the end of the Commission's and the Lottery's fiscal years (presently June 30), commencing with the reports for the Fiscal Years ending June 30, 2011, provide to each Repository

Annual Financial Information and Audited Financial Statements, which are consistent with the requirements of Section 4 of this Agreement. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Agreement. The Commission shall provide the Dissemination Agent with a copy of each report filed under this Agreement. If the Commission's or the Lottery's fiscal years change, the Commission shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to said date, the Commission shall provide the Annual Financial Information and Audited Financial Statements to the Dissemination Agent (if other than the Commission). If the Commission is unable to provide to the Repositories the Annual Financial Information and Audited Financial Statements by the date required in subsection (a), the Commission shall, or shall cause the Dissemination Agent to, send a notice to the Repositories, in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall file a report with the Commission certifying that the Annual Financial Information and Audited Financial Statements have been provided to EMMA pursuant to the Agreement and the date provided.

(d) All documents provided to EMMA shall be provided in a searchable, electronic formant and shall be accompanied by identifying information as prescribed by the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

SECTION 4. Content of Annual Financial Information and Audited Financial Statements. Within one hundred eighty (180) days of the Commission's and the Lottery's 2011 Fiscal year-ends, and each subsequent fiscal year, the Dissemination Agent shall submit to EMMA information and data of the Commission and the Lottery for the prior fiscal year, including the Audited Financial Statements, prepared in accordance with generally accepted accounting principles in effect from time to time.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Commission or related public entities, which have been submitted to EMMA or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Commission shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Commission shall give, or cause to be given, notice of the occurrence of any of the following events, if applicable, with respect to the 2010 Series Bonds, if material:

1. principal and interest payment delinquencies;

2. non-payment related defaults, if material;

3. unscheduled draws on debt service reserves reflecting financial difficulties;

4. unscheduled draws on credit enhancements reflecting financial difficulties;

5. substitution of credit or liquidity providers, or their failure to perform;

6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2010 Series Bonds, or other events affecting the tax status of the 2010 Series Bonds;

7. modifications to rights of security holders, if material;

8. bond calls, if material, and tender offers;

9. defeasances;

10. release, substitution, or sale of property securing repayment of the 2010 Series Bonds;

11. rating changes;

12. bankruptcy, insolvency, receivership, or similar event of the Commission[1];

13. the consummation of a merger, consolidation or acquisition involving the Commission, or the sale of all or substantially all of the assets of the Commission, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its term, if material; and

14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative,

[1] For the purposes of the event identified in Section 5(a)(12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Commission in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Commission, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Commission.

inform such person of the event, and request that the Commission promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever the Commission obtains knowledge of the occurrence of a Listed Event, classified under Section 5(a) (2), (7), (8), (10), (12) or (13), because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Commission shall as soon as possible determine if such event would be material under applicable federal securities laws, in any event such determination must be made and submitted to the Dissemination Agent within two (2) business days.

(d) If the Commission determines that knowledge of the occurrence of any of the Listed Events, classified under Section 5(a) (2), (7), (8), (10), (12) or (13), would be material under applicable federal securities laws pursuant to subsection (b) or the Commission received notice of any Listed Event that does not require a finding of materiality classified under Section 5(a) (1), (3), (4), (5), (6), (9) or (11), the Commission shall promptly file with the Dissemination Agent a notice of such occurrence to be provided to EMMA.

(e) If in response to a request under subsection (b), the Commission determines that the Listed Event, classified under Section 5(a) (2), (7), (8), (10), (12) or (13), would not be material under applicable federal securities laws, the Commission shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the Commission to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with EMMA with a copy to the Commission. The Dissemination Agent must file such notice with EMMA within ten (10) business days of the occurrence of such Listed Event.

SECTION 6. Termination of Reporting Obligation. The Commission's obligations under this Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the 2010 Series Bonds. If such termination occurs prior to the final maturity of the 2010 Series Bonds, the Commission shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

SECTION 7. Dissemination Agent. Wells Fargo Bank, N.A. is hereby appointed as Dissemination Agent. The Commission may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under the Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Commission pursuant to the Agreement.

SECTION 8. Amendment, Waiver. Notwithstanding any other provision of this Agreement, the Commission and the Dissemination Agent may amend this Agreement, and any provision of this Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Commission with respect to the 2010 Series Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the 2010 Series Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the 2010 Series Bonds in the same manner as provided in the Resolution for amendments to the Resolution, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the 2010 Series Bonds.

In the event of any amendment or waiver of a provision of this Agreement, the Commission shall describe such amendment in the next Annual Financial Information and Audited Financial Statements, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for any of the Listed Events under Section 5(a), and (ii) the Annual Financial Information and Audited Financial Statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Agreement shall be deemed to prevent the Commission from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events, in addition to that which is required by this Agreement. If the Commission chooses to include any information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events in addition to that which is specifically required by this Agreement, the Commission shall have no obligation under this Agreement to update such information or include it in any future Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events.

SECTION 10. Default. In the event of a failure of the Commission to comply with any provision of this Agreement (and, at the request of the Original Purchaser), any Holder or Beneficial Owner of the 2010 Series Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Commission to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an Event of Default under the Resolution, and the sole remedy under this Agreement in the event of any failure of the Commission to comply with this Agreement shall be an action to compel

performance.

SECTION 11. Notices. Any notices or communications to or among any of the parties to the Agreement may be given as follows:

To the Commission:	West Virginia Higher Education Policy Commission 1018 Kanawha Boulevard, East, Suite 700 Charleston, WV 25301
To the Dissemination Agent:	Wells Fargo Bank, N.A. Four Gateway Center, Suite 1400 444 Liberty Avenue Pittsburgh, PA 15222

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 12. Beneficiaries. This Agreement shall inure solely to the benefit of the Commission, the Dissemination Agent, the Underwriters and holders and beneficial owners from time to time of the 2010 Series Bonds, and shall create no rights in any other person or entity.

SECTION 13. Counterparts. The Agreement 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 14. Fees. The Commission agrees to pay all fees and expenses of the Dissemination Agent including, without limitation, all reasonable expenses, charges, costs, attorney's fees and other disbursements in the administration and performance of the Dissemination Agent's duties.

SECTION 15. Right to Resign. The Dissemination Agent may resign at any time by providing thirty (30) days' written notice to the Commission.

SECTION 16. Right to Counsel. The Dissemination Agent shall have the right to consult with counsel in carrying out its duties under the Agreement and to rely upon an opinion of counsel.

SECTION 17. Duties of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement, and no further duties or responsibilities shall be implied. Any corporation or association into which the Dissemination Agent in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Dissemination Agent in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Dissemination Agent in its individual capacity may be sold or otherwise transferred, shall be the

Dissemination Agent under this Agreement without further act. Anything in this Agreement to the contrary notwithstanding, in no event shall the Dissemination Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Dissemination Agent has been advised of such loss or damage and regardless of the form of action. The Commission will, for the benefit of the Dissemination Agent and Dissemination Agent's employees, directors, agents, subsidiaries, affiliates, successors and assigns, assume all liability and/or be responsible to pay for any and all claims, demands, causes of action, losses, damages, liabilities, penalties, costs and expenses (including reasonable attorney's fees) relating to this Agreement, to the extent assessed by a court of competent jurisdiction.

IN WITNESS WHEREOF, the Commission and the Dissemination Agent have caused this Agreement to be executed by its duly authorized representatives, all as of the date first above written.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Chancellor

WELLS FARGO BANK, N.A., as Dissemination Agent

By: _____
Vice President

Date: December 23, 2010

EXHIBIT A

NOTICE TO REPOSITORIES
OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: West Virginia Higher Education Policy Commission

Name of Bond Issues: $16,520,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax – Exempt);
$50,265,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds); and
$10,080,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable)

Name of Borrower: West Virginia Higher Education Policy Commission

Date of Bond Issue: December 23, 2010

NOTICE IS HEREBY GIVEN that the Commission has not provided an Annual Report with respect to the above-named Series 2010 Bonds as required by Section 3(b) of this Continuing Disclosure Agreement dated as of December 23, 2010, to be provided. The Commission anticipates that the Annual Report will be filed by _____, 20__.

Dated: _____, 20__

Wells Fargo Bank, N.A., as Dissemination Agent
on behalf of the Commission

cc: Commission

APPENDIX J

BOOK-ENTRY ONLY SYSTEM

DTC Supplied Disclosure of Book Entry Only System

The following information about the book-entry-only system applicable to the 2010 Series Bonds has been supplied by The Depository Trust Company ("DTC"), New York, New York. DTC. Neither the Issuer, the Registrar nor Paying Agent makes any representations, warranties or guarantees with respect to its accuracy or completeness.

1. DTC will act as securities depository for the 2010 Series Bonds. 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 Bond certificate will be issued for each maturity of the 2010 Series Bonds, in the aggregate principal amount of the 2010 Series Bonds and will be deposited with DTC.

2. DTC, the world's largest securities 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 100 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, Fixed Income Clearing Corporation and Emerging Markets Clearing Corporation (NSCC, FICC, 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 and www.dtc.org.

3. Purchases of 2010 Series Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2010 Series Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("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 2010 Series Bonds 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 2010 Series Bonds, except in the event that use of the book-entry system for the 2010 Series Bonds is discontinued.

4. To facilitate subsequent transfers, all 2010 Series Bonds 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 2010 Series Bonds 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 2010 Series Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2010 Series Bonds 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 the 2010 Series Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2010 Series Bonds, such as redemptions, tenders, defaults, and proposed amendments to the bond documents. For example, Beneficial Owners of 2010 Series Bonds may wish to ascertain that the nominee holding the 2010 Series Bonds 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 2010 Series Bonds 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 the 2010 Series Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. 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 2010 Series Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and interest payments on the 2010 Series Bonds 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 the Issuer or the Paying Agent, on the 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 2010 Series Bonds 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, the Registrar or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Paying 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. DTC may discontinue providing its services as securities depository with respect to the 2010 Series Bonds at any time by giving reasonable notice to the Issuer or the Registrar. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

10. The Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

11. The information in this exhibit concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

No Assurances Regarding DTC Practices

The Issuer, the Paying Agent and the Registrar cannot and do not give any assurances that the DTC, the Direct Participants or the Indirect Participants will distribute to the Beneficial Owners of the 2010 Series Bonds (1) payments of principal of or interest and premium, if any on the 2010 Series Bonds, (2) confirmations of beneficial interest in the 2010 Series Bonds, or (3) redemption or other notices sent to DTC or Cede & Co., its nominee, as registered owner of the 2010 Series Bonds, or that they will do so on a timely basis, or that DTC, DTC participants or Indirect Participants will serve and act in the same manner as described in this Official Statement. The current "rules" applicable to DTC are on file with the Securities and Exchange Commission, and the current procedures of the DTC to be followed in dealing with Direct Participants are on file with DTC.

Neither the Issuer, the Paying Agent nor the Registrar shall have any authority or obligation to any Direct Participant, Indirect Participant, Beneficial Owner or other person with respect to (1) the accuracy of any records maintained by the DTC or any Participant; (2) the payment by DTC or any Participant of any amount due to any Beneficial Owner in respect of the principal amount or redemption price or interest on the 2010 Series Bonds; (3) the delivery by DTC or any Participant of any notice to any Beneficial Owner which is required or permitted

under the terms of the 2010 Series Bonds Resolution to be given to the Bondholders; or (4) the selection of the Beneficial Owners to receive payment in excess of any partial redemption of the 2010 Series Bonds.

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CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (this "Agreement") dated as of December 23, 2010, is by and between the West Virginia Higher Education Policy Commission (the "Commission") and Wells Fargo Bank, N.A. (the "Dissemination Agent"), in connection with the issuance of the $16,520,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), $50,265,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) and $10,080,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (collectively, the "2010 Series Bonds"). Capitalized terms used in this Agreement shall have the respective meanings specified above or in Article IV hereof. The Commission agrees as follows:

SECTION 1. Purpose of Agreement. This Agreement is being executed and delivered by the Commission and the Dissemination Agent for the benefit of the holders and beneficial owners of the 2010 Series Bonds and in order to assist the Underwriters in complying with SEC Rule 15c2-12(b)(5).

SECTION 2. Definitions. In addition to the definitions set forth in the Resolution and the Bond Purchase Agreement, which apply to any capitalized term used in this Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings:

"Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP")) and operating data with respect to the Commission and the Lottery, provided at least annually, of the type included in those sections of the final official statement with respect to the 2010 Series Bonds entitled "Revenues, Debt Service Coverage and Select Financial Information," and Appendices C and F, which Annual Financial Information shall include Audited Financial Statements if available on the due date set forth herein, and, if not then available, unaudited financial statements.

"Audited Financial Statements" means the Commission's and the Lottery's annual financial statements, prepared in accordance with GAAP, which financial statements shall have been audited by a firm of independent certified public accountants.

"Beneficial Owner" shall mean any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any 2010 Series Bonds (including persons holding 2010 Series Bonds through nominees, depositories or other intermediaries).

"Bond Purchase Agreement" shall mean the Bond Purchase Agreement dated December 17, 2010, among Citigroup Global Markets Inc., on behalf of Crews & Associates, Inc., Raymond James & Associates, Inc. and itself (collectively, the "Underwriters"), and the Commission, by which the Underwriters agreed to purchase the

2010 Series Bonds from the Commission upon the terms set forth therein.

"Dissemination Agent" shall initially mean Wells Fargo Bank, N.A. and any later appointed Dissemination Agent or any successor Dissemination Agent designated in writing by the Commission and which has filed with the Commission a written acceptance of such designation.

"EMMA" means the Electronic Municipal Market Access system described in 1934 Act Release No. 59062 and maintained by the Municipal Securities Rulemaking Board for purposes of the Rule.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Agreement.

"Lottery" shall mean the West Virginia Lottery.

"National Repository" shall mean the Municipal Securities Rulemaking Board, Washington, D.C., the sole Nationally Recognized Municipal Securities Information Repository for purposes of the Rule.

"Participating Underwriters" shall mean the original underwriters of the 2010 Series Bonds who are required to comply with the Rule in connection with offering of the 2010 Series Bonds.

"Repository" shall mean each National Repository and the State Repository.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"2010 Series Bonds" shall mean the $16,520,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), $50,265,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds) and $10,080,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable).

"State" shall mean the State of West Virginia.

"State Repository" shall mean any public or private repository or entity designated by the State as the state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Agreement, there is no State Repository.

SECTION 3. Provision of Annual Reports.

(a) The Commission shall, or shall cause the Dissemination Agent to, not later than 270 days after the end of the Commission's and the Lottery's fiscal years (presently June 30), commencing with the reports for the Fiscal Years ending June 30, 2011, provide to each Repository Annual Financial Information and Audited Financial Statements, which are consistent with the requirements of Section 4 of this Agreement. The Annual Financial Information and Audited Financial Statements may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Agreement. The Commission shall provide the Dissemination Agent with a copy of each report filed under this Agreement. If the Commission's or the Lottery's fiscal years change, the Commission shall give notice of such change in the same manner as for a Listed Event under Section 5(a).

(b) Not later than fifteen (15) Business Days prior to said date, the Commission shall provide the Annual Financial Information and Audited Financial Statements to the Dissemination Agent (if other than the Commission). If the Commission is unable to provide to the Repositories the Annual Financial Information and Audited Financial Statements by the date required in subsection (a), the Commission shall, or shall cause the Dissemination Agent to, send a notice to the Repositories, in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall file a report with the Commission certifying that the Annual Financial Information and Audited Financial Statements have been provided to EMMA pursuant to the Agreement and the date provided.

(d) All documents provided to EMMA shall be provided in a searchable, electronic formant and shall be accompanied by identifying information as prescribed by the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

SECTION 4. Content of Annual Financial Information and Audited Financial Statements. The Commission shall, or shall cause the Dissemination Agent to, submit to EMMA information and data of the Commission and the Lottery for the prior fiscal year, including the Audited Financial Statements, prepared in accordance with generally accepted accounting principles in effect from time to time.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Commission or related public entities, which have been submitted to EMMA or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Commission shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Commission shall give, or cause to be given, notice of the occurrence of any of the following events, if applicable, with respect to the 2010 Series Bonds, if material:

1. principal and interest payment delinquencies;

2. non-payment related defaults, if material;

3. unscheduled draws on debt service reserves reflecting financial difficulties;

4. unscheduled draws on credit enhancements reflecting financial difficulties;

5. substitution of credit or liquidity providers, or their failure to perform;

6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2010 Series Bonds, or other events affecting the tax status of the 2010 Series Bonds;

7. modifications to rights of security holders, if material;

8. bond calls, if material, and tender offers;

9. defeasances;

10. release, substitution, or sale of property securing repayment of the 2010 Series Bonds;

11. rating changes;

12. bankruptcy, insolvency, receivership, or similar event of the Commission[1];

13. the consummation of a merger, consolidation or acquisition involving the Commission, or the sale of all or substantially all of the assets of the

[1] For the purposes of the event identified in Section 5(a)(12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Commission in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Commission, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Commission.

Commission, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its term, if material; and

14. appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Disclosure Representative, inform such person of the event, and request that the Commission promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever the Commission obtains knowledge of the occurrence of a Listed Event, classified under Section 5(a) (2), (7), (8), (10), (12) or (13), because of a notice from the Dissemination Agent pursuant to subsection (b) or otherwise, the Commission shall as soon as possible determine if such event would be material under applicable federal securities laws, in any event such determination must be made and submitted to the Dissemination Agent within two (2) business days.

(d) If the Commission determines that knowledge of the occurrence of any of the Listed Events, classified under Section 5(a) (2), (7), (8), (10), (12) or (13), would be material under applicable federal securities laws pursuant to subsection (b) or the Commission received notice of any Listed Event that does not require a finding of materiality classified under Section 5(a) (1), (3), (4), (5), (6), (9) or (11), the Commission shall promptly file with the Dissemination Agent a notice of such occurrence to be provided to EMMA.

(e) If in response to a request under subsection (b), the Commission determines that the Listed Event, classified under Section 5(a) (2), (7), (8), (10), (12) or (13), would not be material under applicable federal securities laws, the Commission shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the Commission to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with EMMA with a copy to the Commission. The Dissemination Agent must file such notice with EMMA within ten (10) business days of the occurrence of such Listed Event.

SECTION 6. Termination of Reporting Obligation. The Commission's obligations under this Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the 2010 Series Bonds. If such termination occurs prior to the final maturity of the 2010 Series Bonds, the Commission shall give notice of such termination in the same manner as for any of the Listed Events under Section 5(a).

SECTION 7. Dissemination Agent. Wells Fargo Bank, N.A. is hereby appointed as Dissemination Agent. The Commission may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist it in carrying out its obligations under the Agreement, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Commission pursuant to the Agreement.

SECTION 8. Amendment, Waiver. Notwithstanding any other provision of this Agreement, the Commission and the Dissemination Agent may amend this Agreement, and any provision of this Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Commission with respect to the 2010 Series Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the 2010 Series Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the 2010 Series Bonds in the same manner as provided in the Resolution for amendments to the Resolution, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the 2010 Series Bonds.

In the event of any amendment or waiver of a provision of this Agreement, the Commission shall describe such amendment in the next Annual Financial Information and Audited Financial Statements, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for any of the Listed Events under Section 5(a), and (ii) the Annual Financial Information and Audited Financial Statements for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Agreement shall be deemed to prevent the Commission from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information and Audited Financial

Statements or notice of occurrence of any of the Listed Events, in addition to that which is required by this Agreement. If the Commission chooses to include any information in any Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events in addition to that which is specifically required by this Agreement, the Commission shall have no obligation under this Agreement to update such information or include it in any future Annual Financial Information and Audited Financial Statements or notice of occurrence of any of the Listed Events.

SECTION 10. Default. In the event of a failure of the Commission to comply with any provision of this Agreement (and, at the request of the Original Purchaser), any Holder or Beneficial Owner of the 2010 Series Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Commission to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an Event of Default under the Resolution, and the sole remedy under this Agreement in the event of any failure of the Commission to comply with this Agreement shall be an action to compel performance.

SECTION 11. Notices. Any notices or communications to or among any of the parties to the Agreement may be given as follows:

To the Commission:	West Virginia Higher Education Policy Commission 1018 Kanawha Boulevard, East, Suite 700 Charleston, WV 25301
To the Dissemination Agent:	Wells Fargo Bank, N.A. Four Gateway Center, Suite 1400 444 Liberty Avenue Pittsburgh, PA 15222

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 12. Beneficiaries. This Agreement shall inure solely to the benefit of the Commission, the Dissemination Agent, the Underwriters and holders and beneficial owners from time to time of the 2010 Series Bonds, and shall create no rights in any other person or entity.

SECTION 13. Counterparts. The Agreement 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 14. Fees. The Commission agrees to pay all fees and expenses of the Dissemination Agent including, without limitation, all reasonable expenses, charges, costs, attorney's fees and other disbursements in the administration and performance of the Dissemination Agent's duties.

SECTION 15. Right to Resign. The Dissemination Agent may resign at any time by providing thirty (30) days' written notice to the Commission.

SECTION 16. Right to Counsel. The Dissemination Agent shall have the right to consult with counsel in carrying out its duties under the Agreement and to rely upon an opinion of counsel.

SECTION 17. Duties of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Agreement, and no further duties or responsibilities shall be implied. Any corporation or association into which the Dissemination Agent in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Dissemination Agent in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Dissemination Agent in its individual capacity may be sold or otherwise transferred, shall be the Dissemination Agent under this Agreement without further act. Anything in this Agreement to the contrary notwithstanding, in no event shall the Dissemination Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Dissemination Agent has been advised of such loss or damage and regardless of the form of action. The Commission will, for the benefit of the Dissemination Agent and Dissemination Agent's employees, directors, agents, subsidiaries, affiliates, successors and assigns, assume all liability and/or be responsible to pay for any and all claims, demands, causes of action, losses, damages, liabilities, penalties, costs and expenses (including reasonable attorney's fees) relating to this Agreement, to the extent assessed by a court of competent jurisdiction.

IN WITNESS WHEREOF, the Commission and the Dissemination Agent have caused this Agreement to be executed by its duly authorized representatives, all as of the date first above written.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____
Chancellor

WELLS FARGO BANK, N.A., as Dissemination Agent

By: _____
Vice President

Date: December 23, 2010

EXHIBIT A

NOTICE TO REPOSITORIES
OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: West Virginia Higher Education Policy Commission

Name of Bond Issues: $16,520,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt);
$50,265,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds); and
$10,080,000 West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable)

Name of Borrower: West Virginia Higher Education Policy Commission

Date of Bond Issue: December 23, 2010

NOTICE IS HEREBY GIVEN that the Commission has not provided an Annual Report with respect to the above-named Series 2010 Bonds as required by Section 3(b) of this Continuing Disclosure Agreement dated as of December 23, 2010, to be provided. The Commission anticipates that the Annual Report will be filed by _____, 20__.

Dated: _____, 20__

Wells Fargo Bank, N.A., as Dissemination Agent
on behalf of the Commission

cc: Commission

MOODY'S
INVESTORS SERVICE

7 World Trade Center
250 Greenwich Street
New York, NY 10007
www.moodys.com

December 14, 2010

Mr. Richard B. Donovan
Director of Finance
State of West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, East
Suite 700
Charleston, WV 25301

Dear Mr. Donovan:

I wish to inform you that Moody's Investors Service has assigned a rating of **Aa3** with a **stable** outlook to West Virginia Higher Education Policy Commission's Series 2010 Revenue Bonds Series A Tax-Exempt, Series B Federally Taxable Build America Bonds & Series C Taxable.

In order for us to maintain the currency of our ratings, we request that you provide ongoing disclosure, including annual financial and statistical information.

Moody's will monitor this rating and reserves the right to revise or withdraw it at any time in the future.

This rating, as well as any revisions or withdrawals thereof, will be publicly disseminated by Moody's through normal print and electronic media and in response to verbal requests to Moody's ratings desk.

Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

Stephanie Woeppel/dr

Stephanie Woeppel

SW/dr

cc: Ms. Jessica Donnelly
Vice President
Citibank, N.A.
1650 Market Street, 42nd Floor
Philadelphia, PA 19103

STANDARD
&POOR'S

55 Water Street, 38th Floor
New York, NY 10041-0003
tel 212 438-2079
reference no.: 1152175

December 10, 2010

West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, Suite 700
Charleston, WV 25301
Attention: Mr. Richard B. Donovan, Director of Finance and Facilities

Re: ***US$85,000,000 The State of West Virginia Higher Education Policy Commission, Revenue Bonds, (Higher Education Facilities), Consisting of: 2010 Series A (Tax-Exempt) and 2010 Series B (Federally Taxable - Build America Bonds), dated: Date of Delivery, due: April 1, 2011-2027***

Dear Mr. Donovan:

Pursuant to your request for a Standard & Poor's rating on the above-referenced obligations, we have reviewed the information submitted to us and, subject to the enclosed *Terms and Conditions*, have assigned a rating of "A+". Standard & Poor's views the outlook for this rating as stable. A copy of the rationale supporting the rating is enclosed.

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 or by your agents 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/obligor 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.

To maintain the rating, Standard & Poor's must receive all relevant financial information as soon as such information is available. Placing us on a distribution list for this information would

facilitate the process. You must promptly notify us of all material changes in the financial information and the documents. Standard & Poor's may change, suspend, withdraw, or place on CreditWatch the rating as a result of changes in, or unavailability of, such information. Standard & Poor's reserves the right to request additional information if necessary to maintain the rating.

Please send all information to:

Standard & Poor's Ratings Services
Public Finance Department
55 Water Street
New York, NY 10041-0003

Standard & Poor's is pleased to be of service to you. For more information on Standard & Poor's, please visit our website at www.standardandpoors.com. If we can be of help in any other way, please call or contact us at nypublicfinance@standardandpoors.com. Thank you for choosing Standard & Poor's and we look forward to working with you again.

Sincerely yours,

Standard & Poor's Ratings Services
a Standard & Poor's Financial Services LLC business

Standard & Poor's/mpd

ss
enclosures
cc: Mr. Paul T. Creedon
Mr. Terry Hess

STANDARD
&POOR'S

Standard & Poor's Ratings Services
Terms and Conditions Applicable To Public Finance Ratings

You understand and agree that:

General. The ratings and other views of Standard & Poor's Ratings Services ("Ratings Services") are statements of opinion and not statements of fact. A rating is not a recommendation to purchase, hold, or sell any securities nor does it comment on market price, marketability, investor preference or suitability of any security. While Ratings Services bases its ratings and other views on information provided by issuers and their agents and advisors, and other information from sources it believes to be reliable, Ratings Services does not perform an audit, and undertakes no duty of due diligence or independent verification, of any information it receives. Such information and Ratings Services' opinions should not be relied upon in making any investment decision. Ratings Services does not act as a "fiduciary" or an investment advisor. Ratings Services neither recommends nor will recommend how an issuer can or should achieve a particular rating outcome nor provides or will provide consulting, advisory, financial or structuring advice.

All Rating Actions in Ratings Services' Sole Discretion. Ratings Services may assign, raise, lower, suspend, place on CreditWatch, or withdraw a rating, and assign or revise an Outlook, at any time, in Ratings Services' sole discretion. Ratings Services may take any of the foregoing actions notwithstanding any request for a confidential or private rating or a withdrawal of a rating, or termination of this Agreement. Ratings Services will not convert a public rating to a confidential or private rating, or a private rating to a confidential rating.

Publication. Ratings Services reserves the right to use, publish, disseminate, or license others to use, publish or disseminate the rating provided hereunder and any analytical reports, including the rationale for the rating, unless you specifically request in connection with the initial rating that the rating be assigned and maintained on a confidential or private basis. If, however, a confidential or private rating or the existence of a confidential or private rating subsequently becomes public through disclosure other than by an act of Ratings Services or its affiliates, Ratings Services reserves the right to treat the rating as a public rating, including, without limitation, publishing the rating and any related analytical reports. Any analytical reports published by Ratings Services are not issued by or on behalf of you or at your request. Notwithstanding anything to the contrary herein, Ratings Services reserves the right to use, publish, disseminate or license others to use, publish or disseminate analytical reports with respect to public ratings that have been withdrawn, regardless of the reason for such withdrawal. Ratings Services may publish explanations of Ratings Services' ratings criteria from time to time and nothing in this Agreement shall be construed as limiting Ratings Services' ability to modify or refine its ratings criteria at any time as Ratings Services deems appropriate.

Information to be Provided by You. For so long as this agreement is in effect, in connection with the rating provided hereunder, you warrant that you will provide, or cause to be provided, as promptly as practicable, to Ratings Services all information requested by Ratings Services in accordance with its applicable published ratings criteria. The rating, and the maintenance of the rating, may be affected by Ratings Services' opinion of the information received from you or your agents or advisors. You further warrant that all information provided to Ratings Services by you or your agents or advisors regarding the rating or, if applicable, surveillance of the rating, as of the date such information is provided, (i) contains no untrue statement of material fact and does not omit a material fact necessary in order to make such information, in light of the circumstances in which it was provided, not misleading and (ii) does not infringe or violate the intellectual property rights of a third party. A material breach of the warranties in this paragraph shall constitute a material breach of this Agreement.

Confidential Information. For purposes of this Agreement, "Confidential Information" shall mean verbal or written information that you or your agents or advisors have provided to Ratings Services and, in a specific and particularized manner, have marked or otherwise indicated in writing (either prior to or promptly following such disclosure) that such

information is "Proprietary and Confidential." Notwithstanding the foregoing, information disclosed by you or your agents or advisors to Ratings Services shall not be deemed to be Confidential Information, and Ratings Services shall have no obligation to treat such information as Confidential Information, if such information (i) was known by Ratings Services or its affiliates at the time of such disclosure and was not known by Ratings Services to be subject to a prohibition on disclosure, (ii) was known to the public at the time of such disclosure, (iii) becomes known to the public (other than by an act of Ratings Services or its affiliates) subsequent to such disclosure, (iv) is disclosed to Ratings Services or its affiliates by a third party subsequent to such disclosure and Ratings Services reasonably believes that such third party's disclosure to Ratings Services or its affiliates was not prohibited, (v) is developed independently by Ratings Services or its affiliates without reference to the Confidential Information, (vi) is approved in writing by you for public disclosure, or (vii) is required by law or regulation to be disclosed by Ratings Services or its affiliates. Ratings Services acknowledges that it is aware that U.S. and state securities laws impose restrictions on trading in securities when in possession of material, non-public information and has adopted securities trading policies to that effect.

Ratings Services' Use of Information. Except as otherwise provided herein, Ratings Services shall not disclose Confidential Information to third parties. Ratings Services may (i) use Confidential Information to assign, raise, lower, suspend, place on CreditWatch, or withdraw a rating, and assign or revise an Outlook, and (ii) share Confidential Information with its affiliates engaged in the ratings business who are bound by appropriate confidentiality obligations; in each case, subject to the restrictions contained herein, Ratings Services and such affiliates may publish information derived from Confidential Information. Ratings Services may also use, and share Confidential Information with any of its affiliates or agents engaged in the ratings or other financial services businesses who are bound by appropriate confidentiality obligations ("Relevant Affiliates and Agents"), for modelling, benchmarking and research purposes; in each case, subject to the restrictions herein, Ratings Services and such affiliates may publish information derived from Confidential Information. With respect to structured finance ratings not maintained on a confidential or private basis, Ratings Services may publish data aggregated from Confidential Information, excluding data that is specific to and identifies individual debtors ("Relevant Data"), and share such Confidential Information with any of its Relevant Affiliates and Agents for general market dissemination of Relevant Data; you confirm that, to the best of your knowledge, such publication would not breach any confidentiality obligations you may have toward third parties. Ratings Services will comply with all applicable U.S. and state laws, rules and regulations protecting personally-identifiable information and the privacy rights of individuals. Ratings Services acknowledges that you may be entitled to seek specific performance and injunctive or other equitable relief as a remedy for Ratings Services' disclosure of Confidential Information in violation of this Agreement. Ratings Services and its affiliates reserve the right to use, publish, disseminate, or license others to use, publish or disseminate any non-Confidential Information provided by you, your agents or advisors.

Ratings Services Not an Expert, Underwriter or Seller under Securities Laws. Ratings Services has not consented to and will not consent to being named an "expert" or any similar designation under any applicable securities laws or other regulatory guidance, rules or recommendations, including without limitation, Section 7 of the U.S. Securities Act of 1933. Ratings Services is not an "underwriter" or "seller" as those terms are defined under applicable securities laws or other regulatory guidance, rules or recommendations, including without limitation Sections 11 and 12(a)(2) of the U.S. Securities Act of 1933. Rating Services has not performed the role or tasks associated with an "underwriter" or "seller" under the United States federal securities laws or other regulatory guidance, rules or recommendations in connection with this engagement.

Office of Foreign Assets Control. As of the date of this Agreement, (a) neither you nor the issuer (if you are not the issuer) or any of your or the issuer's subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC Sanctions"), (b) neither you nor the issuer (if you are not the issuer) is 50% or more owned or controlled, directly or indirectly, by any person or entity ("parent") that is the subject of OFAC Sanctions, and (c) to the best of your knowledge, no entity 50% or more owned or controlled by a direct or indirect parent of you or the issuer (if you are not the issuer) is the subject of OFAC sanctions. For so long as this agreement is in effect, you will promptly notify Ratings Services if any of these circumstances change.

Ratings Services' Use of Confidential and Private Ratings. Ratings Services may use confidential and private ratings in its analysis of the debt issued by collateralized debt obligation (CDO) and other investment vehicles. Ratings Services may disclose a confidential or private rating as a confidential credit estimate or assessment to the managers of CDO and similar investment vehicles. Ratings Services may permit CDO managers to use and disseminate credit estimates or

assessments on a limited basis and subject to various restrictions; however, Ratings Services cannot control any such use or dissemination.

Entire Agreement. Nothing in this Agreement shall prevent Ratings Services from acting in accordance with applicable laws, regulations and Ratings Services' policies as published from time to time. Subject to the prior sentence, this Agreement, including any amendment made in accordance with provisions hereof, constitutes the complete and entire agreement between the parties on all matters regarding the rating provided hereunder. The terms of this Agreement supersede any other terms and conditions relating to information provided to Ratings Services by you or your agents and advisors hereunder, including without limitation, terms and conditions found on, or applicable to, websites or other means through which you or your agents and advisors make such information available to Ratings Services, regardless if such terms and conditions are entered into before or after the date of this Agreement. Such terms and conditions shall be null and void as to Ratings Services.

Limitation on Damages. Ratings Services does not and cannot guarantee the accuracy, completeness, or timeliness of the information relied on in connection with a rating or the results obtained from the use of such information. RATINGS SERVICES GIVES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. Ratings Services, its affiliates or third party providers, or any of their officers, directors, shareholders, employees or agents shall not be liable to you, your affiliates or any person asserting claims on your behalf, directly or indirectly, for any inaccuracies, errors, or omissions, in each case regardless of cause, actions, damages (consequential, special, indirect, incidental, punitive, compensatory, exemplary or otherwise), claims, liabilities, costs, expenses, legal fees or losses (including, without limitation, lost income or lost profits and opportunity costs) in any way arising out of or relating to the rating provided hereunder or the related analytic services even if advised of the possibility of such damages or other amounts except to the extent such damages or other amounts are finally determined by a court of competent jurisdiction in a proceeding in which you and Ratings Services are parties to result from gross negligence or willful misconduct of Ratings Services. In furtherance and not in limitation of the foregoing, Ratings Services will not be liable to you, your affiliates or any person asserting claims on your behalf in respect of any decisions alleged to be made by any person based on anything that may be perceived as advice or recommendations. In the event that Ratings Services is nevertheless held liable to you, your affiliates, or any person asserting claims on your behalf for monetary damages under this Agreement, in no event shall Ratings Services be liable in an aggregate amount in excess of seven times the aggregate fees paid to Ratings Services for the rating giving rise to the cause of action, up to a maximum of US$5,000,000 except to the extent such monetary damages directly result from Ratings Services' intentional wrongdoing or willful misconduct. The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise. Neither party waives any protections, privileges, or defenses it may have under law, including but not limited to, the First Amendment of the Constitution of the United States of America.

Termination of Agreement. This Agreement may be terminated by either party at any time upon written notice to the other party. Except where expressly limited to the term of this Agreement, these Terms and Conditions shall survive the termination of this Agreement.

No Third–Party Beneficiaries. Nothing in this Agreement, or the rating when issued, is intended or should be construed as creating any rights on behalf of any third parties, including, without limitation, any recipient of the rating. No person is intended as a third party beneficiary of this Agreement or of the rating when issued.

Binding Effect. This Agreement shall be binding on, and inure to the benefit of, the parties hereto and their successors and assigns.

Severability. In the event that any term or provision of this Agreement shall be held to be invalid, void, or unenforceable, then the remainder of this Agreement shall not be affected, impaired, or invalidated, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.

Amendments. This Agreement may not be amended or superseded except by a writing that specifically refers to this Agreement and is executed manually or electronically by authorized representatives of both parties.

Governing law. You irrevocably agree that this Agreement and the rating letter, for purposes of any claim against Rating Services that may be asserted by you, your affiliates or any person asserting claims on your behalf, shall be governed by the internal laws of the State of New York. You irrevocably agree that, for purposes of any claim against Rating Services that may be asserted by you, your affiliates or any person asserting claims on your behalf in any dispute arising out of or relating to this Agreement, the state courts of New York located in the County of New York or the U.S. federal court for the Southern District of New York shall be the exclusive forums for such disputes and the parties hereby consent to the personal jurisdiction of such courts. For purposes of any claim against you that Rating Services may assert in any dispute arising out of or relating to the Agreement, neither party waives its right to contest the applicable governing law or the appropriate forum, including in connection with any assertion of sovereign immunity.

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

GENERAL CERTIFICATE OF THE HIGHER EDUCATION POLICY COMMISSION

On the date set forth below, the undersigned Chancellor of the 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 $76,865,000 aggregate principal amount of the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax Exempt) (the "2010 A Bonds"), the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), for and on behalf of the Commission, (i) to Citigroup Global Markets, Inc., Crews & Associates, Inc. and Raymond James & Associated, Inc., purchasers of the 2010 Bonds from the Commission (the "Original Purchasers"), (ii) to all counsel in this transaction, and (iii) to other interested parties, as follows:

The University of West Virginia Board of Trustees, predecessor to the Commission, adopted the General Resolution on September 9, 1992, and the Board of Directors of the State College System, predecessor to the Commission, adopted the General Resolution on September 9, 1992 (collectively, the "General Resolution"), both of which remain in effect as amended, consolidated and supplemented from time to time pursuant to which it was authorized to issue one or more series of revenue bonds. The Commission is the successor to the Board of Trustees and is empowered and authorized to issue bonds pursuant to the Act, 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.

1. The General Resolution has been amended and supplemented from time to time including the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General

Resolution, collectively, the "Resolution"). All capitalized terms used in this General Certificate and not otherwise defined herein have the respective meanings ascribed to them in the Fifth Consolidated Supplemental Resolution, the Certificate of Determination which sets forth the final terms and provisions of the 2010 Bonds and was executed by the Chairman of the Commission on December 17, 2010 (the "Certificate of Determination"), or the Bond Purchase Agreement (as hereinafter defined);

2. The following persons are the duly chosen, qualified and acting officers of the Commission, to and including the date of this Certificate, holding the office set forth opposite their respective names:

Name	Office
David K. Hendrickson, Esquire	Chairman
Dr. Bruce Berry	Vice-Chairman
Kathy G. Eddy, CPA	Secretary
John Estep	Member
David Richard Tyson, Esquire	Member
Dr. John Leon	Member
Jenny Allen	Member
Kay H. Goodwin	Ex-Officio
Dr. Steven L. Paine	Ex-Officio
Bob Brown	Ex-Officio

The individuals indicated above as officers of the Commission were at all pertinent times, and are on the date hereof, duly elected or appointed, qualified and acting as such officer. Each such officer has taken the oath of office and has duly filed such bonds as are required by law.

4. The Commission employs a Chancellor, Vice Chancellor of Administration and Chief Financial Officer, in addition to other administrative staff, to assist with carrying out its directives, duties and responsibilities. The following persons, to and including the date of this Certificate, hold the administrative offices set forth opposite their respective names:

Name	Office
Dr. Brian Noland	Chancellor of Higher Education for West Virginia
Dr. Kevin Walthers	Vice Chancellor for Administration
Richard B. Donovan	Director of Finance and Facilities and Chief Financial Officer

The individuals are, on the date hereof, duly appointed and qualified and hold the respective offices listed above.

5. The Chairman, the Chancellor and the Chief Financial Officer of the Commission (the "Authorized Officers") have each been designated as persons authorized to execute any and all documents relating to the Bonds pursuant to the terms of the below referenced resolutions, and the signatures set forth at the bottom of this General Certificate constitute the specimen signatures of such Authorized Officers.

6. 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.

7. By official action of the Commission prior to or concurrently with the execution of this Certificate, the Commission has duly authorized and executed the Resolution, has duly authorized, approved and ratified the distribution of the Preliminary Official Statement dated December 10, 2010 (the "Preliminary Official Statement") and the execution and delivery of the Official Statement, has duly authorized and approved the execution and delivery of, and the performance by the Commission of the obligations contained in, the Bonds and the Bond Purchase Agreement and has duly authorized and approved the performance by the Commission of the obligations contained in the Resolution and the consummation by it of all other transactions contemplated by the Official Statement.

8. The execution and delivery of the Bond Purchase Agreement and the Bonds and the execution of the Resolution and compliance with their respective provisions will not conflict with or constitute a breach of or default under any applicable law or administrative regulation of the State of West Virginia or the United States, or any applicable judgment or decree or any agreement or other instrument to which the Commission is a party or is otherwise subject, and will not conflict with any provision of the Act.

9. The undersigned hereby certify that (i) each of the Commission's representations, warranties and covenants contained in the Bond Purchase Agreement are true and correct as of the date hereof, (ii) the Commission has authorized, by all action necessary under the Act and the laws governing the Commission, the adoption of the Resolution, and the execution, delivery and due performance of the Bonds, the Bond Purchase Agreement and the Bond Documents; (iii) the Commission has performed and complied with all agreements and conditions required by the Bond Purchase Agreement to be complied with by it at or prior to the date hereof; and (iv) 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; and (v) the Commission has complied and is in compliance, in all respects with Section 54AA of the American Recovery and Reinvestment Act of 2009 and Section 6431 of the Internal Revenue Code of 1986, as amended (the "Code"); (vi) there are not pending or, to their knowledge, threatened, legal or administrative proceedings to which the Commission is a party or to which property of the Commission is subject, which are material as to the Commission and not disclosed in the Official Statement or which will materially and adversely

affect the transactions contemplated hereby or by the Official Statement or which will materially and adversely affect the validity or enforceability of the 2010 Series Bonds or the Bond Purchase Agreement; (vii) the information contained in the Official Statement is true and correct in all material respects and does not contain any untrue or incorrect statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; and (viii) if, at any time prior to the expiration of ninety (90) days following the date hereof, the Commission becomes aware of any event (including events of which such officer has received notice by any means) as a result of which the Preliminary Official Statement or the Final Official Statement as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in any material respect, such officer shall promptly notify the Underwriters thereof and, upon request of the Underwriters, shall assist in the preparation of an amendment or supplement which will correct such statement or omission at the expense of the Commission; (ix) the 2010 Series Bonds and the Bond Documents, as executed by the Commission, are in the form or in substantially the form approved for execution by appropriate proceedings of the Commission.

10. Between the date of the Bond Purchase Agreement and the Closing, the Commission has not, without the prior written consent of the Underwriters, issued any bonds, notes or other obligations for borrowed money and, except as described in or contemplated by the Official Statement, the Commission has not incurred any material liabilities, direct or contingent.

11. No litigation is pending or, to the knowledge of the Commission, threatened in any court in any way (i) restraining or enjoining the issuance or delivery of the Bonds or the collection of the Pledged Revenues and other funds pledged under the Resolution and the other Bond Documents, (ii) contesting the power or the authority of the Commission for the issuance of the Bonds or the validity of the Resolution, the Resolution, the Bonds, the Bond Purchase Agreement or the other Bond Documents, or (iii) contesting the existence or powers of the Commission relating to the issuance of the Bonds.

12. The Commission will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters, as the Underwriters reasonably may request to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriters may designate and to provide for the continuance of such qualifications, but will not subject the Commission to service of process in jurisdictions other than that to which the Commission is subject pursuant to the Act.

13. The seal impressed on the signature page hereof is the duly authorized seal of the Commission.

14. No authority or proceedings for the issuance of the 2010 Bonds or execution, delivery and performance of the Bond Documents has been repealed, revoked, rescinded or superseded.

15. 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. Except as provided in paragraph 1 hereof, the Resolution has not been amended, modified, supplemented or repealed and remains in full force and effect.

16. 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).

17. 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.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, I have duly executed this General Certificate of Commission the date and year first written above.

HIGHER EDUCATION POLICY COMMISSION

Dr. Brian Noland, Chancellor

Incumbency of Authorized Officers pursuant to Section 5 above:

NAME	TITLE	SIGNATURE
David K. Hendrickson, Esq.	Chairman	
Dr. Brian Noland	Chancellor	
Richard B. Donovan	Chief Financial Officer	

2511412v2 (10791.7)

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

GENERAL CERTIFICATE OF THE HIGHER EDUCATION POLICY COMMISSION

On the date set forth below, the undersigned Chancellor of the 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 $76,865,000 aggregate principal amount of the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax Exempt) (the "2010 A Bonds"), the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), for and on behalf of the Commission, (i) to Citigroup Global Markets, Inc., Crews & Associates, Inc. and Raymond James & Associated, Inc., purchasers of the 2010 Bonds from the Commission (the "Original Purchasers"), (ii) to all counsel in this transaction, and (iii) to other interested parties, as follows:

The University of West Virginia Board of Trustees, predecessor to the Commission, adopted the General Resolution on September 9, 1992, and the Board of Directors of the State College System, predecessor to the Commission, adopted the General Resolution on September 9, 1992 (collectively, the "General Resolution"), both of which remain in effect as amended, consolidated and supplemented from time to time pursuant to which it was authorized to issue one or more series of revenue bonds. The Commission is the successor to the Board of Trustees and is empowered and authorized to issue bonds pursuant to the Act, 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.

1. The General Resolution has been amended and supplemented from time to time including the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General

Resolution, collectively, the "Resolution"). All capitalized terms used in this General Certificate and not otherwise defined herein have the respective meanings ascribed to them in the Fifth Consolidated Supplemental Resolution, the Certificate of Determination which sets forth the final terms and provisions of the 2010 Bonds and was executed by the Chairman of the Commission on December 17, 2010 (the "Certificate of Determination"), or the Bond Purchase Agreement (as hereinafter defined);

2. The following persons are the duly chosen, qualified and acting officers of the Commission, to and including the date of this Certificate, holding the office set forth opposite their respective names:

Name	Office
David K. Hendrickson, Esquire	Chairman
Dr. Bruce Berry	Vice-Chairman
Kathy G. Eddy, CPA	Secretary
John Estep	Member
David Richard Tyson, Esquire	Member
Dr. John Leon	Member
Jenny Allen	Member
Kay H. Goodwin	Ex-Officio
Dr. Steven L. Paine	Ex-Officio
Bob Brown	Ex-Officio

The individuals indicated above as officers of the Commission were at all pertinent times, and are on the date hereof, duly elected or appointed, qualified and acting as such officer. Each such officer has taken the oath of office and has duly filed such bonds as are required by law.

4. The Commission employs a Chancellor, Vice Chancellor of Administration and Chief Financial Officer, in addition to other administrative staff, to assist with carrying out its directives, duties and responsibilities. The following persons, to and including the date of this Certificate, hold the administrative offices set forth opposite their respective names:

Name	Office
Dr. Brian Noland	Chancellor of Higher Education for West Virginia
Dr. Kevin Walthers	Vice Chancellor for Administration
Richard B. Donovan	Director of Finance and Facilities and Chief Financial Officer

The individuals are, on the date hereof, duly appointed and qualified and hold the respective offices listed above.

5. The Chairman, the Chancellor and the Chief Financial Officer of the Commission (the "Authorized Officers") have each been designated as persons authorized to execute any and all documents relating to the Bonds pursuant to the terms of the below referenced resolutions, and the signatures set forth at the bottom of this General Certificate constitute the specimen signatures of such Authorized Officers.

6. 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.

7. By official action of the Commission prior to or concurrently with the execution of this Certificate, the Commission has duly authorized and executed the Resolution, has duly authorized, approved and ratified the distribution of the Preliminary Official Statement dated December 10, 2010 (the "Preliminary Official Statement") and the execution and delivery of the Official Statement, has duly authorized and approved the execution and delivery of, and the performance by the Commission of the obligations contained in, the Bonds and the Bond Purchase Agreement and has duly authorized and approved the performance by the Commission of the obligations contained in the Resolution and the consummation by it of all other transactions contemplated by the Official Statement.

8. The execution and delivery of the Bond Purchase Agreement and the Bonds and the execution of the Resolution and compliance with their respective provisions will not conflict with or constitute a breach of or default under any applicable law or administrative regulation of the State of West Virginia or the United States, or any applicable judgment or decree or any agreement or other instrument to which the Commission is a party or is otherwise subject, and will not conflict with any provision of the Act.

9. The undersigned hereby certify that (i) each of the Commission's representations, warranties and covenants contained in the Bond Purchase Agreement are true and correct as of the date hereof, (ii) the Commission has authorized, by all action necessary under the Act and the laws governing the Commission, the adoption of the Resolution, and the execution, delivery and due performance of the Bonds, the Bond Purchase Agreement and the Bond Documents; (iii) the Commission has performed and complied with all agreements and conditions required by the Bond Purchase Agreement to be complied with by it at or prior to the date hereof; and (iv) 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; and (v) the Commission has complied and is in compliance, in all respects with Section 54AA of the American Recovery and Reinvestment Act of 2009 and Section 6431 of the Internal Revenue Code of 1986, as amended (the "Code"); (vi) there are not pending or, to their knowledge, threatened, legal or administrative proceedings to which the Commission is a party or to which property of the Commission is subject, which are material as to the Commission and not disclosed in the Official Statement or which will materially and adversely

affect the transactions contemplated hereby or by the Official Statement or which will materially and adversely affect the validity or enforceability of the 2010 Series Bonds or the Bond Purchase Agreement; (vii) the information contained in the Official Statement is true and correct in all material respects and does not contain any untrue or incorrect statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading; and (viii) if, at any time prior to the expiration of ninety (90) days following the date hereof, the Commission becomes aware of any event (including events of which such officer has received notice by any means) as a result of which the Preliminary Official Statement or the Final Official Statement as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in any material respect, such officer shall promptly notify the Underwriters thereof and, upon request of the Underwriters, shall assist in the preparation of an amendment or supplement which will correct such statement or omission at the expense of the Commission; (ix) the 2010 Series Bonds and the Bond Documents, as executed by the Commission, are in the form or in substantially the form approved for execution by appropriate proceedings of the Commission.

10. Between the date of the Bond Purchase Agreement and the Closing, the Commission has not, without the prior written consent of the Underwriters, issued any bonds, notes or other obligations for borrowed money and, except as described in or contemplated by the Official Statement, the Commission has not incurred any material liabilities, direct or contingent.

11. No litigation is pending or, to the knowledge of the Commission, threatened in any court in any way (i) restraining or enjoining the issuance or delivery of the Bonds or the collection of the Pledged Revenues and other funds pledged under the Resolution and the other Bond Documents, (ii) contesting the power or the authority of the Commission for the issuance of the Bonds or the validity of the Resolution, the Resolution, the Bonds, the Bond Purchase Agreement or the other Bond Documents, or (iii) contesting the existence or powers of the Commission relating to the issuance of the Bonds.

12. The Commission will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters, as the Underwriters reasonably may request to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriters may designate and to provide for the continuance of such qualifications, but will not subject the Commission to service of process in jurisdictions other than that to which the Commission is subject pursuant to the Act.

13. The seal impressed on the signature page hereof is the duly authorized seal of the Commission.

14. No authority or proceedings for the issuance of the 2010 Bonds or execution, delivery and performance of the Bond Documents has been repealed, revoked, rescinded or superseded.

15. 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. Except as provided in paragraph 1 hereof, the Resolution has not been amended, modified, supplemented or repealed and remains in full force and effect.

16. 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).

17. 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.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, I have duly executed this General Certificate of Commission the date and year first written above.

HIGHER EDUCATION POLICY COMMISSION

Dr. Brian Noland, Chancellor

Incumbency of Authorized Officers pursuant to Section 5 above:

NAME	TITLE	SIGNATURE
David K. Hendrickson, Esq.	Chairman	
Dr. Brian Noland	Chancellor	
Richard B. Donovan	Chief Financial Officer	

2511412v2 (10791.7)

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

CERTIFICATE AS TO SIGNATURES

The undersigned, as the Governor of the State of West Virginia (the "State"), and the Chancellor of the Higher Education Policy Commission (the "Commission"), a commission of the State, hereby certify as follows:

1. Subscribed below are our true and genuine signatures.

2. On or before the date hereof, State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds") in the aggregate principal amount of $76,865,000, dated as of December 23, 2010, and issued by the Commission on behalf of the State, were 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 qualified officers of the State and of the Commission, respectively, authorized to execute the 2010 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 2010 Bonds, and it is the legally adopted, proper and only official Great Seal of the State.

Signature:	Official Title:
Earl Ray Tomblin	Governor, State of West Virginia
Brian Noland, Ph.D.	Chancellor, Higher Education Policy Commission
Natalie E. Tennant	Secretary of State, State of West Virginia

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 23rd day of December, 2010.

Earl Ray Tomblin, Governor
State of West Virginia

Brian Noland, Ph.D., Chancellor
Higher Education Policy Commission

2512253 (10791.7)

$16,520,000
State of West Virginia
Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax Exempt)

UNDERWRITERS' CERTIFICATE

This Certificate is furnished by Citigroup Global Markets Inc., acting on its behalf and on behalf of Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters") in connection with the sale and issuance by the Higher Education Policy Commission (the "Issuer") of its $16,520,000 aggregate principal amount of Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "Bonds") issued December 23, 2010, and hereby certifies and represents the following, based upon information available to us:

1. As of December 17, 2010, the date on which the bond purchase agreement for the Bonds was executed (the "Sale Date"), the Underwriters reasonably expected to offer all of the Bonds to the general public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) (the "Public") in a bona fide public offering, and the Underwriters reasonably expected that the first prices at which at least 10% of each maturity would be sold by the Underwriters to the Public were the prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, those listed for each maturity on Schedule A hereto (the "Initial Offering Prices").

2. The Underwriters were unable to sell ten percent (10%) or more of the Series of the Bonds scheduled to mature on April 1, 2018 at prices not greater than the prices, or yields not less than the yields, shown on the cover of the Official Statement during the underwriting period. The unsold portion of the Bonds was allotted to the Underwriters for their own accounts after the expiration of the underwriting period. A portion of these allotted Bonds has been sold to the public at various prices or yields and the unsold portion remains in the accounts of the Underwriters as of the delivery date of the Bonds.

3. As of the date of this certificate, all of the Bonds have actually been offered to the Public in a bona fide public offering at prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, the Initial Offering Prices.

4. Except as set forth in paragraph 2 above, the first ten percent (10%) of each maturity of the Bonds has been sold to the Public at prices not higher than, or, in the case of obligations sold on a yield basis, at yields not lower than, the Initial Public Offering Prices.

5. The Underwriter had no reason to believe that any of the Initial Public Offering Prices of the Bonds exceeded the expected fair market value of the Bonds as of the Sale Date.

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

- The Issue Price of the 2010 A Bonds is $16,319,886.05.

- The weighted average maturity of the 2010 A Bonds is 11.9540 years.

- The Yield on the 2010 A Bonds, calculated as described in the next sentence, is at least 4.9328%. That is the Yield that, when used in computing the present worth of all payments of principal and interest 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 initial offering price of the 2010 A Bonds as stated above.

- The CUSIP Number assigned to the final maturity of the Bonds is 95639RDU0.

7. Underwriters' Compensation. The Underwriters' discount for the Bonds is $84,968.28, which will be withheld by the Underwriters from the purchase price otherwise paid to the Issuer as compensation for their services in selling the Issue to the public.

8. Original Issue Discount Bonds. Some of the Bonds have an Initial Offering Price that is less than its stated redemption price at maturity ("Original Issue Discount Bonds"). The Bonds have an Original Issue Discount of $200,113.95.

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

We understand that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and by Spilman Thomas & Battle, PLLC, in connection with rendering its opinion to the Issuer that the interest on the Bonds is not includable in gross income of the owners thereof for federal income tax purposes. The undersigned is certifying only as to facts in existence on the date hereof. Nothing herein represents the undersigned's interpretation of any laws; in particular the regulations under the Internal Revenue Code of 1986, or the application of any laws to these facts. The certifications contained herein are not necessarily based on personal knowledge, but may instead be based on either inquiry deemed adequate by the undersigned or institutional knowledge (or both) regarding the matters set forth herein. Although certain information furnished in this Certificate has been derived from other purchasers, bond houses and brokers and cannot be independently verified by us, we have no reason to believe it to be untrue in any material respect.

Dated: December 23, 2010

CITIGROUP GLOBAL MARKETS INC. ,on behalf of itself and CREWS & ASSOCIATES, INC. AND RAYMONG JAMES & ASSOCIATES, INC.

By: CITIGROUP GLOBAL MARKETS, INC.

By: _____
Paul T. Creedon
Its: Managing Director

UNDERWRITERS'

and

ISSUE PRICE CERTIFICATE

for

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
$50,265,000 Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable—Issuer Subsidy—Build America Bonds)

December 23, 2010

On the date hereof, the undersigned and other underwriters (collectively, the "Underwriters") are purchasing $50,265,000 aggregate principal amount of State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable—Issuer Subsidy—Build America Bonds) (the "2010 Series B Bonds" or "Issue") being issued by the State of West Virginia Higher Education Policy Commission (the "Commission" or the "Issuer"). The 2010 Series B Bonds are being purchased by the Underwriters pursuant to a Bond Purchase Agreement, dated December 17, 2010 (the "Bond Purchase Agreement"), between the Commission and the undersigned, as Manager, acting on behalf of itself and the other Underwriters.

The undersigned represents and certifies as follows:

1. Each maturity of the 2010 Series B Bonds has been the subject of a bona fide initial offering to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at prices no higher than, or yields no lower than, the initial public offering prices or yields (the "Initial Public Offering Prices") set forth on the inside front cover of the Official Statement, dated December 17, 2010, relating to the 2010 Series B Bonds.

2. With respect to the maturities of the 2010 Series B Bonds that have been sold, at least ten percent (10%) or more of the 2010 Series B Bonds of each such maturity was first sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) (the "Public") at the Initial Public Offering Price for such maturity.

3. On December 17, 2010 (the "Sale Date"), all of the 2010 Series B Bonds have been the subject of a bona fide offering to the Public pursuant to the Bond Purchase Agreement, and on the Sale Date we reasonably expected that the first price at which at least 10% of the principal amount of each such maturity would be initially sold to the Public would be the respective price for that maturity shown on the attached schedule, and the first price at which at least 10% of the principal amount of each maturity initially sold to the Public was the respective

price for that maturity shown on the attached schedule. For purposes of this Issue Price Certificate, we have assumed that the phrase "bond houses, brokers or similar persons or organization acting in the capacity of underwriters or wholesalers" refers only to persons who, to our actual knowledge, are acting in such capacity.

4. At the time the undersigned entered into the Bond Purchase Agreement, based upon the then prevailing market conditions, the undersigned had no reason to believe that any maturity of the Series 2010 B Bonds would be initially sold to the public (excluding such bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at a price greater than, or a yield lower than, the Initial Public Offering Price for such maturity or that the fair market value of any maturity of the 2010 Series B Bonds would be in excess of the Initial Public Offering Price for such maturity.

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

- The Issue Price of the 2010 B Bonds is $50,265,000;
- The weighted average maturity of the 2010 B Bonds is 23.7033 years;
- The Yield on the 2010 B Bonds is 4.9492%, calculated as the Yield that, when used in computing the present worth of all payments of principal and interest 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 initial offering price of the 2010 B Bonds (less the interest subsidy available to the 2010 B Bonds because of its designation as a Build America direct pay Bond under Section 54AA of the Code).
- The CUSIP Number assigned to the final maturity of the 2010 B Bonds is 95639RDX4.

6. Underwriters' Compensation. The Underwriters' discount for the 2010 B Bonds is $258,530.92, which will be withheld by the Underwriters from the purchase price otherwise paid to the Issuer as compensation for their services in selling the Issue to the public.

7. Original Issue Discount Bonds. None of the 2010 B Bonds have an Initial Offering Price that is less than its stated redemption price at maturity ("Original Issue Discount Bonds").

8. No Stepped Coupon Bonds. No 2010 B Bond bears interest at an increasing interest rate.

The Issuer may rely on the foregoing representations in making its certification as to issue price of the 2010 Series B Bonds under the Internal Revenue Code of 1986, as amended from time to time (the "Code"), and with respect to certain of the representations set forth in the Tax Certificate, and bond counsel may rely on the foregoing representations in rendering their

opinion that the Bonds qualify for the credit allowed under Section 6431 of the Code. Nothing herein represents our interpretation of any laws or regulations under the Internal Revenue Code of 1986, as amended. Although certain information furnished in this Certificate has been derived from other purchasers, bond houses and brokers and cannot be independently verified by us, we have no reason to believe it to be untrue in any material respect.

Dated: December 23, 2010

CITIGROUP GLOBAL MARKETS INC.

By: _____
Paul T. Creedon, Managing Director

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

CERTIFICATE OF WELLS FARGO, AS CONSTRUCTION TRUSTEE, REGISTRAR AND TRANSFER AGENT

The undersigned, on behalf of Wells Fargo Bank, N.A., as Construction Trustee, Registrar and Transfer Agent (the "Registrar") in accordance with a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessors to the West Virginia Higher Education Policy Commission (the "Commission"), as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (collectively, the "General Resolution") and the Certificate of Determination dated as of December 17, 2010 (the "Certificate of Determination"), with respect to the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A Tax-Exempt Bonds (the "2010 A Bonds"), 2010 Series B Federally Taxable – Issuer Subsidy - Build America Bonds (the "2010 B Bonds") and 2010 Series C Taxable Bonds (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds") in the aggregate principal amount of $76,865,000, hereby certifies as follows:

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 General Resolution and to serve in the capacities as the Construction Trustee, Registrar and Transfer Agent thereunder and hereby accepts the duties and obligations of Construction Trustee, Registrar and Transfer Agent.

2. The person indicated below was at the time of the execution of this Certificate 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 this Certificate and such other documents as are necessary to complete the financing described in the General Resolution for and on behalf of the Registrar.

3. Appearing opposite the name of the person indicated below is his true and correct title and true and correct specimen of his signature:

Name	Title	Signature
Michael E. Puskar	Vice President	

4. Michael E. Puskar, whose specimen signature appears in paragraph 3 above, is an authorized officer of the Registrar for the purposes of executing this Certificate.

5. The Registrar acknowledges receipt of the sum of $74,936,296.41, which amounts shall be deposited into the various funds and accounts described below:

(a) The sum of $226,296.41 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund.

(b) The sum of $16,188,952.51 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $6,184,023.36 shall be deposited into the 2010 A Bonds Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the 2010 A Bonds Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the 2010 A Bonds Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the 2010 A Bonds West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the 2010 A Bonds Additional Project Subaccount.

(c) The sum of $48,521,047.49 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $18,815,976.64 shall be deposited into the 2010 B Bonds Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the 2010 B Bonds Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the 2010 B Bonds Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the 2010 B Bonds West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the 2010 B Bonds Additional Project Subaccount.

(d) The sum of $10,000,000.00 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund and then transferred by the Registrar into the 2010 C Bonds Commission Project Subaccount.

The Registrar has received all documents, certificates and other items required by the General Resolution and the Certificate of Determination and upon request of the Commission, the undersigned this day authenticated and delivered the 2010 Bonds to Citigroup Global Markets Inc., acting on behalf of itself, Raymond James & Associates, Inc. and Crews & Associates, Inc., as the original purchasers thereof.

6. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the General Resolution.

IN WITNESS WHEREOF, Wells Fargo Bank, N.A., has caused this Certificate to be executed by its duly authorized officer this 23rd day of December, 2010.

WELLS FARGO BANK, N.A.

By: _____
Michael E. Puskar
Title: Vice President

2512304 (10791.7)

Exhibit A

BOARD OF DIRECTORS RESOLUTION

WELLS FARGO BANK, NATIONAL ASSOCIATION
ASSISTANT SECRETARY'S CERTIFICATE

I, Michael E. Puskar, hereby certify that I am an Assistant Secretary of Wells Fargo Bank, National Association, a national banking association, (the "Bank"), and I hereby further certify as follows:

1. The following is a true and correct extract from resolutions duly adopted by the Board of Directors of the Bank on November 25, 2003, as amended, and no modification, amendment, rescission or revocation of such resolutions has occurred affecting such extract as of the date of this certificate.

> **RESOLVED**, that for the purposes of these resolutions, "Executive Officer" shall mean any person specifically designated as an Executive Officer of the Bank by resolution of the Board of Directors, and "Signing Officer" shall mean the Chairman of the Board, the President, any Senior Executive, Vice President, any Executive Vice President, any Senior Vice President, the Treasurer, any Vice President, any Assistant Vice President, any person whose title includes the word "Officer" (e.g., Commercial Banking Officer, Personal Banking Officer, Trust Officer), or any other person whose title has been or is hereafter designated by the Board of Directors as a title for an officer of the Bank, and such officers are hereby authorized to sign agreements, instruments and other documents on behalf of the Bank in accordance with the signing authorities conferred in Parts A, B and C of these resolutions;
>
> ***
>
> C. Signing Officers
>
> **FURTHER RESOLVED**, that any Signing Officer, acting alone, may execute on behalf of the Bank, whether acting for its own account or in a fiduciary or other representative capacity:
>
> ***
>
> Trust indentures, declarations of trust, trust and agency agreements, pooling and servicing agreements, fiscal and paying agency agreements, acceptances thereof, consents thereto and any similar agreements, however denominated, to which the Bank is a party in a fiduciary or other representative capacity; certificates of authentication or other indicia of valid issuance with respect to bonds, notes, debentures and other securities or obligations issued under any indenture, mortgage, trust or other agreement; certificates for securities deposited, interim certificates and other certificates for and on behalf of the Bank as depository or agent; countersignatures of stocks, bonds, notes, debentures, voting trust certificates, participation certificates and other certificates, instruments, obligations or other securities on behalf of the Bank as trustee, fiscal and paying agent, transfer agent, registrar or in another similar capacity; and certificates of cancellation and cremation of stocks, bonds, debentures or other securities.

2. The following named persons are Signing Officers of the Bank as of the date hereof, and their correct titles and genuine signatures appear beside their names:

Name	Title	Signature
Michael Puskar	Vice President	

IN WITNESS WHEREOF, I have hereunto set my hand this day December 23, 2010.

Michael E. Puskar
Assistant Secretary

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

CERTIFICATE OF WELLS FARGO, AS CONSTRUCTION TRUSTEE, REGISTRAR AND TRANSFER AGENT

The undersigned, on behalf of Wells Fargo Bank, N.A., as Construction Trustee, Registrar and Transfer Agent (the "Registrar") in accordance with a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessors to the West Virginia Higher Education Policy Commission (the "Commission"), as amended by the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (collectively, the "General Resolution") and the Certificate of Determination dated as of December 17, 2010 (the "Certificate of Determination"), with respect to the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A Tax-Exempt Bonds (the "2010 A Bonds"), 2010 Series B Federally Taxable – Issuer Subsidy - Build America Bonds (the "2010 B Bonds") and 2010 Series C Taxable Bonds (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds") in the aggregate principal amount of $76,865,000, hereby certifies as follows:

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 General Resolution and to serve in the capacities as the Construction Trustee, Registrar and Transfer Agent thereunder and hereby accepts the duties and obligations of Construction Trustee, Registrar and Transfer Agent.

2. The person indicated below was at the time of the execution of this Certificate 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 this Certificate and such other documents as are necessary to complete the financing described in the General Resolution for and on behalf of the Registrar.

3. Appearing opposite the name of the person indicated below is his true and correct title and true and correct specimen of his signature:

Name	Title	Signature
Michael E. Puskar	Vice President	

4. Michael E. Puskar, whose specimen signature appears in paragraph 3 above, is an authorized officer of the Registrar for the purposes of executing this Certificate.

5. The Registrar acknowledges receipt of the sum of $74,936,296.41, which amounts shall be deposited into the various funds and accounts described below:

(a) The sum of $226,296.41 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund.

(b) The sum of $16,188,952.51 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $6,184,023.36 shall be deposited into the 2010 A Bonds Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the 2010 A Bonds Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the 2010 A Bonds Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the 2010 A Bonds West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the 2010 A Bonds Additional Project Subaccount.

(c) The sum of $48,521,047.49 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $18,815,976.64 shall be deposited into the 2010 B Bonds Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the 2010 B Bonds Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the 2010 B Bonds Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the 2010 B Bonds West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the 2010 B Bonds Additional Project Subaccount.

(d) The sum of $10,000,000.00 of the proceeds of the 2010 Bonds shall be deposited with the Registrar in the 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund and then transferred by the Registrar into the 2010 C Bonds Commission Project Subaccount.

The Registrar has received all documents, certificates and other items required by the General Resolution and the Certificate of Determination and upon request of the Commission, the undersigned this day authenticated and delivered the 2010 Bonds to Citigroup Global Markets Inc., acting on behalf of itself, Raymond James & Associates, Inc. and Crews & Associates, Inc., as the original purchasers thereof.

6. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the General Resolution.

IN WITNESS WHEREOF, Wells Fargo Bank, N.A., has caused this Certificate to be executed by its duly authorized officer this 23rd day of December, 2010.

WELLS FARGO BANK, N.A.

By: _____
Michael E. Puskar
Title: Vice President

2512304 (10791.7)

Exhibit A

BOARD OF DIRECTORS RESOLUTION

WELLS FARGO BANK, NATIONAL ASSOCIATION
ASSISTANT SECRETARY'S CERTIFICATE

I, Michael E. Puskar, hereby certify that I am an Assistant Secretary of Wells Fargo Bank, National Association, a national banking association, (the "Bank"), and I hereby further certify as follows:

1. The following is a true and correct extract from resolutions duly adopted by the Board of Directors of the Bank on November 25, 2003, as amended, and no modification, amendment, rescission or revocation of such resolutions has occurred affecting such extract as of the date of this certificate.

> **RESOLVED**, that for the purposes of these resolutions, "Executive Officer" shall mean any person specifically designated as an Executive Officer of the Bank by resolution of the Board of Directors, and "Signing Officer" shall mean the Chairman of the Board, the President, any Senior Executive, Vice President, any Executive Vice President, any Senior Vice President, the Treasurer, any Vice President, any Assistant Vice President, any person whose title includes the word "Officer" (e.g., Commercial Banking Officer, Personal Banking Officer, Trust Officer), or any other person whose title has been or is hereafter designated by the Board of Directors as a title for an officer of the Bank, and such officers are hereby authorized to sign agreements, instruments and other documents on behalf of the Bank in accordance with the signing authorities conferred in Parts A, B and C of these resolutions;
>
> ***
>
> C. Signing Officers
>
> **FURTHER RESOLVED**, that any Signing Officer, acting alone, may execute on behalf of the Bank, whether acting for its own account or in a fiduciary or other representative capacity:
>
> ***
>
> Trust indentures, declarations of trust, trust and agency agreements, pooling and servicing agreements, fiscal and paying agency agreements, acceptances thereof, consents thereto and any similar agreements, however denominated, to which the Bank is a party in a fiduciary or other representative capacity; certificates of authentication or other indicia of valid issuance with respect to bonds, notes, debentures and other securities or obligations issued under any indenture, mortgage, trust or other agreement; certificates for securities deposited, interim certificates and other certificates for and on behalf of the Bank as depository or agent; countersignatures of stocks, bonds, notes, debentures, voting trust certificates, participation certificates and other certificates, instruments, obligations or other securities on behalf of the Bank as trustee, fiscal and paying agent, transfer agent, registrar or in another similar capacity; and certificates of cancellation and cremation of stocks, bonds, debentures or other securities.

2. The following named persons are Signing Officers of the Bank as of the date hereof, and their correct titles and genuine signatures appear beside their names:

Name	Title	Signature
Michael Puskar	Vice President	

IN WITNESS WHEREOF, I have hereunto set my hand this day December 23, 2010.

Michael E. Puskar
Assistant Secretary

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

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 on September 9, 1992, by the University of West Virginia Board of Trustees and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessors to the Higher Education Policy Commission (the "Commission"), as amended and supplemented from time to time including the Fifth Consolidated Supplemental Resolution adopted on December 3, 2010 (collectively, the "General Resolution"), and a Certificate of Determination dated December 17, 2010 (the "Certificate of Determination") with respect to the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), State of West Virginia Higher Education Policy Commission Revenue Bonds 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and State of West Virginia Higher Education Policy Commission Revenue Bonds 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds") in the aggregate principal amount of $76,865,000, 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 as Paying Agent contemplated and as provided under the General Resolution, and does hereby accept the duties and obligations as Paying Agent imposed thereon by the General Resolution for the benefit of the Commission, the holders of the 2010 Bonds, and Wells Fargo Bank, N.A., as the Construction Trustee, Registrar and Transfer Agent (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 acting incumbent of her respective office, and, such person, in her official capacity, is authorized to execute and deliver such

documents as are necessary to complete the financing described in the General Resolution for and on behalf of the MBC.

3. Appearing opposite the respective name of the person indicated below is her true and correct title and true and correct specimen of her signature:

Name	Title	Signature
Sara Boardman	Executive Director	

4. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the General Resolution.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the West Virginia Municipal Bond Commission has caused this Certificate to be executed by its duly authorized officer this 23rd day of December, 2010.

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By: _____
Sara Boardman, Executive Director

2533741 (10791.0007)

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

CERTIFICATE OF DELIVERY AND PAYMENT

I, Brian Noland, Ph.D., Chancellor, of the Higher Education Policy Commission (the "Commission"), hereby certify as follows:

On the date hereof, the Commission has caused $76,865,000 in aggregate principal amount of State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), to be delivered to Citigroup Global Markets, Inc., on behalf of itself, Crews & Associates, Inc. and Raymond James & Associates, Inc., upon receipt of payment of the purchase price of and accrued interest on such 2010 Bonds as follows:

Par	$76,865,000.00
Less: Original Issue Discount	$ 200,113.95
Less: Underwriter's Discount	$ 390,304.26
Amount this day received	$76,274,581.79

The proceeds of the 2010 Bonds shall be deposited as follows:

(a) The sum of $1,338,285.38 shall be deposited with the Paying Agent in the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Fund.

(b) The sum of $226,296.41 shall be deposited with the Registrar in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund.

(c) The sum of $16,188,952.51 shall be deposited with the Registrar in the 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund, and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $6,184,023.36 shall be deposited into the 2010 A Bonds Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the 2010 A Bonds Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the 2010 A Bonds Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the 2010 A Bonds West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the 2010 A Bonds Additional Project Subaccount.

(d) The sum of $48,521,047.49 shall be deposited with the Registrar in the 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $18,815,976.64 shall be deposited into the 2010 B Bonds Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the 2010 B Bonds Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the 2010 B Bonds Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the 2010 B Bonds West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the 2010 B Bonds Additional Project Subaccount.

(e) The sum of $10,000,000.00 shall be deposited with the Registrar in the 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund, and then transferred by the Registrar into the 2010 C Bonds Commission Project Subaccount.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission, on September 9, 1992, and the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time (collectively, the "General Resolution"), including the Fifth Consolidated Supplemental Resolution of the Commission adopted on December 3, 2010.

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IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of December, 2010.

HIGHER EDUCATION POLICY COMMISSION

Brian Noland, Ph.D., Chancellor

2512891 (10791.7)

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

CERTIFICATE REGARDING ADDITIONAL BONDS

The undersigned, Dr. Brian Noland, Chancellor of the Higher Education Policy Commission (the "Commission"), hereby certifies, for and on behalf of the Commission, to Wells Fargo Bank, National Association, as Construction Trustee, Registrar and Transfer Agent (the "Registrar") for the $76,865,000 State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees, predecessor to the Commission, and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessor to the Commission, as both have been amended and supplemented from time to time (collectively, the "General Resolution"), including the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution"), and the Certificate of Determination dated December 17, 2010, 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 2010 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 the 2010 Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2010 Bonds and the Prior 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 2010 Bonds, plus Projected Revenues (as defined below) have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2010 Bonds and the Prior Bonds; and (b) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2010 Bonds and the Prior Bonds. For purposes of this section (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 Bonds.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the General Resolution.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, I have duly executed this Certificate this 23rd day of December, 2010.

HIGHER EDUCATION POLICY COMMISSION

Dr. Brian Noland, Chancellor

2513036 (10791.7)

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

CERTIFICATE OF PAYING AGENT AND REGISTRAR
AS TO ACKNOWLEDGEMENT OF RECEIPT OF BOND PROCEEDS

On the date hereof, the undersigned, on behalf of the West Virginia Municipal Bond Commission, as Paying Agent (the "Paying Agent") and Wells Fargo Bank, N.A., as Registrar (the "Registrar") with respect to the $76,865,000 in proceeds from the sale of the State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), issued by the Higher Education Policy Commission (the "Commission"), acknowledges receipt of and the deposit of funds as follows:

(1) The Paying Agent shall deposit $1,338,285.38 of the proceeds of the 2010 Bonds into the 2010 Bonds (Higher Education Facilities) Interest Subsidy Reserve Account.

(2) The Registrar shall deposit $226,296.41 of the proceeds of the 2010 Bonds into the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund.

(3) The Registrar shall deposit $16,188,952.51 of the proceeds of the 2010 Bonds into the 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $6,184,023.36 shall be deposited into the 2010 A Bonds Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the 2010 A Bonds Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the 2010 A Bonds Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the 2010 A Bonds West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the 2010 A Bonds Additional Project Subaccount.

(4) The Registrar shall deposit $48,521,047.49 of the proceeds of the 2010 Bonds into the 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Registrar to the following project subaccounts:

(i) The sum of $18,815,976.64 shall be deposited into the 2010 B Bonds Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the 2010 B Bonds Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the 2010 B Bonds Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the 2010 B Bonds West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the 2010 B Bonds Additional Project Subaccount.

(5) The Registrar shall deposit $10,000,000.00 of the proceeds of the 2010 Bonds into the 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund and then transferred by the Registrar into the 2010 C Bonds Commission Project Subaccount.

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WELLS FARGO BANK, N.A.,
as Registrar

By: _____
Michael E. Puskar
Title: Vice President

MUNICIPAL BOND COMMISSION,
as Paying Agent

By: _____
Sara Boardman
Title: Executive Director

2513359 (10791.7)

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

CERTIFICATE OF THE WEST VIRGINIA LOTTERY

The undersigned, John C. Musgrave, Director of the West Virginia Lottery, hereby certifies as follows:

1. I have no reason to believe that the financial statements relating to the West Virginia Lottery included as Appendix A in the Official Statement do not fairly present the respective financial positions and results of operations of the West Virginia Lottery as of the dates and for the periods therein set forth, and such financial statements have been prepared in conformity with generally accepted accounting principles (or, alternatively, generally accepted auditing principles) consistently applied in all material respects to the periods involved, except as otherwise stated in the notes thereto.

2. Since June 30, 2010, there has not been any material adverse change in the properties, financial position or results of operations of the West Virginia Lottery, whether or not arising from transactions in the ordinary course of business, other than as set forth in the Official Statement, and since such date the West Virginia Lottery has not entered into any transaction or incurred any liability material as to the West Virginia Lottery, except as set forth in the Official Statement.

3. There are not pending or, to my knowledge, threatened, legal or administrative proceedings to which the West Virginia Lottery or the State Lottery Commission is a party or to which property of the West Virginia Lottery or the State Lottery Commission is subject, which are material as to the West Virginia Lottery or the State Lottery Commission and not disclosed in the Official Statement or which will materially and adversely affect the transactions contemplated in the Bond Purchase Agreement dated December 17, 2010 (the "Bond Purchase Agreement"), by and among the West Virginia Higher Education Policy Commission (the "Commission") and Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Underwriters") or by the Official Statement or which will

materially and adversely affect the validity or enforceability of the above-captioned Bonds or the Bond Purchase Agreement.

4. The information contained in the Official Statement relating to the Lottery, the Lottery Act, and the State Lottery Commission, including but not limited to the statements and financial information contained in the Official Statement under the caption "Revenues, Debt Service Coverage And Select Financial Information," "Investment Considerations" (excluding only the portion of that caption appearing immediately beneath the subcaption "No Mortgage or Other Interest in Projects"), "Financial Statements," "Appendix E" and "Appendix F" ("Lottery Official Statement Information") is true and correct in all material respects and does not contain any untrue or incorrect statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

5. The West Virginia Lottery has complied, or has caused the West Virginia Department of Administration on its behalf to comply with all continuing disclosure obligations applicable to it.

6. If, at any time prior to the expiration of ninety (90) days following the Closing, any event occurs (including events of which such officer has received notice by any means) as a result of which the Lottery Official Statement Information, as then amended or supplemented might include an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, in any material respect, such officer shall promptly notify the Underwriters thereof and, upon request of the Underwriters, shall assist in the preparation of an amendment or supplement which will correct such statement or omission at the expense of the Commission.

Except as otherwise indicated, all capitalized words and terms used herein shall have the same meaning as set forth in the Bond Purchase Agreement dated December 17, 2010, between the Commission and the Underwriters.

[Remainder of Page Intentionally Left Blank]

WITNESS my signature this 23rd day of December, 2010.

WEST VIRGINIA LOTTERY COMMISSION

John C. Musgrave
Director of the West Virginia Lottery

HEPC- Certificate of Lottery Director
2513449 (10791.7)

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

and

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE – BUILD AMERICA BONDS)

and

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

DIRECTION OF GOVERNOR APPROVING ISSUANCE OF BONDS

I, Earl Ray Tomblin, Governor of the State of West Virginia, at the request of the Higher Education Policy Commission (the "Commission"), an agency of the State of West Virginia, pursuant to Chapter 5, Article 1, Section 28 of the Code of West Virginia of 1931, as amended (the "Act"), approve and direct the issuance by the Commission of its (i) Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 Series A Bonds"), (ii) Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable-Build America Bonds) (the "2010 Series B Bonds"), and (iii) Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 Series C Bonds," and collectively with the 2010 Series A Bonds and 2010 Series B Bonds, the "Bonds") to be issued in an aggregate principal amount not to exceed $90,000,000, the proceeds of which are to be used for the purposes of, among other things, providing funds to finance the acquisition, construction, equipping or improvement of higher education facilities in the State of West Virginia and paying costs of issuance of the Bonds.

WITNESS my hand this 9th day of December, 2010.

Earl Ray Tomblin, Governor
State of West Virginia

2481877

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

December 23, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $16,520,000 Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt), dated December 23, 2010 (the "2010 Series A Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series A Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution," and collectively with the Higher Education Policy Commission Act, and the State Lottery Act, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series A 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, (ii) the component part of

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West Virginia North Carolina Pennsylvania Virginia

the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series A Bonds when due. Proceeds of the 2010 Series A Bonds will be used to pay for a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series A Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Bond Purchase Agreement dated December 17, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Bond Purchase Agreement") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Bond Purchase Agreement and the General Resolution, and (iii) the binding effect and enforceability of the Bond Purchase Agreement and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Without undertaking to verify the same by independent investigation, we have relied on certifications by representatives of the Issuer with respect to certain facts relevant to both our opinion and the requirements of the Internal Revenue Code of 1986, as amended (the "Code"). The Issuer has covenanted to comply with the provisions of the Code regarding, among other matters, the use, expenditure and investment of the proceeds of the 2010 Series A Bonds, and the timely payment to the United States of any arbitrage rebate amounts with respect to the 2010 Series A Bonds, all as set forth in the proceedings and documents providing for the issuance of the 2010 Series A Bonds (the "Covenants").

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series A Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series A Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series A Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series A Bonds. The 2010 Series A Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series A Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series A Bonds is excludable from gross income for federal income tax purposes under Section 103 of the Code, and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The preceding opinion is subject to the condition that all requirements of the Code that must be satisfied subsequent to the issuance of the 2010 Series A Bonds in order that interest on the 2010 Series A Bonds be, or continue to be, excludable from gross income for federal income tax purposes are so satisfied, and therefore failure by the Issuer to comply with the Covenants, among other things, could cause interest on the 2010 Series A Bonds to be included in gross income for federal income tax purposes retroactively to their date of issuance. Except as set forth in this Paragraph 8, we express no opinion regarding any other tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series A Bonds. Furthermore, we express no opinion as to the effect on the excludability of the interest on the 2010 Series A Bonds from gross income of (a) any event for which the General Resolution requires the obtaining of an opinion of bond counsel or (b) any amendment of the General Resolution or waiver of the terms thereof.

It is to be understood that the rights of the holders of the 2010 Series A Bonds and the enforceability of the 2010 Series A Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series A Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series A Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. AR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

2510934 (10791.7)

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

December 23, 2010

Citigroup Global Markets Inc.
New York, NY

Crews & Associates, Inc.
Charleston, WV

Raymond James & Associates, Inc.
Charleston, WV

Wells Fargo Bank, N.A.
Pittsburgh, PA

Ladies and Gentlemen:

We have delivered our bond counsel opinion of even date herewith for the above-referenced bonds, a copy of which is attached hereto and incorporated herein. You may rely upon this opinion as if specifically addressed to you.

Very truly yours,

Spilman Thomas & Battle, PLLC

SPILMAN THOMAS & BATTLE, PLLC

2533836
10791.7

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West Virginia North Carolina Pennsylvania Virginia

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE – ISSUER SUBSIDY – BUILD AMERICA BONDS)

December 23, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $50,265,000 Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds), dated December 23, 2010 (the "2010 Series B Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series B Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended (the "Federal Subsidy Bonds Act"), Senate Concurrent Resolution 41 (the "Concurrent Resolution") and the American Recovery and Reinvestment Act of 2009 ("ARRA" and together with the Higher Education Policy Commission Act, the State Lottery Act, the Federal Subsidy Bonds Act and the Concurrent Resolution, collectively, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted on December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised

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West Virginia North Carolina Pennsylvania Virginia

of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series B 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, (ii) the component part of the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (collectively, the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series B Bonds when due. Proceeds of the 2010 Series B Bonds will be used to pay for a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series B Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Bond Purchase Agreement dated December 17, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Bond Purchase Agreement") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Bond Purchase Agreement and the General Resolution, and (iii) the binding effect and enforceability of the Bond Purchase Agreement and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Based on the foregoing, we are of the opinion that:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series B Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General

Resolution, subject to the terms thereof.

5. The 2010 Series B Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series B Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series B Bonds. The 2010 Series B Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series B Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series B Bonds is included in gross income for Federal income tax purposes. Except as set forth in this Paragraph 8, we express no opinion regarding other Federal tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series B Bonds.

It is to be understood that the rights of the holders of the 2010 Series B Bonds and the enforceability of the 2010 Series B Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series B Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series B Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. BR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

2511912

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES B (FEDERALLY TAXABLE –
ISSUER SUBSIDY – BUILD AMERICA BONDS)

December 23, 2010

Citigroup Global Markets Inc.
New York, NY

Crews & Associates, Inc.
Charleston, WV

Raymond James & Associates, Inc.
Charleston, WV

Wells Fargo Bank, N.A.
Pittsburgh, PA

Ladies and Gentlemen:

We have delivered our bond counsel opinion of even date herewith for the above-referenced bonds, a copy of which is attached hereto and incorporated herein. You may rely upon this opinion as if specifically addressed to you.

Very truly yours,

Spilman Thomas + Battle, PLLC

SPILMAN THOMAS & BATTLE, PLLC

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West Virginia North Carolina Pennsylvania Virginia

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

December 23, 2010

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have acted as bond counsel to the West Virginia Higher Education Policy Commission (the "Issuer") in connection with the issuance by the Issuer of $10,080,000 Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable), dated December 23, 2010 (the "2010 Series C Bonds"). In such capacity, we have examined such law and such certified proceedings, certifications, and other documents as we have deemed necessary to render this opinion. Capitalized terms used and not otherwise defined herein shall have the respective meanings given them in the General Resolution.

The 2010 Series C Bonds are issued pursuant to Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), and Senate Concurrent Resolution 41 (the "Concurrent Resolution," and collectively with the Higher Education Policy Commission Act, and the State Lottery Act, the "Act"), the Fifth Consolidated Supplemental Resolution of the Issuer adopted December 3, 2010 (the "Fifth Supplemental Resolution"), which supplemented that certain General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Issuer, on September 9, 1992, and that certain General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time and are collectively referred to as the "Prior General Resolution." The Fifth Supplemental Resolution and the Prior General Resolution are hereinafter collectively referred to as the "General Resolution."

Under the General Resolution, the Issuer has pledged the revenues which are comprised of (i) registration and tuition fees and any earnings attributable to the investment of monies, including proceeds of 2010 Series C 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, (ii) the component part of

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the required educational and general capital fees of the Institutions that constituted registration and tuition fees in effect as of March 21, 2004, (iii) excess lottery revenues deposited in the Higher Education Improvement Fund as provided for in the Lottery Act, and (iv) Subsidy Receipts (the "Revenues") for the payment of principal of, premium (if any) and interest on the 2010 Series C Bonds when due. Proceeds of the 2010 Series C Bonds will be used to pay for all or a portion of the costs of the 2010 Projects, to fund an interest subsidy reserve fund and to pay costs of issuance of the 2010 Series C Bonds and related costs.

Regarding questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the General Resolution, and in the certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Issuer, dated of even date herewith, with respect to (i) the power and authority of the Issuer to enter into the Bond Purchase Agreement dated December 17, 2010, by and between Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Bond Purchase Agreement") and the General Resolution, (ii) the due authorization, execution and delivery by the Issuer of the Bond Purchase Agreement and the General Resolution, and (iii) the binding effect and enforceability of the Bond Purchase Agreement and the General Resolution upon the Issuer. No opinion as to such matters is expressed herein.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is a commission of the State with power to adopt the General Resolution, to execute and deliver the bond documents, and to perform the agreements on its part contained therein and to issue the 2010 Series C Bonds.

2. The General Resolution has been duly adopted by the Issuer, is in full force and effect, and is valid and binding upon the Issuer and enforceable against the Issuer in accordance with its terms.

4. The General Resolution creates the valid pledge which it purports to create on the Revenues (as defined therein), and other funds and accounts pledged under the General Resolution, subject to the terms thereof.

5. The 2010 Series C Bonds have been duly authorized, executed and delivered by the Issuer and, assuming proper authentication, are valid and binding special

obligations of the Issuer, payable solely from the sources provided therefor in the General Resolution.

6. The 2010 Series C Bonds are limited obligations of the Issuer payable solely out of the Revenues, and other funds and accounts pledged under the General Resolution. The State of West Virginia (the "State") is not obligated to pay the principal or redemption price of or interest on the 2010 Series C Bonds. The 2010 Series C Bonds shall not constitute or give rise to a general obligation or other indebtedness of the Issuer or the State within the meaning of any constitutional limitation.

7. Under the Act, the 2010 Series C Bonds and the interest thereon are exempt from all taxation by the State, or by any county, school district, municipality, or political subdivision thereof.

8. Under current law, interest on the 2010 Series C Bonds is included in gross income for Federal income tax purposes. We express no opinion regarding other Federal tax consequences of the ownership of or receipt or accrual of interest on the 2010 Series C Bonds.

It is to be understood that the rights of the holders of the 2010 Series C Bonds and the enforceability of the 2010 Series C Bonds, the General Resolution and the liens and pledges set forth therein are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

We express no opinion herein regarding the accuracy, adequacy, or completeness of the Official Statement or other offering material relating to the 2010 Series C Bonds (except to the extent, if any, stated in the Official Statement), or regarding the perfection or priority of the lien on Revenues or other funds created by the General Resolution except as provided in the Act. Further, we express no opinion regarding tax consequences arising with respect to the 2010 Series C Bonds other than as expressly set forth herein.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

We have examined the executed and authenticated Bond No. CR-1 of said issue, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

2509378

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES C (TAXABLE)

December 23, 2010

Citigroup Global Markets Inc.
New York, NY

Crews & Associates, Inc.
Charleston, WV

Raymond James & Associates, Inc.
Charleston, WV

Wells Fargo Bank, N.A.
Pittsburgh, PA

Ladies and Gentlemen:

We have delivered our bond counsel opinion of even date herewith for the above-referenced bonds, a copy of which is attached hereto and incorporated herein. You may rely upon this opinion as if specifically addressed to you.

Very truly yours,

Spilman Thomas & Battle, PLLC

SPILMAN THOMAS & BATTLE, PLLC

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SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

December 23, 2010

Higher Education Policy Commission
Charleston, WV

Citigroup Global Markets Inc.
New York, NY

Crews & Associates, Inc.
Charleston, WV

Raymond James & Associates, Inc.
Charleston, WV

Re: $16,520,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax-Exempt)

$50,265,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds)

$10,080,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series C (Taxable)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance of the above-referenced Bonds (the "Bonds") of the Higher Education Policy Commission (the "Commission"), issued pursuant to the Constitution and laws of the State, including particularly Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended, Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended, Senate Concurrent Resolution 41 and Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended, and pursuant to a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees, predecessor to the Commission, and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessor to the Commission, as both have been amended and supplemented from time to time (collectively, the

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"General Resolution"), including the Fifth Consolidated Supplemental Resolution of the Commission adopted December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General Resolution, collectively, the "Resolution").

We are herewith rendering our final approving opinion of even date in connection with the authorization, issuance and delivery of the Bonds to Citigroup Global Markets Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters") named in the Bond Purchase Agreement dated December 17, 2010, between the Commission and the Underwriters (the "Bond Purchase Agreement"), relating to the Bonds. Capitalized terms used herein but not defined herein shall have the meanings set forth in the Bond Purchase Agreement.

In rendering this opinion, we reviewed records of the acts taken by the Commission in connection with the authorization, sale and issuance of the Bonds, including a record of proceedings of the Commission relating to the authorization, execution and delivery of the Bond Purchase Agreement, and we were present at various meetings for the preparation of various parts of the Official Statement relating to the Bonds, dated and executed by the Chancellor of the Commission on December 17, 2010 (the "Official Statement").

Reference is made to the opinion of Bruce R. Walker, Esquire, as counsel to the Commission with respect to the matters identified therein.

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 Official Statement has been duly approved, signed and delivered by the Commission.

3. The Bond Documents have been duly authorized, executed, acknowledged and delivered by the Commission and, assuming due authorization, execution and delivery by the other parties thereto, are the 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 rights of creditors and to the exercise of judicial discretion).

4. The statements contained in the Official Statement under the captions "Summary and Introduction," "The 2010 Series Bonds," "Security for the 2010 Series Bonds," "Tax Matters," "Appendix G – Summary of Certain Provisions of the Principal Documents," and "Appendix H – Proposed Form of Opinions 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.

5. The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Resolution and the General Resolution are exempt from qualification as an indenture under the Trust Indenture Act of 1939, as amended.

For purposes of our opinion regarding the binding effect of the Bond Purchase Agreement to which the Underwriters are a party, we have assumed that the Underwriters are qualified to do business in West Virginia to the extent that such qualification is required by the nature of this transaction or the Underwriters' other activities in the State of West Virginia.

This letter is furnished to you solely for your information, and for assistance to you in conducting and documenting your investigation in connection with the issuance of the Bonds and is solely for your benefit.

Very truly yours,

Spilman Thomas & Battle, PLLC

SPILMAN THOMAS & BATTLE, PLLC

2533794 (10791.0007)

David K. Hendrickson
Chair

Brian Noland
Chancellor

West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard East, Suite 700
Charleston, WV 25301
(304) 558-2102
www.hepc.wvnet.edu

December 23, 2010

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 **2010 Series A** **(Tax Exempt)**	**$50,265,000** **2010 Series B** **(Federally Taxable - Issuer Subsidy – Build America Bonds)**	**$10,080,000** **2010 Series C** **(Taxable)**

Spilman Thomas & Battle, PLLC
Charleston, West Virginia

Higher Education Policy Commission
Charleston, West Virginia

Citigroup Global Markets Inc.
New York, New York

Crews & Associates, Inc.
Charleston, West Virginia

Raymond James & Associates, Inc.
Charleston, West Virginia

Ladies and Gentlemen:

I have acted as Counsel to the Higher Education Policy Commission (the "Commission") in connection with the sale by the Commission of the above-captioned bonds (the "Bonds") to Citigroup Global Markets Inc., acting on its behalf and on behalf of the other underwriters, Crews & Associates, Inc. and Raymond James & Associates, Inc. (the "Underwriter"), pursuant to a bond purchase agreement dated December 17, 2010, (the "Bond Purchase Agreement") between the Commission and the Underwriter. The Bonds are issued pursuant to the General Resolution adopted by the University of West Virginia Board of Trustees, predecessor to the Commission,

on September 9, 1992, and the General Resolution adopted by the Board of Directors of the State College System, predecessor to the Commission, on September 9, 1992, both of which remain in effect as amended, consolidated and supplemented from time to time, and the Fifth Consolidated Supplemental Resolution of the Commission adopted on December 3, 2010, (collectively, the "Resolution"). Capitalized terms not otherwise defined herein shall have the meanings assigned in the Bond Purchase Agreement.

I have examined the Preliminary Official Statement, the Official Statement, executed counterparts of the Bond Purchase Agreement and the other documents to which the Commission is a party (the "Bond Documents"), pertinent proceedings of the Commission, certificates executed by officers of the Commission, and such other certificates, proceedings and documents as I have deemed necessary in connection with the opinions hereinafter set forth. As to various questions of fact material to my opinion, I have relied upon the representations made in the Bond Documents and upon certificates of the officers of the Commission.

Based upon the foregoing and upon such investigation as I have deemed necessary, I am of the opinion that:

1. There is no litigation pending or, to my knowledge, threatened (a) to restrain or enjoin the issuance or delivery of any of the Bonds or the collection of the Revenues and other funds pledged under the Resolution and other 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 Resolution, the Bonds, the Bond Purchase Agreement or the Bond Documents, or (c) in any way contesting the existence or powers of the Commission relating to the issuance of the Bonds.

2. To the best of my knowledge, no event affecting the Commission has occurred since the date of the Preliminary Official Statement or the Official Statement, as applicable, 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.

3. The Commission is validly existing under the provisions of the Act, has complied with all requirements of the Act that must be satisfied upon and subsequent to issuance of the Bonds, 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.

4. The Commission has entered into a Continuing Disclosure Agreement with Wells Fargo Bank, N.A., as Dissemination Agent, dated the date hereof to comply with all continuing disclosure obligations applicable to it under 17 CFR §240.15c2-12.

5. The Preliminary Official Statement and the Official Statement have been duly

approved, executed and delivered by the Commission.

6. The statements contained in the Official Statement under the captions "Summary," "Introduction," "The Commission," "West Virginia Higher Education," "Security For The 2010 Series Bonds," "Plan of Finance," "Revenues, Debt Service Coverage and Select Financial Information," (as such information pertains to the Commission), "Litigation," "Continuing Disclosure," "Appendix A – State Institutions of Higher Education," Appendix B – Project List," and "Appendix D – Information Concerning the Commission and the General Resolution" 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.

Very truly yours,

Bruce Ray Walker
General Counsel
West Virginia Higher Education Policy Commission

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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
TELECOPIER (304) 344-9692

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

December 23, 2010

Citigroup Global Markets Inc.
New York, New York

Crews & Associates, Inc.
Charleston, West Virginia

Raymond James & Associates, Inc.
Charleston, West Virginia

Re: $16,520,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series A (Tax-Exempt),
$50,265,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds), and
$10,080,000 State of West Virginia Higher Education Policy Commission, Revenue Bonds (Higher Education Facilities), 2010 Series C (Taxable) (collectively, the "Bonds")

Ladies and Gentlemen:

This letter is being delivered to you pursuant to the Bond Purchase Agreement dated December 17, 2010 (the "Agreement"), between Citigroup Global Markets Inc., as the representative acting on behalf of itself, Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters"), and the West Virginia Higher Education Policy Commission (the "Commission") relating to the sale of the above-referenced Bonds. The terms defined in the Agreement are used in this opinion with the meanings assigned to them in the Agreement.

We have acted as your counsel in connection with the issuance and sale of the Bonds to you, and in that capacity have examined an executed counterpart of the Agreement and the Certificate of Governor Approving Issuance of Bonds, dated December 9, 2010. We have also examined the originals or copies, certified or otherwise

identified to our satisfaction, of such other documents, corporate records and other instruments, as we have deemed necessary or advisable for purposes of this opinion.

In connection with the preparation of the Preliminary Official Statement, dated December 10, 2010, and the Final Official Statement dated December 17, 2010 (collectively, the "Official Statement"), we have generally reviewed information furnished to us by, and have participated in conferences with, representatives and officials of the Commission, its counsel, your representatives and Spilman Thomas & Battle, PLLC, Bond Counsel. We have also reviewed other records relating to the authorization, issuance and sale of the Bonds and have relied upon certificates of officials of the Commission and upon written opinions and letters received from the Commission and independent certified public accountants.

We have considered the information contained in the Official Statement and, based upon our review and discussions and in reliance upon the accuracy of the information contained in the aforementioned certificates, written opinions and letters, nothing has come to our attention which leads us to believe that the Official Statement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. We express no opinion as to the financial statements included in the Official Statement, and we express no opinion as to any other financial or statistical data included in the Official Statement or the Appendices thereto.

The Agreement has been validly authorized, executed and delivered by and on behalf of the Underwriters and, assuming due authorization, execution and delivery by the Commission, constitutes a valid and binding agreement, enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws affecting the respective parties, the exercise of judicial discretion or the availability of equitable remedies.

In addition, we are of the opinion that the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Fifth Consolidated Supplemental Resolution dated December 3, 2010, approved by the Commission is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

We are further of the opinion that the Continuing Disclosure Agreement satisfies the requirements of Securities and Exchange Commission Rule 15c2-12(b)(5) (the "Rule"), which provides for an undertaking for the benefit of the holders, including beneficial owners, of the Bonds to provide certain annual financial information and event notices at the times and in the manner required by the Rule.

Respectfully submitted,

Goodwin + Goodwin, LLP

Goodwin & Goodwin, LLP

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

December 23, 2010

West Virginia Higher Education Policy Commission
Charleston, West Virginia

Municipal Bond Commission
Charleston, West Virginia

Wells Fargo Bank, N.A.
Pittsburgh, Pennsylvania

Re: $16,520,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax-Exempt)

$50,265,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds)

$10,080,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series C (Taxable)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance of the above-referenced Bonds (collectively, the "2010 Bonds") of the West Virginia Higher Education Policy Commission (the "Commission"), issued pursuant to the Constitution and laws of the State, in particular Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), Senate Concurrent Resolution 41 (the "Concurrent Resolution,"), and Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended (the "Build America Bonds Act" and collectively with the Higher Education Policy Commission Act, the State Lottery Act and the Concurrent Resolution, the "Act"), and in accordance with a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees, predecessor to the Commission, and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessor to the Commission (collectively, the "General Resolution"), as amended and supplemented from time to time including the Fifth Consolidated Supplemental Resolution of the Commission adopted on December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the

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West Virginia North Carolina Pennsylvania Virginia

General Resolution, collectively the "Resolution"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in 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 2010 Bonds, including the record of proceedings of the Commission relating to the authorization, execution and delivery of the 2010 Bonds.

The opinion in this paragraph is being rendered pursuant to Section 2.03(b) of the General Resolution and Section 2.08(C) of the Fifth Consolidated Supplemental Resolution. We are of the opinion that: (i) the Fifth Consolidated 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 the rights and remedies of creditors); (iii) the General Resolution creates the valid pledge which it purports to create of the Revenues, and monies and securities on deposit in any of the Funds established thereunder (other than a Purchase Fund, if any), and/or any refundable interest credit under Section 54AA(g) of the Code which may be received by the Commission in connection with the issuance by the Commission of its Revenue Bonds (Higher Education Facilities), 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds), subject to the application thereof to the purposes and on the conditions permitted in the General Resolution; and (iv) upon execution and delivery thereof, the 2010 Bonds will have been duly and validly authorized and issued in accordance with the General Resolution.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

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SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

December 23, 2010

West Virginia Higher Education Policy Commission
Charleston, West Virginia

Re: $16,520,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A (Tax-Exempt)

$50,265,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds)

$10,080,000 State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series C (Taxable)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance of the above-referenced Bonds (collectively, the "2010 Bonds") of the West Virginia Higher Education Policy Commission (the "Commission"), issued pursuant to the Constitution and laws of the State, in particular Chapter 18B, Articles 1B and 10 of the Code of West Virginia, 1931, as amended (the "Higher Education Policy Commission Act"), Chapter 29, Article 22, Section 18a of the Code of West Virginia, 1931, as amended (the "State Lottery Act"), Senate Concurrent Resolution 41 (the "Concurrent Resolution,"), and Chapter 13, Article 4 of the Code of West Virginia, 1931, as amended (the "Build America Bonds Act" and collectively with the Higher Education Policy Commission Act, the State Lottery Act and the Concurrent Resolution, the "Act"), and in accordance with a General Resolution adopted on September 9, 1992, by the University of West Virginia Board of Trustees, predecessor to the Commission, and a General Resolution adopted on September 9, 1992, by the Board of Directors of the State College System, predecessor to the Commission (collectively, the "General Resolution"), as amended and supplemented from time to time including the Fifth Consolidated Supplemental Resolution of the Commission adopted on December 3, 2010 (the "Fifth Consolidated Supplemental Resolution" and together with the General Resolution, collectively the "Resolution"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Resolution.

In rendering this opinion, we reviewed records of the acts taken by the Commission in connection with the Resolution and such other documents and records as we have deemed necessary. Capitalized terms used and not otherwise defined herein have the respective meanings given them in the Resolution.

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West Virginia North Carolina Pennsylvania Virginia

The opinion in this paragraph is being rendered pursuant to Section 10.06 of the General Resolution, with respect to the adoption by the Commission of the Resolution. We are of the opinion that the adoption and subsequent execution and delivery of the Resolution is authorized under the General Resolution and the 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.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

2534029 (10791.0007)

SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)
2010 SERIES A (TAX-EXEMPT)

December 23, 2010

Citigroup Global Markets Inc.
New York, NY

Crews & Associates, Inc.
Charleston, WV

Raymond James & Associates, Inc.
Charleston, WV

Wells Fargo Bank, N.A.
San Francisco, CA

Higher Education Policy Commission
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Higher Education Policy Commission (the "Issuer") of its $16,520,000 Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "Bonds"). With respect to acting as bond counsel, we have been asked to provide an opinion to Citigroup Global Markets, Inc., Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters") as to the federal tax impact to purchasers of Bonds of the original issue discount on the Bonds.

Certain of the Bonds may be offered and sold to the public at an original issue discount (the "Discount Bonds"). The original issue discount ("OID") is the excess of the stated redemption price at maturity (the principal amount) over the "issue price" of a Discount Bond. 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). For federal income tax purposes, OID accrues to the owner of a Discount Bond over the period to maturity based on the constant yield method, compounded semiannually (or over a shorter permitted compounding interval selected by the owner). The portion of OID that accrues during the period of ownership of a Discount Bond (i) is interest excluded from the owner's gross income for federal income tax purposes to the same extent, and subject to the

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www.spilmanlaw.com | 304.340.3800 | 304.340.3801 fax
West Virginia North Carolina Pennsylvania Virginia

same considerations as other interest on the Bonds, and (ii) is added to the owner's tax basis for purposes of determining gain or loss on the maturity, redemption, prior sale or other disposition of that Discount Bond. The Discount Bonds mature on, are in the principal amounts of, and bear interest as follows:

2010 Series A (Tax-Exempt)
$16,520,000 Revenue Bonds (Higher Education Facilities)

Maturity Year (April 1)	Principal Amount	Interest Rate	Price or Yield	CUSIP
2018	$235,000	3.500%	98.856%	95639RDV8
2019	1,735,000	3.750%	98.387%	95639RDS5
2020	1,800,000	4.000%	98.095%	95639RDT3

$12,750,000 5.000% 2010 Series A Term Bond due April 1, 2026 at a price of 98.940%
(CUSIP: 95639RDU0)

A purchaser of a Discount Bond in the initial public offering at a price for that Discount Bond stated on the cover of this Official Statement who holds that Discount Bond to maturity will realize no gain or loss upon the retirement of that Discount Bond.

Very truly yours,

Spilman Thomas & Battle, PLLC

Spilman Thomas & Battle, PLLC

2536950
10791.7

CONSTRUCTION TRUSTEE, REGISTRAR AND TRANSFER AGENT AGREEMENT

This Construction Trustee, Registrar and Transfer Agent Agreement (the "Agreement") is executed and effective this 23rd day of December, 2010 by and between WELLS FARGO BANK, N.A., a national banking association, as construction trustee, registrar and transfer agent (the "Registrar") and the HIGHER EDUCATION POLICY COMMISSION, a commission of the State of West Virginia (the "Commission").

WHEREAS, the Commission contemplates issuing its State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt) (the "2010 A Bonds"), State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy - Build America Bonds) (the "2010 B Bonds") and State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable) (the "2010 C Bonds," and collectively with the 2010 A Bonds and the 2010 B Bonds, the "2010 Bonds"), in the aggregate principal amount of $76,865,000.00;

WHEREAS, the Commission desires that the Registrar act on behalf of the Commission to perform the duties of Construction Trustee, Registrar and Transfer Agent as set forth in this Agreement; and

WHEREAS, the Registrar 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, the Commission and the Registrar agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Definitions

"Authorized Officer" means the person designated pursuant to Section 1.03 of the Fifth Consolidated Supplemental Resolution.

"Construction Trustee" means any bank, trust company, national association or other organization duly authorized and empowered by law and applicable State or Federal regulations to perform the duties set forth under Section 4.02 herein, and initially means Wells Fargo Bank, N.A.

"General Resolution" means, collectively, the General Resolution adopted by the University of West Virginia Board of Trustees, on September 9, 1992, as predecessor to the Commission, and the General Resolution adopted by the Board of Directors of the State College System, on September 9, 1992, as predecessor to the Commission, each as amended and supplemented from time to time.

"Register" means a complete listing of all holders of record of all 2010 Bonds outstanding at any time.

"Registrar" means any bank, trust company, national association or other organization duly authorized and empowered by law and applicable State or Federal regulations to perform the duties set forth under Section 2.02 herein, and initially means Wells Fargo Bank, N.A.

"Transfer Agent" means any bank, trust company, national association or other organization duly authorized and empowered by law and applicable State or Federal regulations to perform the duties set forth under Section 3.02 herein, and initially means Wells Fargo Bank, N.A.

"Underwriter" means the firm or firms purchasing the 2010 Bonds from Commission.

"2010 Projects" means the capital improvements at institutions of higher education located throughout the State of West Virginia.

All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the General Resolution.

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 Clauses

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 Registrar as Registrar

The Commission hereby appoints the Registrar to act as Registrar for the 2010 Bonds, and the Registrar 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 2010 Bonds upon the written instructions of Commission or the Underwriter as agent for Commission; 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 2010 Bonds issued outstanding, destroyed, and in inventory; and

d) upon reasonable, prior written request, permit the inspection of the Register's records pertaining to the 2010 Bonds during the Registrar's normal business hours by the Commission or, at the Commission's written direction, any other person or entity that the Commission has determined has a legitimate legal interest therein; and

e) to cancel any 2010 Bonds which have been paid, redeemed, transferred, exchanged, converted or otherwise required to be canceled; and

f) in accordance with the Registrar's policies and procedures, to destroy all canceled 2010 Bonds, at such time as permitted by applicable law or regulation and to provide Commission with a certificate which lists all 2010 Bonds so destroyed; and

g) to provide information concerning the 2010 Bonds and its Register to any party entitled to such information.

Section 2.03. Duties of the Commission

a) The Commission agrees to provide or cause the Underwriter to provide to Registrar at the time of initial issuance of the 2010 Bonds an accurate and complete list setting forth the following information; all of which shall be in a form acceptable to the Registrar:

1) Each bondholder's name as it is to appear on each 2010 Bond to be issued, or in the event a 2010 Bond is to be registered to a trust or to a minor, then Registrar will be provided with all information necessary to register such 2010 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 2010 Bond to be issued; and

5) The stated maturity of each 2010 Bond to be issued; and

6) The rate of interest applicable to each 2010 Bond; and

7) Any other information required by applicable tax or other laws, rules or regulations.

b) The Commission agrees to provide or cause to be provided the information enumerated under (a) immediately above with sufficient lead time to permit the Registrar to perform its duties here under in an orderly and deliberate manner.

c) The Commission agrees to provide a sufficient supply of 2010 Bonds, in a form acceptable to Registrar, to enable Registrar to authenticate and deliver the 2010 Bonds upon proper direction from the Commission. Further the Commission agrees to provide a sufficient supply of additional 2010 Bonds to enable the Registrar to perform its duties as Transfer Agent, as set forth under Article III herein. All 2010 Bonds, at the time so provided to the Registrar, will be numbered consecutively and will be fully executed by duly authorized representatives of the Commission.

ARTICLE III
TRANSFER AGENT

Section 3.01. Acceptance by the Registrar as Transfer Agent

The Commission hereby appoints the Registrar to act as Transfer Agent for the 2010 Bonds, and the Registrar hereby agrees to perform the duties of Transfer Agent for the 2010 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 2010 Bond when said 2010 Bonds, which have been duly and properly endorsed in a manner acceptable to the Transfer Agent and in relation therewith all things required by law and regulation have been done, is presented for transfer; and

b) Issue a replacement 2010 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 2010 Bond of like tenor in lieu of any mutilated, lost, destroyed, or stolen 2010 Bonds upon receipt by the Transfer Agent of evidence to its satisfaction of the mutilation, destruction, loss or theft of such 2010 Bonds and such security or indemnification as the Transfer Agent may reasonably require to hold it harmless from any liability for its issuance of replacement 2010 Bonds; and

d) Effect the transfer of ownership of any 2010 Bond presented in proper and acceptable form for such transfer within 3 business days of the Transfer Agent's receipt of the 2010 Bonds to be transferred.

Section 3.03. Duties of Commission

The Commission agrees to provide the Transfer Agent with a sufficient supply of unissued 2010 Bonds to enable the Transfer Agent to perform its duties under this Article III. Upon written notice from the Transfer Agent, the Commission agrees to cause to be printed any additional 2010 Bonds required by the Transfer Agent subsequent to initial issuance as long as any 2010 Bonds remain outstanding. Prior to delivering any such additional 2010 Bonds to the Transfer Agent, the Commission agrees to affix the applicable seals and required signatures of its authorized representatives.

Section 3.04. Record Date

The Transfer Agent shall not be required to transfer or exchange any 2010 Bond after the fifteenth day immediately preceding any date fixed for the payment of interest or principal on any of the 2010 Bonds.

Section 3.05. Persons Deemed Owners

The Registrar and Transfer Agent shall treat each person in whose name any 2010 Bond is registered on the Register as the owner of such 2010 Bonds, for all purposes and at all times, both before and after maturity of any 2010 Bond, including without limitation, the payment of principal of, premium on, if any, and interest on such 2010 Bonds and for all other intents and

purposes. The Registrar and Transfer Agent shall not be affected by any knowledge of facts or notice to the contrary, except for the Registrar's and Transfer Agent's own act or acts involving willful misconduct or gross negligence.

ARTICLE IV
CONSTRUCTION TRUSTEE

Section 4.01. Acceptance by the Registrar as Construction Trustee

The Commission hereby appoints the Registrar to act as Construction Trustee for the 2010 Bonds, and the Registrar hereby agrees to perform the duties of Construction Trustee as more fully set forth under this Article IV, upon the terms and subject to the conditions of this Agreement.

Section 4.02. Establishment of, and application of funds in, Costs of Issuance Fund and Bond Proceeds Funds

The Construction Trustee shall create a 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund, a 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund, a 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and a 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund. Within each 2010 Bonds (Higher Education Facilities) Bond Fund for each series of Bonds, the Construction Trustee shall create subaccounts for each of the 2010 Projects. The Construction Trustee may co-mingle the funds on deposit in the separate subaccounts and may make disbursements from any subaccount in the Bond Proceeds Fund without allocating any particular disbursement for a specific 2010 Project to a specific subaccount; and may make disbursements from the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund to pay such Costs of Issuance. Notwithstanding the foregoing, the Construction Trustee shall establish additional subaccounts at the written direction of the Commission.

From the proceeds of the 2010 Bonds, the Construction Trustee acknowledges receipt of the sum of $74,936,296.41, which amounts shall be deposited into the various funds as follows:

(a) The sum of $226,296.41 shall be deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund.

(b) The sum of $16,188,952.51 shall be deposited in the 2010 A Bonds (Higher Education Facilities) Bond Proceeds Fund, and then the following transfers shall be made by the Construction Trustee to the following project subaccounts:

(i) The sum of $6,184,023.36 shall be deposited into the 2010 A Bonds Marshall University Project Subaccount;

(ii) The sum of $2,720,970.28 shall be deposited into the 2010 A Bonds Glenville State College Project Subaccount;

(iii) The sum of $2,922,569.44 shall be deposited into the 2010 A Bonds Shepherd University Project Subaccount;

(iv) The sum of $3,153,851.91 shall be deposited into the 2010 A Bonds West Liberty University Project Subaccount; and

(v) The sum of $1,207,537.52 shall be deposited into the 2010 A Bonds Additional Project Subaccount.

(c) The sum of $48,521,047.49 shall be deposited in the 2010 B Bonds (Higher Education Facilities) Bond Proceeds Fund and then the following transfers shall be made by the Construction Trustee to the following project subaccounts:

(i) The sum of $18,815,976.64 shall be deposited into the 2010 B Bonds Marshall University Project Subaccount;

(ii) The sum of $8,279,029.72 shall be deposited into the 2010 B Bonds Glenville State College Project Subaccount;

(iii) The sum of $8,892,430.56 shall be deposited into the 2010 B Bonds Shepherd University Project Subaccount;

(iv) The sum of $9,596,148.09 shall be deposited into the 2010 B Bonds West Liberty University Project Subaccount; and

(v) The sum of $2,937,462.48 shall be deposited into the 2010 B Bonds Additional Project Subaccount.

(d) The sum of $10,000,000.00 shall be deposited in the 2010 C Bonds (Higher Education Facilities) Bond Proceeds Fund, and then transferred by the Construction Trustee into the 2010 C Bonds Commission Project Subaccount.

(e) Disbursements. The Construction Trustee, upon requisition by an Authorized Officer for payment of costs of the 2010 Projects, shall disburse the proceeds of the 2010 Bonds deposited in the respective 2010 Bonds (Higher Education Facilities) Bond Proceeds Funds, and the project subaccounts

thereof, and any earnings on such proceeds. The Construction Trustee, upon requisition by an Authorized Officer, shall disburse the proceeds of the 2010 Bonds deposited in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund. Any funds remaining in the 2010 Bonds (Higher Education Facilities) Costs of Issuance Fund 180 days after the initial issuance of the 2010 Bonds shall be transferred to the 2010 A Bonds Additional Project Subaccount and to the 2010 B Bonds Additional Project Subaccount, on a pro rata basis based on the amount of monies held in such subaccounts as of the date of such transfer.

Any amount on deposit with the Construction Trustee may only be invested in Permitted Investments as defined in the General Resolution and as directed in writing by the Commission.

ARTICLE V
MISCELLANEOUS

Section 5.01. Registrar's Fees and Expenses

The Registrar's fees and expenses as compensation for the performance of its duties as Construction Trustee, Registrar and Transfer Agent under the terms of this Agreement shall be as follows:

Annual Fee - $ 950/series

Fees and expenses quoted in this Section 5.01 are based upon current charges and expenses. The Registrar reserves the right to revise its fees and expenses in the normal course of business.

Section 5.02. Resignation of Registrar - Successor

a) The Registrar may resign as Construction Trustee, Registrar and Transfer Agent hereunder by giving Commission not less than 60 days' prior written notice of the effective date of such resignation. If at any time the Registrar 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 Registrar's notice of resignation in any of its capacities here under, Commission shall, within 45 days, appoint a successor Construction Trustee, Registrar and Transfer Agent, as the case may be. In the event Commission fails to select a successor, the Registrar, at the Commission's expense may apply to a court of competent jurisdiction for the appointment thereof.

c) The Registrar shall use its best efforts to make an orderly transition to its successors in any capacity thereunder by surrendering to its successors upon

Commission's written order all documents reasonably required by the successor for the successor to perform its duties as such. The Registrar 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 Registrar by its successor and the surrender of all funds held by the Registrar to its successor, the Registrar's successor shall have all rights, duties and obligations which the Registrar had thereunder in respect of the capacity or capacities assumed by such successor, and the Registrar shall have no further liability with respect thereto.

e) Any corporation or association into which the Registrar in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Registrar in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Registrar in its individual capacity may be sold or otherwise transferred, shall be the Construction Trustee, Registrar and Transfer Agent under this Agreement without further act.

Section 5.03. Limitations on Liability of Registrar

a) The Registrar 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 truth and acceptability of any information therein contained, which it in good faith believes to be genuine.

b) The Registrar 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 Commission agrees to indemnify and save harmless the Registrar and its directors, officers, agents and employees (collectively, the "Indemnitees") harmless from and against any and all liabilities, losses, damages, fines, suits, actions, demands, penalties, costs and expenses, including out-of-pocket, incidental expenses, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and the costs and expenses of defending or preparing to defend against any claim ("Losses") that may be imposed on, incurred by, or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which the Registrar is authorized to rely pursuant to the terms of this Agreement. In addition to and not in limitation of the immediately preceding sentence, to the extent permitted by law, the Commission also agrees to indemnify and hold the Indemnitees and each

of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Registrar's performance under this Agreement provided the Registrar has not acted with gross negligence or engaged in willful misconduct. The provisions of this Section 5.03(c) shall survive the Registrar's resignation or removal or the termination of this Agreement. In no event shall the Registrar be liable for consequential, indirect or special damages, even if it has been advised of the possibility of such damages.

d) The Registrar 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 or refraining from acting in good faith in accordance with the opinion and instructions of such counsel. The cost of such services shall be born by Commission.

e) The Registrar 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 the Commission, any of the parties ancillary to this transaction and the holders of the 2010 Bonds. The Registrar 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.

f) The permissive rights of the Registrar to do things enumerated in this Agreement shall not be construed as a duty.

g) Whenever in the administration of this Agreement, the Registrar deems it desirable that a matter be proved or established before it takes, suffers or omits any action, the Registrar may rely upon a certificate of an Authorized Officer.

h) Registrar shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report notice, direction, consent, order, or other paper or document.

i) Except as otherwise expressly provided hereunder, the Registrar shall not be required to give or furnish any notice, demand, report, reply, statement advice or opinion to the Commission or any person, and the Registrar shall not incur any liability for its failure or refusal to give or furnish the same unless obligated or required to do so by express provisions hereof.

j) No provision of this Agreement shall require the Registrar to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties.

k) The Registrar shall not be accountable for the application by the Commission of the proceeds of the 2010 Bonds.

Section 5.04. Renewal of Termination of Agreement

This Agreement shall terminate at the end of the current fiscal year of the Commission, and thereafter be automatically renewed for each subsequent fiscal year. The Commission may terminate this Agreement at any time by giving Registrar 60 days prior written notice of the effective date of such termination. Should the Commission elect to terminate this Agreement and appoint a successor Construction Trustee, Registrar and Transfer Agent, the Registrar reserves the right to charge and be paid by the Commission 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.

[Remainder of Page Intentionally Left Blank]

Executed as of the date first above written.

HIGHER EDUCATION POLICY COMMISSION

By: _____
Name: Dr. Brian Noland
Title: Chancellor

WELLS FARGO BANK, N.A.

By: _____
Name: Michael E. Puskar
Title: Vice President

2512394 (10791.7)

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: _____
(Authorized Officer's Signature)

James A. Winter, Director of Finance & Facilities
(Print Name)

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)

Received and Accepted:
THE DEPOSITORY TRUST COMPANY

By: _____

DTCC

The Depository Trust & Clearing Corporation

[2/02]

SCHEDULE A

(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.

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.

REPORT OF PROPOSED DEBT ISSUANCE

West Virginia State Treasurer's Office
State Capitol Complex, Suite E-145
Charleston, WV 25305
(304) 558-5000

Completion and timely submittal of this form to the West Virginia State Treasurer's Office at the above address will assure your compliance with existing West Virginia State law and will assist in the maintenance of a complete data base. Additionally, please enclose a copy of the preliminary official statement* (or offering circular) with this form or when it becomes available. Thank you for your cooperation.[1]

NAME OF ISSUER: West Virginia Higher Education Policy Commission on behalf of the Council for the Community and Technical College Education

ADDRESS OF ISSUER: 1018 Kanawha Blvd East, Suite 700, Charleston, WV 25301

PROPOSED SALE DATE: April 15, 2009

TYPE OF SALE: ☐ Competitive ☒ Negotiated

PROPOSED PRINCIPAL TO BE SOLD: Not to exceed $90,000,000

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

TYPE OF DEBT INSTRUMENT:

NOTE
- ☐ Tax anticipation
- ☐ Tax and revenue anticipation
- ☐ Revenue anticipation
- ☐ Bond anticipation
- ☐ Grant anticipation
- ☐ Tax allocation
- ☐ Other note (Please specify below.)
- ☐ FINANCING LEASE
- ☐ CERTIFICATES OF PARTICIPATION

BOND
- ☐ General obligation
- ☐ Limited tax obligation
- ☐ Revenue (Public enterprise)
- ☐ Conduit revenue (Private obligor)
- ☐ Special assessment
- ☐ Tax allocation
- ☒ Other bond (Please specify below.)
- ☐ COMMERCIAL PAPER
- ☐ OTHER (Please specify below.)

Please specify if "Other note/Other bond/OTHER" was checked: LotteryPledge

SOURCE(S) OF REPAYMENT:
- ☐ Public enterprise revenues
- ☐ Private obligor payments
- ☐ Bond proceeds
- ☐ Grants
- ☐ Intergovernmental transfers other than grants
- ☒ Other (Please specify.): Lottery Pledge
- ☐ Tax-increment
- ☐ Special assessments
- ☐ Special tax revenues
- ☐ Property tax revenues

2009 MAR -3 P 2:34
WEST VIRGINIA TREASURY

* Preliminary official statement to be provided upon printing.

[1] *§12-6A-6(2) of the West Virginia Code requires the issuer of any proposed new State debt issue to give written notice of the proposed sale to the Treasurer no later than 30 days prior to the sale.*

SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

COPY

Brian C. Helmick
304.340.3826
bhelmick@spilmanlaw.com

December 3, 2010

State of West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt),
Revenue Bonds (Higher Education Facilities) 2010 Series B
(Federally Taxable – Build America Bonds) and
Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable).

VIA HAND DELIVERY
West Virginia State Treasurer's Office
State Capitol Complex, Suite E-145
Charleston, West Virginia 25305

Ladies and Gentlemen:

Please find enclosed the Report of Proposed Debt Issuance relating to the above-referenced bond financing by the Higher Education Policy Commission, in an amount not to exceed $90,000,000. We note that the subject issue may close prior to the expiration of thirty days from the date hereof. If this poses a problem for your office, please contact me at your earliest convenience.

If you have any questions or comments regarding the foregoing, or if I can be of any further assistance to you, please contact me at your convenience. Thank you for your assistance.

Best Regards,

Brian C. Helmick

Brian C. Helmick

2010 DEC -3 P 4:00
WEST VIRGINIA TREASURY

Enclosure
2510998 (10761.7)

REPORT OF PROPOSED DEBT ISSUANCE

West Virginia State Treasurer's Office
State Capitol Complex, Suite E-145
Charleston, WV 25305
(304) 558-5000

Completion and timely submittal of this form to the West Virginia State Treasurer's Office at the above address will assure your compliance with existing West Virginia State law and will assist in the maintenance of a complete data base. Additionally, please enclose a copy of the preliminary official statement* (or offering circular) with this form or when it becomes available. Thank you for your cooperation.[1]

NAME OF ISSUER: West Virginia Higher Education Policy Commission

ADDRESS OF ISSUER: 1018 Kanawha Blvd East, Suite 700, Charleston, WV 25301

PROPOSED SALE DATE: December 23, 2010

TYPE OF SALE: ☐ Competitive ☒ Negotiated

PROPOSED PRINCIPAL TO BE SOLD: Not to exceed $90,000,000

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

TYPE OF DEBT INSTRUMENT:

NOTE
- ☐ Tax anticipation
- ☐ Tax and revenue anticipation
- ☐ Revenue anticipation
- ☐ Bond anticipation
- ☐ Grant anticipation
- ☐ Tax allocation
- ☐ Other note (Please specify below.)
- ☐ FINANCING LEASE
- ☐ CERTIFICATES OF PARTICIPATION

BOND
- ☐ General obligation
- ☐ Limited tax obligation
- ☐ Revenue (Public enterprise)
- ☐ Conduit revenue (Private obligor)
- ☐ Special assessment
- ☐ Tax allocation
- ☒ Other bond (Please specify below.)
- ☐ COMMERCIAL PAPER
- ☐ OTHER (Please specify below.)

Please specify if "Other note/Other bond/OTHER" was checked: Pledged Revenues and Lottery Pledge

SOURCE(S) OF REPAYMENT:
- ☐ Public enterprise revenues
- ☐ Private obligor payments
- ☐ Bond proceeds
- ☐ Grants
- ☐ Intergovernmental transfers other than grants
- ☐ Tax-increment
- ☐ Special assessments
- ☐ Special tax revenues
- ☐ Property tax revenues
- ☒ Other (Please specify.): Pledged Revenues and Lottery Pledge

* Preliminary official statement to be provided upon printing.

[1] *§12-6A-6(2) of the West Virginia Code requires the issuer of any proposed new State debt issue to give written notice of the proposed sale to the Treasurer no later than 30 days prior to the sale.*

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 Revenue Bonds (Higher Education Facilities) 2010 Series A (Tax-Exempt); State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Build America Bonds); and State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable).

PARTIES INVOLVED

Bond Counsel: Spilman Thomas & Battle, PLLC Tax Counsel: _____

Trustee: _____ Financial Advisor: _____

Auditor: _____

Lead Underwriter: Citigroup, 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: Brian C. Helmick Esquire
Firm/Agency: Spilman Thomas & Battle, PLLC
Address: PO Box 273, Charleston, WV 25321-0273
Phone: (304) 340-3826 Date of Completion: _____

Contact person at issuing agency, if different from above:
Name: Brian Noland, Ph.D., Chancellor
Title: Chancellor, West Virginia Higher Education Policy Commission
Address: 1018 Kanawha Blvd East, Suite 700, Charleston, WV 25301
Phone: (304) 558-2101

WVSTO #:

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:

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
REVENUE BONDS
(HIGHER EDUCATION FACILITIES)

consisting of:

$16,520,000 2010 Series A (Tax Exempt)	$50,265,000 2010 Series B (Federally Taxable - Issuer Subsidy – Build America Bonds)	$10,080,000 2010 Series C (Taxable)

WEST VIRGINIA TREASURY 2011 JAN 20 10:50

DATED: December 23, 2010 PRINCIPAL AMOUNT SOLD $76,865,000

INTEREST COST: 5.024639% (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., Crews & Associates, Inc. and Raymond James & Associates, Inc.

IS THE INTEREST ON THE DEBT EXEMPT FROM TAXATION?[1]
Under State law: ☐ NO (taxable) ☒ YES (tax-exempt)

---

[1] The 2010 A Bonds are tax-exempt bonds under State and Federal law. However, the 2010 B Bonds are Federally Taxable-Issuer Subsidy-Build America Bonds, which are entitled to a partial interest refund, and the 2010 C Bonds are taxable under State and Federal law.

Under Federal law: ☒ NO (2010 B and 2010 C (Taxable)) ☒ YES (2010 A Bonds - Tax-exempt only)

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 (2010 A Bonds – Tax–exempt only)

IS ANY PORTION OF THE DEBT FOR REFUNDING?
☒ No ☐ Yes

ISSUANCE COSTS

Please indicate the parties involved and the applicable fees. An attachment may be provided in lieu of this form.

Please see Schedule I attached.

CREDIT RATING

INDICATE CREDIT RATING: (For example, "AAA" or "Aaa")

☒ RATED
Standard & Poor's: A+
Moody's: Aa3

☐ NOT RATED

CREDIT ENHANCEMENT

WAS THE ISSUE INSURED OR GUARANTEED? ☒ No ☐ Bond insurance ☐ Letter(s) of credit
☐ Other

GUARANTOR'S NAME:

DISCOUNT/PREMIUM

The Bond was sold at: ☒ Par ☒A Discount ☐ A Premium

If Bond was sold at a Premium, please indicate amount: $

If Bond was sold at a Discount, please indicate: Original Issue Discount $200,113.95
Underwriter's Discount $390,304.26

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

Please see Schedule II (Official Statement) Attached

OTHER INFORMATION

SOURCE OF FUNDS UTILIZED FOR REPAYMENT OF THE ISSUE:

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: December 23, 2010

Contact person at issuing agency, if different from above:

Name: Brian Noland, Ph.D.

Title: Chancellor, West Virginia Higher Education Policy Commission

Address: 1080 Kanawha Blvd, East, Suite 700, Charleston, WV 25301

Phone: (304) 558-2021

SCHEDULE I

COSTS OF ISSUANCE

COST OF ISSUANCE

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C
FINAL NUMBERS

Cost of Issuance	$/1000	Amount
Bond Counsel	0.65049	50,000.00
Financial Advisor (PRAG)	0.45534	35,000.00
Underwriter's Counsel	0.58544	45,000.00
Registrar (Wells Fargo)	0.01236	950.00
S&P	0.52039	40,000.00
Moody's	0.58544	45,000.00
Printing	0.02602	2,000.00
Miscellaneous	0.09172	7,050.00
	2.92721	225,000.00

Notes:
Rates as of 12/16/10
Net Debt Service reflects debt service net of 35% Build America Bond subsidy from US Government
Build America Bonds subject to a Make Whole Call

SCHEDULE II

OFFICIAL STATEMENT

David K. Hendrickson
Chair

Brian Noland
Chancellor

West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard East, Suite 700
Charleston, WV 25301
(304) 558-0277
www.hepc.wvnet.edu

November 15, 2010

Earl Ray Tomblin, Governor
State of West Virginia
1900 Kanawha Boulevard, East
Charleston, WV 25305

Earl Ray Tomblin, Senate President
State of West Virginia
West Virginia Legislature
Room 227M, Building 1
State Capitol Complex
Charleston, WV 25305

Richard Thompson, Speaker of the House of Delegates
State of West Virginia
West Virginia Legislature
Room 234M, Building 1
State Capitol Complex
Charleston, WV 25305

Re: State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities), 2010 Series, Notice of Formal Rating Agency Presentations

Gentlemen:

The Higher Education Policy Commission (the "Commission") intends to issue its Revenue Bonds (Higher Education Facilities), Series 2010 (the "2010 Bonds"), in one or more series in an aggregate amount not to exceed $90,000,000, for the purpose of financing the costs of acquisition, construction, improvement and equipping of certain higher education facilities in the State of West Virginia and paying the costs of issuance of the 2010 Bonds. In connection with the issuance of the 2010 Bonds, I HEREBY GIVE NOTICE, pursuant to Chapter 5, Article 1, Section 28 of the Code of West Virginia, 1931, as amended, on behalf of the Commission, that the Commission will be making formal presentations to the following nationally recognized rating agencies via telephone conference on the following date and at the following times:

Standard and Poor's – Monday, November 29, 2010, at 12:00 p.m., noon

Moody's Investors Service, Inc. – Monday, November 29, 2010, at 2:00 p.m.

The conference calls will be held at the Commission's office in the ninth floor conference room should you wish to participate in person, or you may dial-in as follows:

Phone Number:	1-877-211-0500
Access Code:	3954369

Please feel free to contact either Richard Donovan, Chief Financial Officer, at (304) 558-0281 ext. 212, or me at (304) 340-3826, should you have any questions or desire any additional information.

Sincerely,

Brian Noland
Chancellor

cc: David K. Hendrickson, Esq.
Bruce Walker, Esq.
Brian C. Helmick, Esq.
Mr. Richard Donovan
Dr. Kevin Walthers

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
TELECOPIER (304) 344-9692
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

PRELIMINARY BLUE SKY MEMORANDUM

$16,520,000 **Revenue Bonds** **(Higher Education Facilities)** **2010 Series A** **(Tax-Exempt)**	**$50,265,000** **Revenue Bonds** **(Higher Education Facilities)** **2010 Series B** **(Federally Taxable - Issuer Subsidy - Build America Bonds)**	**$10,080,000** **Revenue Bonds** **(Higher Education Facilities)** **2010 Series C** **(Taxable)**

December 17, 2010

Citigroup Global Markets Inc.,
as representative of the underwriters listed on
the cover page of the Preliminary Official Statement

Ladies and Gentlemen:

This Memorandum relates to the requirements of the securities or "Blue Sky" laws of the jurisdictions listed herein with respect to the offer and sale of the Bonds described above (the "Bonds") to the public in the jurisdictions referred to herein by persons registered or licensed as brokers or dealers under the securities laws of such jurisdictions and to selected classes of persons in such jurisdictions by persons not registered therein as brokers or dealers.

This Memorandum is based upon an examination of Section 18 of the Securities Act of 1933, as amended, statements contained in the Preliminary Official Statement, and the securities laws of the several jurisdictions and the rules and regulations, where published, of the authorities administering such laws, all as set forth in the CCH Blue Sky Law Reporter or upon informal interpretive advice or "no-action" letters obtained from certain securities commissions or their representatives relating to the Bonds or similar securities. It is noted, however, that the securities laws of certain jurisdictions provide that the burden of claiming an exemption is upon the person claiming the exemption and that informal interpretive advice and "no-action" letters are not necessarily binding upon a court of law.

We are attorneys admitted to practice in West Virginia and we have obtained neither opinions of counsel in other jurisdictions nor formal rulings from state regulatory commissions, departments or other administrative bodies or officials. Statements made or conclusions expressed in this Memorandum are subject to change upon exercise of broad discretionary powers vested in administrative authorities authorizing them, among other things, to withdraw exemptions, to impose additional requirements, to refuse registrations or to issue stop orders.

In view of the foregoing limitations, this Memorandum is furnished only for your general information and is not to be relied upon as an opinion of counsel.

This Memorandum does not purport to cover the requirements under any of the laws of the jurisdictions enumerated herein with respect to the registration or licensing of dealers, brokers, salesmen, the form or substance of advertising, the legality of investments in the Bonds by any institutional investor which is subject to statutory or other restrictions as to its investments or any resale of the Bonds by any person who may purchase them in the present offering.

SECTION I

SALES TO THE PUBLIC

A. Jurisdictions Where Action Is Not Required

It is believed that offers and sales of the Bonds may be made in any amount to anyone in the following jurisdictions without registration of the Bonds or any filing being made with the local securities law administrator. Such offers and sales may be made only by sellers who are registered or licensed appropriately as dealers, brokers, salespersons or sales agents within the applicable jurisdictions or who are properly exempted from such jurisdictions' sellers' registration or licensing requirements.

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Guam
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio*
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

*The Bonds are exempt from registration and notice filings in Ohio provided that at the time of first sale of the Bonds in Ohio there is no default in the payment of any of the interest or principal of the Bonds and there are no adjudications or pending suits adversely affecting their validity.

B. Jurisdictions in Which Sales to the Public May Not Be Made

In the following jurisdictions, it is believed that appropriate action is required by registration, the filing of notice or the payment of fees before the Bonds may be offered or sold to anyone therein other than in exempt transactions. Pursuant to your request, no such action is being taken in these jurisdictions, and, therefore, no offers or sales of the Bonds may be made to anyone in these jurisdictions other than in exempt transactions:

Nevada
New Hampshire

SECTION II

Sales to Specified Institutions and Dealers

It is assumed in this Section that the person who offers for sale or sells the Bonds in the following jurisdictions is not registered or licensed as a dealer or broker therein. In the following jurisdictions, it is believed that no action need be taken to qualify the Bonds and the seller need not be registered or licensed as a dealer or broker to offer for sale or sell the Bonds to the persons and institutions described below, as well as to dealers or brokers registered or licensed in such jurisdictions, subject to the conditions, if any, set forth below:

Alabama:

Any bank, savings institution, credit union, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity.

Alaska:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Arizona:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity.

Arkansas:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

California:

Any bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, self employed individual retirement plan or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the Commissioner of Corporations may designate by rule, whether the purchaser is acting for itself or as trustee (the other institutional investors and governmental agencies or instrumentalities designated by the Commissioner by rule being any organization described in Section 501(c)(3) of the Internal Revenue Code, as amended December 29, 1981, which has total assets, including endowment, annuity and life income funds, of not less than $5,000,000 according to its most recent audited financial statement, any corporation with a consolidated net worth of not less than $14,000,000 according to its most recent audited financial statement, and any wholly-owned subsidiary of any such institutional investor, the federal government, any agency or instrumentality thereof, any corporation wholly-owned by the federal government, any state, city, city and county, or county, or any agency or instrumentality of a state, city, city and county, or county, or any state university or state college, and any retirement system for the benefit of employees of any of the foregoing public agencies); *provided,* that the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security (any offer to resell or resale made in compliance with Rule 144A (17 CFR 230.144A) of the Securities and Exchange Commission being considered as not in connection with a distribution for this purpose); provided further, as to all of the foregoing, that any seller not registered as a broker-dealer in California has no place of business in California and either effects transactions exclusively with a broker-dealer or is a broker-dealer registered under the Securities Exchange Act of 1934 who has not previously had any certificate denied or revoked under the California Corporate Securities Law of 1968 or any predecessor statute and does not direct offers to sell or buy into California other than to broker-dealers and the institutional investors or governmental agencies or instrumentalities listed above, or any offer to resell or resale of restricted securities made in compliance with Rule 144A (17 CFR 230.144A) of the Securities and Exchange Commission.

Colorado:

Any broker-dealers licensed or exempt from licensing under the Colorado Securities Act (except when the seller is acting as a clearing broker-dealer for such broker-dealers); financial or institutional investors *("financial or institutional investor"* means any of the following: a depository institution *("depository institution"* means any of the following: a person that is

organized or chartered, or is doing business or holds an authorization certificate, under the laws of a state or of the United States which authorize the person to receive deposits, including deposits in savings, share, certificate, or other deposit accounts, and that is supervised and examined for the protection of depositors by an official or agency of a state or the United States; and a trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type a national bank is permitted to exercise under the authority of the comptroller of the currency and is supervised and examined by an official or agency of a state or the United States); an insurance company; a separate account of an insurance company; an investment company registered under the federal Investment Company Act of 1940; a business development company as defined in the federal Investment Company Act of 1940; any private business development company as defined in the federal Investment Advisers Act of 1940; an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of five million dollars or its investment decisions are made by a named fiduciary, as defined in the federal Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the federal Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the federal Investment Advisers Act of 1940, a depository institution, or an insurance company; an entity, but not an individual, a substantial part of whose business activities consist of investing, purchasing, selling, or trading in securities of more than one issuer and not of its own issue and that has total assets in excess of five million dollars as of the end of its latest fiscal year; a small business investment company licensed by the federal small business administration under the federal Small Business Investment Act of 1958; and any other institutional buyer); *provided,* seller is registered as a broker-dealer under the federal Securities Exchange Act of 1934 and has no place of business in this state and the business transacted in this state as a broker-dealer is exclusively with the foregoing entities and institutions.

Connecticut:

Any state bank and trust company, national banking association, savings bank, savings and loan association, federal savings and loan association, federal savings bank, credit union, federal credit union, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or as a trustee; *provided,* that any seller who is not registered as a broker-dealer in Connecticut has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Delaware:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer *("institutional buyer"* includes: an "accredited investor" as defined in SEC Rule 501(a) (1)-(4), (7) and (8) excluding any self directed employee benefit plan with investment decisions made solely by persons that are individual accredited investors as defined in Rule 501 (5)-(6); a "qualified institutional buyer" as defined in SEC Rule 144A; and a corporation, partnership, trust, estate, or other entity (excluding individuals) having a net worth of not less than $5 million or a wholly-owned subsidiary of such entity, so long as the entity was not formed for the purpose of acquiring the specific securities),

whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

District of Columbia:

Any financial or institutional investor *("financial or institutional investor"* means any of the following, whether acting for itself or others in a fiduciary capacity: a depository institution (*"depository institution"* means: a person that is organized, chartered, or holding an authorization certificate under the laws of a state or of the United States to receive deposits, including a savings, share, certificate or deposit account, and that is supervised and examined for the protection of depositors by an official or agency of a state or the United States; a trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type a national bank is permitted to exercise under the authority of the Comptroller of the Currency and is supervised and examined by an official or agency of a state or the United States; and *"depository institution"* does not include an insurance company or other organization primarily engaged in the insurance business, or a Morris Plan bank, industrial loan company, or a similar bank or company unless its deposits are insured by a federal agency); an insurance company; a separate account of an insurance company; an investment company registered under the Investment Company Act of 1940; a business development company as defined in the Investment Company Act of 1940; an employee pension, profit-sharing or benefit plan if the plan has total assets in excess of $5 million, or if investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is either a broker dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, a depository institution, or an insurance company; a "qualified institutional buyer" as defined in SEC Rule 144A; a broker dealer; an accredited investor as defined in SEC Rule 501(a); a limited liability company with net assets of at least $500,000); *provided,* that the seller has no place of business in the District of Columbia and effects transactions therein exclusively with the foregoing classes of purchasers.

Florida:

Any bank or trust company, savings institution, insurance company, investment company as defined by the Investment Company Act of 1940, or pension plan or profit-sharing trust, or qualified institutional buyer as defined by rule of the Department of Banking and Finance in accordance with Securities and Exchange Commission Rule 144A (17 C.F.R. 230.1 44(A)(a)), whether any of such entities is acting in its individual or fiduciary capacity; *provided* that such offer or sale of securities is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of the Florida Securities and Investor Protection Act.

Georgia:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an

institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (A) A depository institution or international banking institution; (B) An insurance company; (C) A separate account of an insurance company; (D) An investment company as defined in the Investment Company Act of 1940, 15 U.S.C. Section 80a-l, et seq.; (E) A broker-dealer registered under the Securities Exchange Act of 1934, 15 U.S.C. Section 78a, et seq.; (F) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of $10 million or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq., that is a broker-dealer registered under the Securities Exchange Act of 1934, 15 U.S.C. Section 78a, et seq., an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-l, et seq., an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company; (G) A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees if the plan has total assets in excess of $10 million or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq., that is a broker-dealer registered under the Securities Exchange Act of 1934, 15 U.S.C. Section 78a, et seq., an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-l, et seq., an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company; (H) A trust if it has total assets in excess of $ 10 million, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clause (F) or (G) of this paragraph, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans; (I) An organization that is not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $10 million, including an organization described in subsection 501(c)(3) of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3), a corporation, a Massachusetts trust or similar business trust, a limited liability company, or a partnership; (1) A small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958, 15 U.S.C. Section 681(c), with total assets in excess of $10 million; (K) A private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-2(a)(22), with total assets in excess of $10 million; (L) A federal covered investment adviser acting for its own account; (M) A qualified institutional buyer as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(H), 17 C.F.R. 230.144A, adopted under the Securities Act of 1933, 15 U.S.C. Section 77a, et seq.; (N) A major United States institutional investor as defined in Rule 15a-6(b)(4)(I), 17 C.F.R. 240.15a-6, adopted under the Securities Exchange Act of 1934, 15 U.S.C. Section 78a, et seq.; (O) Any other person, other than an individual, of institutional character with total assets in excess of $10 million not organized for the specific purpose of evading the state's uniform securities act; or (P) Any other person specified by rule adopted or order issued under the state's uniform securities act.

"Depository institution" means: (i) A bank; or (ii) A savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or

agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or a successor authorized by federal law. (B) The term does not include: (i) An insurance company or other organization primarily engaged in the business of insurance; (ii) A Morris Plan bank; or (iii) An industrial loan company that is not an 'insured depository institution' as defined in subsection 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813(c)(2), or any successor federal statute.

"Bank" means: (A) A banking institution organized under the laws of the United States; (B) A member bank of the Federal Reserve System; (C) Any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of P. L. 87-722,12 U.S.C. Section 92a, and which is supervised and examined by a state or federal agency having supervision over banks and which is not operated for the purpose of evading the state's uniform securities act; or (D) A receiver, conservator, or other liquidating agent of any institution or firm included in clause (A), (B), or (C) of this paragraph.

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-l, et seq.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Guam:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in Guam has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Hawaii:

See Idaho, below.

Idaho:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a

fiduciary capacity: (a) a depository institution or international banking institution, (b) an insurance company, (c) a separate account of an insurance company, (d) an investment company as defined in the Investment Company Act of 1940, (e) a broker-dealer registered under the Securities Exchange Act of 1934, (f) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (g) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (h) a trust, if it has total assets in excess of ten million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clause (f) or (g) of this paragraph, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans, (i) an organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501(c)(3))a corporation, Massachusetts trust or similar business trust, a limited liability company, or a partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars, (j) small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c) with total assets in excess of ten million dollars, (k) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22) with total assets in excess of ten million dollars, (1) a federal covered investment adviser acting for its own account, (m) a "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A), (n) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6), (o) any other person, other than an individual, of institutional character with total assets in excess of ten million dollars not organized for the specific purpose of evading the state's uniform securities act, or (p) any other person specified by rule adopted or order issued under the state's uniform securities act.

"Depository institution" means: (a) a bank or (b) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include: (i) an insurance company or other organization primarily engaged in the business of insurance, (ii) a Morris Plan bank, or (iii) an industrial loan company.

"Bank" means: (a) banking institution organized under the laws of the United States, (b) a member bank of the Federal Reserve System, (c) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of United States Public Law 87-722, 12 United States Code, Section 92a, and that is supervised and examined by a state or federal agency having supervision over banks and that is not operated for the purpose of evading the state's uniform securities act, or (d) a receiver, conservator or other liquidating agent of any institution or firm described in the foregoing clauses (a), (b) or (c).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Illinois:

Any corporation, bank, savings bank, savings institution, savings and loan association, trust company, insurance company, building and loan association, pension fund or pension trust, employees' profit-sharing trust, other financial institution (including, but not limited to, a manager of investment accounts on behalf of other than natural persons who, with affiliates, exercises sole investment discretion with respect to such accounts; *provided,* that such accounts exceed 10 in number and have a fair market value of not less than $10,000,000 at the end of the calendar month preceding the offering of the securities) or institutional investor (including, but not limited to, any investment company, university, or other organization whose primary purpose is to invest its own assets or those held in trust by it for others; trust accounts and individual or group retirement accounts in which a bank, trust company, insurance company or savings and loan institution acts in a fiduciary capacity; and foundations and endowment funds exempt from taxation under the Internal Revenue Code, a principal business function of which is to invest funds to produce income in order to carry out the purpose of the foundation or fund), any government or political subdivision or instrumentality thereof, whether the purchaser is acting for itself or in some fiduciary capacity; or any partnership or other association engaged as a substantial part of its business or operations in purchasing or holding securities, or any trust in respect of which a bank or trust company is trustee or co-trustee; or any employee benefit plan within the meaning of Title I of ERISA if (i) the investment decision is made by a plan fiduciary as defined in Section 3(21) of ERISA and such plan fiduciary is either a bank, savings and loan association, insurance company, registered investment adviser or an investment adviser registered under the Investment Advisers Act of 1940 or (ii) the plan has total assets in excess of $5,000,000 or (iii) in the case of a self-directed plan, investment decisions are made solely by persons that are described in this paragraph; any entity in which at least 90% of the equity is owned by (i) persons described above, (ii) any natural person who has, or is reasonably believed to have, a net worth or joint net worth with that person's spouse, at the time of the offer, sale or issuance, in excess of $1,000,000 excluding the value of a principal residence or any natural

person who had, or is reasonably believed to have had, an individual income or joint income with that person's spouse, in excess of $200,000 in each of the two most recent years and who reasonably expects or is reasonably expected to have income in excess of $200,000 in the current year or any person that is not a natural person and in which at least 90% of the equity interest is owned by natural persons described in this clause (ii), and (iii) directors, executive officers or general partners of the issuer of the securities being sold; or any plan established and maintained by, and for the benefit of the employees of, any state or political subdivision or agency or instrumentality thereof if such plan has total assets in excess of $5,000,000; or any organization described in Section 501(c)(3)of the Internal Revenue Code of 1986, any Massachusetts or similar business trust, or any partnership, if such organization, trust, or partnership has total assets in excess of $5,000,000.

Indiana:

See Minnesota, below.

Iowa:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (a) a depository institution or international banking institution, (b) an insurance company, (c) a separate account of an insurance company, (d) an investment company as defined in the Investment Company Act of 1940, (e) a broker-dealer registered under the Securities Exchange Act of 1934, (f) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of five million dollars or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the Iowa Uniform Securities Act, a depository institution, or an insurance company, (g) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of five million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the Iowa Uniform Securities Act, a depository institution, or an insurance company, (h) a trust, if it has total assets in excess of five million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clause (f) or (g) of this paragraph, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans, (i) an organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501(c)(3)), a corporation, Massachusetts trust or similar business trust, a limited liability company, or a partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of

five million dollars, (j) a small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c)) with total assets in excess of five million dollars, (k) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with total assets in excess of five million dollars, (1) a federal covered investment adviser acting for its own account, (m) a "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A), (n) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6), (0) any other person, other than an individual, of institutional character with total assets in excess of five million dollars not organized for the specific purpose of evading the Iowa Uniform Securities Act, or (P) any other person specified by rule adopted or order issued under the Iowa Uniform Securities Act.

"Depository institution" means: (a) a bank or (b) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include: (i) an insurance company or other organization primarily engaged in the business of insurance, (ii) a Morris Plan bank, or (iii) an industrial loan company.

"Bank" means: (a) banking institution organized under the laws of the United States, (b) a member bank of the Federal Reserve System, (c) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of United States Public Law 87-722, 12 United States Code, Section 92a, and that is supervised and examined by a state or federal agency having supervision over banks and that is not operated for the purpose of evading the Iowa Uniform Securities Act, or (d) a receiver, conservator or other liquidating agent of any institution or firm described in the foregoing clauses (a), (b) or (c).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Kansas:

See Idaho, above.

Kentucky:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, qualified institutional buyer under SEC Rule 144A, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity.

Louisiana:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, as now or hereafter amended, real estate investment trust, small business investment corporation, pension or profit-sharing plan or trust, or other financial institution, whether the purchaser is acting for itself or in some fiduciary capacity.

Maine:

See Idaho above, except that in clauses (j) and (k) of the definition of "institutional investor" the amount of ten million dollars should be changed to read five million dollars.

Maryland:

Any investment company as defined in the Investment Company Act of 1940, a bank, trust company, savings and loan association, insurance company, employee benefit plan with assets of not less than $1,000,000 or other institutional investor, whether acting for itself or as trustee, *provided,* that any seller who is not registered as a dealer or broker in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Massachusetts:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer *("Institutional Buyer"* includes, but is not limited to, the following: (1) a Small Business Investment Company licensed by the U.S. Small Business Administration under the Small Business Investment Act of 1958, as amended; (2) a private business development company as defined in Section 202(a)(22) of the Investment Advisors Act of 1940, as amended; (3) a Business Development Company as defined in Section 2(a)(48) of the Investment Company Act of 1940, as amended; (4) an entity with total assets in excess of $5 million and which is either: (a) a company (whether a corporation, a Massachusetts or similar business trust, a partnership, a limited liability company or a limited liability partnership) not formed for the specific purpose of acquiring the securities offered; a substantial part of whose business activities consists of investing, purchasing, selling or trading in securities issued by others and whose investment decisions made by persons who are reasonably believed by the seller to have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of investment; or (b) an organization described in Section 501 (c)(3) of the Internal Revenue Code; and (5) a Qualified Institutional Buyer as defined in 17

CFR 230.144A(a)) whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Michigan:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (i) a depository institution or international banking institution, (ii) an insurance company, (iii) a separate account of an insurance company, (iv) an investment company as defined in the investment company act of 1940, (v) a broker-dealer registered under the securities exchange act of 1934, (vi) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (vii) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (viii) a trust, if it has total assets in excess of ten million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clauses (vi) or (vii), regardless of size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans, (ix) an organization described in section 501(c)(3) of the internal revenue code, 26 USC 501, a corporation, Massachusetts or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars, (x) a small business investment company licensed by the small business administration under section 301(c) of the small business investment act of 1958, 15 USC 681, with total assets in excess of ten million dollars, (xi) a private business development company as defined in section 202(a)(22) of the investment advisers act of 1940, 15 USC 80b-2, with total assets in excess often million dollars, (xii) a federal covered investment adviser acting for its own account, (xiii) a "qualified institutional buyer" as defined in rule 144A(a)(1), other than rule 144A(a)(1)(i)(H), adopted under the securities act of 1933, 17 CFR 230.144A, (xiv) a "major U.S. institutional investor" as defined in rule 15a-6(b)(4)(i) adopted under the securities exchange act of 1934, 17 CFR 240. 15a-6(b)(4)(i), (xv) any other person, other than an individual, of institutional character with total assets in excess of ten million dollars not organized for the specific purpose of evading the state's uniform securities act, and (xvi) any other person specified by rule or order under the

state's uniform securities act.

"Depository institution" means a bank, or a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by federal statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law; or a bank that does not receive deposits because of a limitation in its charter, articles of incorporation, or articles of association. The term does not include any of the following: (i) an insurance company or other organization primarily engaged in the business of insurance, (ii) a Morris Plan bank, or (iii) an industrial loan company that is not an insured depository institution, as that term is defined in section 3(c)(2) of the federal deposit insurance act, 12 USC 1813(c)(2).

"Bank" means any of the following: (i) a banking institution organized under the laws of the United States, (ii) a member bank of the federal reserve system, (iii) any other banking institution that meets all of the following: (A) it is doing business under the laws of a state or of the United States, (B) a substantial portion of its business consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the comptroller of the currency pursuant to 12 USC 92a, (C) it is supervised and examined by a state or federal agency having supervision over banks, and (D) it is not operated for the purpose of evading the state's uniform securities act, (iv) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (i), (ii), or (iii).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Minnesota:

Any institutional investor or accredited investor as that term is defined in Regulation D, Rule 501(a); *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (a) a depository institution or international banking institution, (b) an insurance company, (c) a separate account of an insurance company, (d) an investment company as defined in the Investment Company Act of 1940, (e) a broker-dealer registered under the Securities Exchange Act of 1934, (f) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an

insurance company, (g) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (h) a trust, if it has total assets in excess of ten million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clause (f) or (g) of this paragraph, regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans, (i) an organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501 (c)(3)), a corporation, Massachusetts trust or similar business trust, a limited liability company, or a partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars, (j) a small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c)) with total assets in excess of ten million dollars, (k) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with total assets in excess of ten million dollars, (1) a federal covered investment adviser acting for its own account, (m) a "qualified institutional buyer" as defined in Rule 144A(a)(I), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A), (n) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6), (o) any other person, other than an individual, of institutional character with total assets in excess of ten million dollars not organized for the specific purpose of evading the state's uniform securities act, or (p) any other person specified by rule adopted or order issued under the state's uniform securities act.

"Depository institution" means: (a) a bank or (b) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include: (i) an insurance company or other organization primarily engaged in the business of insurance, (ii) a Morris Plan bank, or (iii) an industrial loan company that is not an "insured depository institution" as defined in section 3(c)(2) of the Federal Deposit Insurance Act, United States Code, title 12, section 1813(c)(2), or any successor federal statute.

"Bank" means: (a) banking institution organized under the laws of the United States, (b) a member bank of the Federal Reserve System, (c) a banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of United States Public Law 87-722, 12 United States Code,

Section 92a, and that is supervised and examined by a state or federal agency having supervision over banks and that is not operated for the purpose of the state's uniform securities act, or (d) a receiver, conservator or other liquidating agent of any institution or firm described in the foregoing clauses (a), (b) or (c).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Mississippi:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (A) A depository institution or international banking institution; (B) An insurance company; (C) A separate account of an insurance company; (D) An investment company as defined in the Investment Company Act of 1940; (E) A broker-dealer registered under the Securities Exchange Act of 1934; (F) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company; (G) A plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company; (H) A trust, if it has total assets in excess of ten million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clause (F) or (G), regardless of the size of their assets, except a trust that includes as participants self--directed individual retirement accounts or similar self-directed plans; (I) An organization described in Section 501(c)(3) of the Internal Revenue Code (26 USC Section 501(c)(3», corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars; (J) A small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 USC Section 681 (c)) with total assets in excess of ten million dollars; (K) A private

business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 USC Section 80b-2(a)(22)) with total assets in excess of ten million dollars; (L) A federal covered investment adviser acting for its own account; (M) A "qualified institutional buyer" as defined in Rule 144A(a)(I), other than Rule 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 CFR 230.144A); (N) A "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934 (17 CFR 240.15a-6); (0) Any other person, other than an individual, of institutional character with total assets in excess often million dollars not organized for the specific purpose of evading the state's uniform securities act; or (P) Any other person specified by rule adopted or order issued under the state's uniform securities act.

"Depository institution" means: (A) a bank; or (B) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include: (i) an insurance company or other organization primarily engaged in the business of insurance; (ii) a Morris Plan bank; or (iii) an industrial loan company that is not an "insured depository institution" as defined in Section 3(c)(2) of the Federal Deposit Insurance Act, 12 USC 1813(c)(2), or any successor federal statute.

"Bank" means: (A) a banking institution organized under the laws of the United States; (B) a member bank of the Federal Reserve System; (C) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 USC Section 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading the state's uniform securities act; and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clause (A), (B) or (C).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Missouri

See Idaho, above.

Montana:

Any bank, savings institution, trust company, insurance company, investment company as

defined in the Investment Company Act of 1940, pension or profit-sharing trust, qualified institutional buyer under SEC Rule 144A, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity.

Nebraska:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust *("pension or profit-sharing trust"* means an employee benefit plan, as defined in Title I of the Employee Retirement Income Security Act of 1974 *("ERISA* "), if (i) the investment decisions are made by a *"plan fiduciary,"* as defined in Section 3(21) of ERISA, which is either a bank, insurance company or registered investment adviser or (ii) the employee benefit plan has total assets in excess of $5,000,000) or other financial institution or institutional buyer *("financial institution or institutional buyer"* meaning (i) any bank as defined in Section 3(a)(2) of the Securities Act of 1933, whether acting in its individual or fiduciary capacity; (ii) any insurance company as defined in Section 2(13) of the Securities Act of 1933; (iii) any business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940; and (iv) any small business investment company licensed by the United States Small Business Administration, pursuant to Section 301(c) or (d) of the Small Business Investment Company Act of 1958), or to an individual accredited investor *("individual accredited investor"* includes (i) any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his or her purchase, exceeds one million dollars, or (ii) any natural person who had an individual income in excess of two hundred thousand dollars in each of the two most recent years or joint income with that person's spouse in excess of three hundred thousand dollars in each of those years and has a reasonable expectation of reaching the same income level in the current year) or to a broker dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

Nevada:

Any financial or institutional investor *("financial or institutional investor"* means a depository institution; insurance company; a separate account of an insurance company; an investment company as defined in the Investment Company Act of 1940; an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of $5,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is either a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser under the Investment Advisers Act of 1940, a depository institution, or an insurance company, and any other institutional buyer (including, without limitation, any accredited investor as defined under Rule 501 of Regulation D of the Securities Act of 1933, as amended), whether the purchaser is acting for itself or others in a fiduciary capacity other than as an agent); *provided,* that the seller either is registered or is not required to be registered as a broker-dealer under the Securities Exchange Act of 1934 and has no place of business in Nevada and effects transactions therein exclusively with the foregoing classes of purchasers.

New Hampshire:

Any offer or sale to a bank savings institution, trust company, insurance company, investment

company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers. *"Institutional buyer"* means an organization or person with a net worth of more than $25,000,000, but excluding from the calculation of net worth certain intangible and other assets as provided by administrative order of the New Hampshire Bureau of Securities Regulation.

New Jersey:

Any bank, savings institution *("savings institution"* means any savings and loan association or building and loan association operating pursuant to the Savings and Loan Act of New Jersey, and any federal savings and loan association and any association or credit union organized under the laws of the United States or of any state whose accounts are insured by a federal corporation or agency), trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a broker-dealer in New Jersey effects transactions exclusively with or through the foregoing classes of purchasers.

New Mexico:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the state has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (i) a depository institution or international banking institution, (ii) an insurance company, (iii) a separate account of an insurance company, (iv) an investment company as defined in the investment company act of 1940, (v) a broker-dealer registered under the securities exchange act of 1934, (vi) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (vii) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the employee retirement income security act of 1974, that is a broker-dealer registered under the securities exchange act of 1934, an investment adviser registered or exempt from registration under the investment advisers act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (viii) a trust, if it has total assets in excess of ten million dollars, its trustee is a depository institution, and its

participants are exclusively plans of the types identified in clauses (vi) or (vii), regardless of size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans, (ix) an organization described in section 501(c)(3) of the internal revenue code, 26 USC 501, a corporation, Massachusetts or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars, (x) a small business investment company licensed by the small business administration under section 301(c) of the small business investment act of 1958, 15 USC 681, with total assets in excess of ten million dollars, (xi) a private business development company as defined in section 202(a)(22) of the investment advisers act of 1940, 15 USC 80b-2(a)(22), with total assets in excess of ten million dollars, (xii) a federal covered investment adviser acting for its own account, (xiii) a "qualified institutional buyer" as defined in rule 144A(a)(I), other than rule 144A(a)(1)(i)(H), adopted under the securities act of 1933, 17 CFR 230.1 44A, (xiv) A "major U.S. institutional investor" as defined in rule 15a-6(b)(4)(i) adopted under the securities exchange act of 1934, 17 CFR 240.15a-6(b)(4)(i), (xv) any other person, other than an individual, of institutional character with total assets in excess of ten million dollars not organized for the specific purpose of evading the state's uniform securities act, and (xvi) any other person specified by rule or order under the state's uniform securities act.

"Depository institution" means a bank; or a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by federal statute by the federal deposit insurance corporation, the national credit union share insurance fund, or a successor authorized by federal law; or a receiver, conservator or other liquidating agent or such institutions or entities. "Depository institution" does not include: (i) an insurance company or other organization primarily engaged in the business of insurance, (ii) a Morris Plan bank, or (iii) an industrial loan company that is not an "insured depository institution" as defined in section 3(c)(2) of the federal deposit insurance act, 12 USC 1813(c)(2), or any successor federal statute.

"Bank" means: (i) a banking institution organized pursuant to the laws of the United States, (ii) a member bank of the federal reserve system, (iii) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of its business consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks pursuant to the authority of the comptroller of the currency pursuant to Section 1 of Public Law 87-722 (12 USC 92a) and that is supervised and examined by a state or federal agency having supervision over banks, and that is not operated for the purpose of evading the state's uniform securities act, and (iv) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (i), (ii), or (iii).

"Federal covered investment adviser" means a person registered under the federal investment advisers act of 1940.

"Insurance company" means a company organized as an insurance company whose primary

business is writing insurance or reinsuring risks underwritten by insurance companies and that is subject to supervision by the insurance commissioner or a similar official or agency of a state.

New York:

Any bank *("bank"* means a state or national bank, trust company or savings institution incorporated under the laws and subject to the examination, supervision and control of any state or of the United States or of any insular possession thereof), syndicate, corporation or group formed for the specific purpose of acquiring such securities for resale to the public directly or through other syndicates or groups, or any person purchasing such securities on the floor of any securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934; and, *as part of a private placement,* any bank, corporation, savings institution, trust company, insurance company, investment company, as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for himself or itself or in some fiduciary capacity.

North Carolina:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

North Dakota:

A bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust or similar benefit plan, or other financial institution or qualified institutional buyer, or to a dealer, or any government or political subdivision or instrumentality thereof, whether the purchaser is acting for itself or in some fiduciary capacity.

Ohio:

An unlicensed Ohio dealer may sell to any licensed Ohio dealer. In addition, a licensed Ohio dealer may sell to the issuer, a dealer or an institutional investor. *"Institutional investor"* means any corporation, bank (defined to include any bank, trust company, savings and loan association, savings bank or credit union organized under the laws of the United States or any state), insurance company, pension fund or pension fund trust, employees' profit sharing fund or employees' profit sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or co-trustee.

Oklahoma:

See Idaho, above.

Oregon:

Any bank, savings institution, trust company, insurance company, investment company, pension or profit-sharing trust, or other financial institution or institutional buyer (including, but not limited to, qualified institutional buyer under SEC Rule 144A, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Department of Veterans Affairs and the Government National Mortgage Association), or to a mortgage broker or a mortgage banker, whether the purchaser is acting for itself or in a fiduciary capacity when the purchaser has discretionary authority to make investment decisions, provided that the transaction is not part of an attempt to avoid any part of the Oregon Securities Law.

Pennsylvania:

Any institutional investor *("institutional investor"* means any bank, insurance company, pension or profit-sharing plan or trust (except a municipal pension plan or system), investment company as defined in the Investment Company Act of 1940, or any person, other than an individual, which controls any of the foregoing, the Federal government, state, or any agency or political subdivision thereof or any person so designated by regulation of the Pennsylvania Securities Commission, whether the buyer is acting for itself or in some fiduciary capacity. *"Municipal pension plan or system"* means a pension plan or system provided by a municipality as those terms are defined in section 102 of the Pennsylvania Municipal Pension Plan Funding Standard and Recover[y] Act. The other institutional investors designated by regulation of such commission are (1) any corporation or business trust or wholly-owned subsidiary of such person (a) which has a tangible net worth, which shall include net worth less the amount of all items of goodwill, pre-operating, deferred and development expenses, patents, trademarks, licenses or other similar accounts, on a consolidated basis of not less than $10,000,000, as reflected on its most recent audited financial statements ("most recent" audited financial statements meaning audited financial statements dated not more than 16 months prior to the date of the transaction in which such person proposes to purchase securities), and (b) which has been in existence for 18 months; (2) any college, university or other public or private institution which has received exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954 and which has total endowment or trust funds, including annuity and life income funds, of not less than $5,000,000 according to its most recently audited financial statements; *provided,* that the aggregate dollar amount of the securities being sold to such person shall not exceed 5% of such endowment or trust funds; (3) a wholly-owned subsidiary of any bank (*"bank"* means a bank, savings bank, savings institution, savings and loan association, thrift institution, trust company or similar organization which is organized or chartered under the laws of a state or of the United States, is authorized to and receives deposits and is supervised and examined by an official or agency of a state or by the United States if its deposits are insured by the Federal Deposit Insurance Corporation or a successor authorized by Federal law; *"bank"* does not include a holding

company for a bank or a bank-in-organization); (4) a person, except an individual or an entity whose security holders consist entirely of one individual or group of individuals who are related, which is organized primarily for the purpose of purchasing, in nonpublic offerings, securities of corporations or issuers engaged in research and development activities in conjunction with a corporation and which complies with certain conditions; (5) a Small Business Investment Company as defined in Section 103 of the Small Business Investment Act of 1958 which meets certain conditions; (6) a Seed Capital Fund, as defined in Section 2 and authorized in Section 6 of the Small Business Incubators Act; (7) a Business Development Credit Corporation, as authorized by the Business Development Credit Corporation Law; (8) a person whose security holders consist solely of institutional investors or broker-dealers; (9) a personas to which the issuer reasonably believed qualified as an institutional investor at the time of the offer or sale of the securities on the basis of written representations made by the purchaser to the issuer; and (10) a qualified institutional buyer as that term is defined in Rule 144A under the Securities Act of 1933, or any successor rule thereto); *provided,* that any seller who is not registered as a broker dealer in Pennsylvania has no place of business there, and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Puerto Rico:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Companies Act of Puerto Rico, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a broker-dealer in Puerto Rico has no place of business there and effects transactions exclusively with or through the foregoing classes of purchasers.

Rhode Island:

Any registered or exempt broker-dealer or financial or institutional investor *("financial or institutional investor"* means any of the following, whether acting for itself or another in a fiduciary capacity: a depository institution *("depository institution"* means: a person which is organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to receive deposits, including a savings, share, certificate or deposit account, and which is supervised and examined for the protection of depositors by an official or agency of a state or the United States; a trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type a national bank is permitted to exercise under the authority of the comptroller of the currency and is supervised and examined by an official or agency of a state or the United States; and *"depository institution"* does not include an insurance company or other organization primarily engaged in the insurance business, or a Morris plan bank, industrial loan company, or a similar bank or company unless its deposits are insured by a federal agency); an insurance company; a separate account of an insurance company; an investment company as defined in the Investment Company Act of 1940; an employee pension, profit sharing or benefit plan if the plan has total assets in excess of five million dollars ($5,000,000), or if investment decisions are made by a plan fiduciary, as defined in the Employee Retirement Income Security Act of 1974, which is either a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, a

depository institution, or an insurance company; and any other institutional buyer *("Institutional buyer"* includes qualified institutional buyers under SEC Rule 144A); *provided,* that the seller either is registered or is not required to be registered as a broker-dealer under the Securities Exchange Act of 1934 and has no place of business in Rhode Island and effects transactions therein exclusively with the foregoing classes of purchasers.

South Carolina:

See Idaho, above.

South Dakota:

See Idaho, above.

Tennessee:

Any institutional investor (*"institutional investor"* means any bank, unless the bank is acting as a broker-dealer, as such term is defined in the Tennessee Securities Act of 1980, trust company, insurance company, investment company registered under the Investment Company Act of 1940, as amended, a holding company which controls any of the foregoing, a trust or fund over which any of the foregoing has or shares investment discretion, a pension or profit-sharing plan, an institutional buyer (as the commissioner may define by rule) or any other person engaged as a substantial part of its business in investing in securities, unless such other person is within the definition of a broker-dealer, in each case having a net worth in excess of $1,000,000); *provided,* that any seller who is not registered as a broker-dealer in Tennessee has no place of business there, is registered as a broker-dealer with the Securities and Exchange Commission or the Financial Industry Regulatory Authority, and effects transactions in Tennessee exclusively with or through the foregoing classes of purchasers.

Texas:

Any registered dealer actually engaged in buying and selling securities; any bank, trust company, building and loan association, insurance company, surety or guaranty company, savings institution (including any federally chartered credit union, savings and loan association or federal savings bank, and any credit union or savings and loan association chartered under the laws of any state of the United States); investment company as defined in the Investment Company Act of 1940; small business investment company as defined in the Small Business Investment Act of 1958, as amended; an accredited investor under SEC Rule 501(a)(I)-(4), (7) and (8), excluding, however, any self-directed employee benefit plan with investment decisions made solely by persons that are accredited investors under SEC Rule 501(a)(5)-(6); any qualified institutional buyer under SEC Rule 144A; or any corporation, partnership, trust, estate, or other entity (excluding individuals) having net worth of not less than $5 million or a wholly-owned subsidiary of such entity, as long as the entity was not formed for the purpose of acquiring the Bonds; *provided,* that such financial institutions or other institutional investors are acting for their own account or as a bona fide trustee of a trust organized and existing other than for the purpose of acquiring the Bonds.

Utah:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Vermont:

See Idaho, above.

Virginia:

Any corporation, investment company, or pension or profit-sharing trust.

Virgin Islands:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer in the Virgin Islands has no place of business there and effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (a) a depository institution or international banking institution; (b) an insurance company; (c) a separate account of an insurance company; (d) an investment company as defined in the Investment Company Act of 1940; (e) a broker-dealer registered under the Securities Exchange Act of 1934; (f) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of ten million dollars or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the Virgin Islands Uniform Securities Act, a depository institution, or an insurance company; (g) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of ten million dollars or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the Virgin Islands Uniform Securities Act, a depository institution, or an insurance company; (h) a trust, if it has total assets in excess of ten million dollars, its trustee is a depository institution, and its participants are exclusively plans of the types identified in clause (f) or (g) of this paragraph, regardless of size of assets, except a trust that includes as participants self-directed individual retirement accounts or similar self-directed plans; (i) an organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Section 501(c)(3)) a corporation,

Massachusetts trust and or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of ten million dollars; (j) a small business investment company licensed by the Small Business Administration under Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. Section 681(c» with total assets in excess of ten million dollars; (k) a private business development company as defined in Section 612(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. §80b-2(a)(22))with total assets in excess of ten million dollars; (1) a federal covered investment adviser acting for its own account; (m) a "qualified institutional buyer" as defined in Rule 144A(a)(I), other than Rule 144A(a)(1)(H), adopted under the Securities Act of 1933; (n) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted under the Securities Exchange Act of 1934; (0) any other person other than an individual of institutional character with total assets in excess of ten million dollars not organized for the specific purpose of evading the Virgin Islands Uniform Securities Act; or (P) any other person specified by rule or order under the Virgin Islands Uniform Securities Act.

"Depository institution" means: (a) a bank or (b) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include: (i) an insurance company or other organization primarily engaged in the business of insurance; (ii) a Morris Plan bank; or (iii) an industrial loan company.

"Bank" means: (a) a banking institution organized under the laws of the United States, (b) a member bank of the Federal Reserve System, (c) any other banking institution whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and that is supervised and examined by a state or federal agency having supervision over banks, and that is not operated for the purpose of evading the Virgin Islands Uniform Securities Act, and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in the foregoing clauses (a), (b), or (c).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state.

Washington:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some

fiduciary capacity. (The Administrator has interpreted the term *"institutional buyer"* to mean: (1) a corporation, business trust, or a partnership or wholly owned subsidiary of such an entity, which has been operating for at least 12 months and which has a net worth on a consolidated basis of at least $10,000,000 as determined by the entity's most recent audited financial statements, such statements to be dated within 16 months of the transaction made in reliance upon this exemption; (2) any entity which has been granted exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986 and which has a total endowment or trust funds of $5,000,000 or more according to its most recent audited financial statements, such statements to be dated within 16 months of the transaction made in reliance upon this exemption; or (3) any wholly owned subsidiary of a bank, savings, institution, insurance company or investment company as defined in the Investment Company Act of 1940. The Administrator has further found that the term "institutional buyer" does not include a natural person, individual retirement account (IRA), Keogh account or other self-directed pension plan.)

West Virginia:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

Wisconsin:

Any institutional investor; *provided,* that any seller who is not registered as a broker-dealer effects transactions therein exclusively with an institutional investor.

"Institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: (a) a depository institution or international banking institution, (b) an insurance company, (c) a separate account of an insurance company , (d) an investment company as defined in the Investment Company Act of 1940, (e) a broker-dealer registered under the Securities Exchange Act of 1934, (f) an employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (g) a plan established and maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state for the benefit of its employees, if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a duly designated public official or by a named fiduciary, as defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer registered under the Securities Exchange Act of 1934, an investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, an investment adviser registered under the state's uniform securities act, a depository institution, or an insurance company, (h) a trust, if it has total assets in excess of $10,000,000, its trustee is a depository institution, and its participants are

exclusively plans of the types identified in clause (f) or (g), regardless of the size of their assets, except a trust that includes as participants self-directed individual retirement accounts or similar self- directed plans, (i) an organization described in section 501 (c) (3) of the Internal Revenue Code (26 USC 501 (c) (3)), corporation, Massachusetts trust or similar business trust, limited liability company, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $10,000,000, (j) a small business investment company licensed by the Small Business Administration under section 301 (c) of the Small Business Investment Act of 1958 (IS USC 681 (c)) with total assets in excess of $10,000,000, (k) a private business development company as defined in section 202 (a) (22) of the Investment Advisers Act of 1940 (IS USC 80b-2 (a) (22)) with total assets in excess of $10,000,000, (1) a federal covered investment adviser acting for its own account, (m) a qualified institutional buyer, as defined in Rule 144A (a) (I), other than Rule 144A (a) (I) (i) (H), adopted under the Securities Act of 1933 (17 CFR 230. 144A), (n) a major U.S. institutional investor, as defined in Rule 15a-6 (b) (4) (i) adopted under the Securities Exchange Act of 1934 (17 CFR 240. I 5a-6), (0) any other person, other than an individual, of institutional character with total assets in excess of $10,000,000 not organized for the specific purpose of evading the state's uniform securities act, or (P) any other person specified by rule adopted or order issued under the state's uniform securities act.

"Depository institution" means any of the following: (a) a bank or (b) a savings institution, trust company, credit union, or similar institution that is organized or chartered under the laws of a state or of the United States, authorized to receive deposits, and supervised and examined by an official or agency of a state or the United States if its deposits or share accounts are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law. The term does not include any of the following: (i) an insurance company or other organization primarily engaged in the business of insurance, (ii) a Morris Plan bank or (iii) an industrial loan company.

"Bank" means any of the following: (a) a banking institution organized under the laws of the United States, (b) a member bank of the Federal Reserve System, (c) any other banking institution, whether incorporated or not, doing business under the laws of a state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to be exercised by national banks under the authority of the Comptroller of the Currency pursuant to section I of Public Law 87-722 (12 USC 92a), and which is supervised and examined by a state or federal agency having supervision over banks, and which is not operated for the purpose of evading the state's uniform securities act or (d) a receiver, conservator, or other liquidating agent of any institution or firm included described in the foregoing clauses (a), (b), or (c).

"Federal covered investment adviser" means a person registered under the Investment Advisers Act of 1940.

"Insurance company" means a company organized as an insurance company whose primary business is writing insurance or reinsuring risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state. Pursuant to Wisconsin Department of Financial Institutions Rule 1.02(8), the term "institutional investor" also includes: (a) An endowment or trust fund of a charitable organization specified in

section 170(b)(1)(A) of the Internal Revenue Code; (b) An issuer which has any class of securities registered under section 12 of the Securities Exchange Act of 1934, and any wholly owned subsidiary thereof; (c) A venture capital company as a result of meeting any of the following requirements: 1. Operating a small business investment company registered under the small business investment act of 1958, as amended 15 USC sec. 631, and 2. Being a corporation, partnership, limited liability company or association whose net assets exceed $1,000,000 and either whose principal purpose as stated in its articles, by-laws or other organizational instruments is investing in securities, or whose primary business is investing in developmental stage companies or eligible small business companies as defined in the regulations of the small business administration at 13 CFR 108.2; (d) Any "qualified institutional buyer" as defined and listed in sec. 230.144A under the Securities Act of 1933 as amended inclusive to October 22, 1992, whether acting for its own account or the accounts of other qualified institutional buyers that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with the qualified institutional buyer; (e) Any entity, all of the equity owners of which are persons designated in Section 551.202(13)(a), Wisconsin Statutes, or rules thereunder, acting for its own account or the accounts solely of other persons designated in Section 551.202(13)(a), Wisconsin Statutes, or rules thereunder; (f) Any "accredited investor" as defined and listed in sections 230.501(a)(I), (2), (3) or (7) under Regulation D under sections 3(b) and 4(2) of the Securities Act of 1933; (g) The State of Wisconsin or any of its agencies or political subdivisions and (h) The federal government or any of its agencies or instrumentalities.

Wyoming:

Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, whether the purchaser is acting for itself or in some fiduciary capacity; *provided,* that any seller who is not registered as a dealer or broker-dealer in the state has no place of business there and effects transactions therein exclusively with or through the foregoing classes of purchasers.

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
TELECOPIER (304) 344-9692

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

December 23, 2010

FINAL BLUE SKY MEMORANDUM

$16,520,000	$50,265,000	$10,080,000
Revenue Bonds	Revenue Bonds	Revenue Bonds
(Higher Education Facilities)	(Higher Education Facilities)	(Higher Education Facilities)
2010 Series A	2010 Series B	2010 Series C
(Tax-Exempt)	(Federally Taxable - Issuer Subsidy - Build America Bonds)	(Taxable)

Citigroup Global Markets Inc.,
as representative of the underwriters listed on
the cover page of the Official Statement

Ladies and Gentlemen:

This Final Blue Sky Memorandum supplements and completes our Preliminary Blue Sky Memorandum dated December 17, 2010 (the "Preliminary Blue Sky Memorandum") with respect to the Bonds described above (the "Bonds").

No action has been taken in the States of Nevada and New Hampshire for the Bonds to be sold to anyone by dealers or brokers registered or licensed therein.

Except as provided in the immediately preceding paragraph, we hereby confirm as of the date hereof the views expressed in the Preliminary Blue Sky Memorandum.

Respectfully submitted,

Goodwin + Goodwin, LLP

Goodwin & Goodwin, LLP

WV MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: December 23, 2010

ISSUE: $50,265,000 State of West Virginia Higher Education Policy Commission Revenue Bonds (Higher Education Facilities) 2010 Series B (Federally Taxable – Issuer Subsidy – Build America Bonds)

ADDRESS: 1080 Kanawha Blvd, East, Suite 700, Charleston, WV 25301 COUNTY: Kanawha

PURPOSE OF ISSUE: New Money: X
Refunding: _____ REFUND ISSUE(S) DATED: _____

ISSUE DATE: December 23, 2010 CLOSING DATE: December 23, 2010

ISSUE AMOUNT: $50,265,000 YIELD: See attached

1ST DEBT SERVICE DUE: 4/1/2027 1ST PRINCIPAL DUE: 4/1/2012

1ST DEBT SERVICE AMOUNT: $1,040,888.63 PAYING AGENT: Municipal Bond Commission

BOND
COUNSEL: Spilman Thomas & Battle, PLLC
Contact Person: Brian C. Helmick, Esq.
Phone: 304.340.3826

UNDERWRITERS
COUNSEL: Goodwin & Goodwin, LLP
Contact Person : William K. Bragg Jr., Esq.
Phone: 304.346.7000

CLOSING BANK: Wells Fargo Bank, N.A.
Contact Person: Michael E. Puskar
Phone: (412) 454-4613

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Dr. Brian Noland
Position: Chancellor
Phone: 304.558.0699

OTHER: _____
Contact Person: _____
Function: _____
Phone: _____

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire
____ Check

____ Escrow Fund: $_____
____ Capitalized Interest: $_____
X Reserve Account*: $1,338,285.38
____ Other: $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By: ____ Wire
____ Check
____ IGT

____ To Accrued Interest: $_____
____ To Issuer: $_____
____ To Cons. Invest. Fund $_____
____ To Other $_____

NOTES: *Interest Subsidy Reserve Account

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
Series 2010 B (Federally Taxable - Issuer Subsidy - Build America Bonds)

Date	Principal	Coupon	Interest	Debt Service	Annual Debt Service
4/1/2011			1,040,888.63	1,040,888.63	1,040,888.63
10/1/2011			1,911,836.25	1,911,836.25	
4/1/2012			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2012			1,911,836.25	1,911,836.25	
4/1/2013			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2013			1,911,836.25	1,911,836.25	
4/1/2014			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2014			1,911,836.25	1,911,836.25	
4/1/2015			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2015			1,911,836.25	1,911,836.25	
4/1/2016			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2016			1,911,836.25	1,911,836.25	
4/1/2017			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2017			1,911,836.25	1,911,836.25	
4/1/2018			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2018			1,911,836.25	1,911,836.25	
4/1/2019			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2019			1,911,836.25	1,911,836.25	
4/1/2020			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2020			1,911,836.25	1,911,836.25	
4/1/2021			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2021			1,911,836.25	1,911,836.25	
4/1/2022			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2022			1,911,836.25	1,911,836.25	
4/1/2023			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2023			1,911,836.25	1,911,836.25	
4/1/2024			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2024			1,911,836.25	1,911,836.25	

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
Series 2010 B (Federally Taxable - Issuer Subsidy - Build America Bonds)

Date	Principal	Coupon	Interest	Debt Service	Annual Debt Service
4/1/2025			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2025			1,911,836.25	1,911,836.25	
4/1/2026			1,911,836.25	1,911,836.25	3,823,672.50
10/1/2026			1,911,836.25	1,911,836.25	
4/1/2027	2,510,000.00	7.450%	1,911,836.25	4,421,836.25	6,333,672.50
10/1/2027			1,818,338.75	1,818,338.75	
4/1/2028	2,635,000.00	7.450%	1,818,338.75	4,453,338.75	6,271,677.50
10/1/2028			1,720,185.00	1,720,185.00	
4/1/2029	2,760,000.00	7.450%	1,720,185.00	4,480,185.00	6,200,370.00
10/1/2029			1,617,375.00	1,617,375.00	
4/1/2030	2,895,000.00	7.450%	1,617,375.00	4,512,375.00	6,129,750.00
10/1/2030			1,509,536.25	1,509,536.25	
4/1/2031	3,035,000.00	7.650%	1,509,536.25	4,544,536.25	6,054,072.50
10/1/2031			1,393,447.50	1,393,447.50	
4/1/2032	3,185,000.00	7.650%	1,393,447.50	4,578,447.50	5,971,895.00
10/1/2032			1,271,621.25	1,271,621.25	
4/1/2033	3,345,000.00	7.650%	1,271,621.25	4,616,621.25	5,888,242.50
10/1/2033			1,143,675.00	1,143,675.00	
4/1/2034	3,510,000.00	7.650%	1,143,675.00	4,653,675.00	5,797,350.00
10/1/2034			1,009,417.50	1,009,417.50	
4/1/2035	3,685,000.00	7.650%	1,009,417.50	4,694,417.50	5,703,835.00
10/1/2035			868,466.25	868,466.25	
4/1/2036	3,870,000.00	7.650%	868,466.25	4,738,466.25	5,606,932.50
10/1/2036			720,438.75	720,438.75	
4/1/2037	4,060,000.00	7.650%	720,438.75	4,780,438.75	5,500,877.50
10/1/2037			565,143.75	565,143.75	

Date	Principal	Coupon	Interest	Debt Service	Annual Debt Service
4/1/2038	4,265,000.00	7.650%	565,143.75	4,830,143.75	5,395,287.50
10/1/2038			402,007.50	402,007.50	
4/1/2039	4,475,000.00	7.650%	402,007.50	4,877,007.50	5,279,015.00
10/1/2039			230,838.75	230,838.75	
4/1/2040	6,035,000.00	7.650%	230,838.75	6,265,838.75	6,496,677.50
	50,265,000.00		90,760,631.13	141,025,631.13	141,025,631.13

TO: West Virginia Higher Education Policy Commission Working Group

FROM: Citigroup Global Markets Inc. ("Citi")

DATE: December 21, 2010

RE: Closing Instructions for Revenue Bonds (Higher Education Facilities), 2010 Series A, B and C

$76,865,000
STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C

This memorandum describes the flow of funds that is to occur for the closing of the **West Virginia Higher Education Policy Commission's Revenue Bonds (Higher Education Facilities), 2010 Series A, B and C.** The closing for the bond issue is to occur on the morning of Thursday, December 23, 2010. Unless otherwise noted, all funds will be delivered in same day funds (Federal Funds). Closing must occur no later than 12:00 noon (Eastern Time). Pre-closing and closing will take place at the offices of:

Spilman Thomas & Battle, PLLC
Spilman Center
300 Kanawha Boulevard East
Charleston, WV 25301

The contact at Spilman Thomas & Battle, PLLC is Brian Helmick at (304) 340-3826 or Liz Benedetto at (304) 340-3861.

Pre-closing:	Wednesday, December 22, 2010 Beginning at 2:00 P.M. (EDT)
Closing:	Thursday, December 23, 2010 Beginning at 9:00 A.M. (EDT)

Please call Jessica Donnelly at (215) 854-6036 if you have any questions or comments.

I. CITI WIRES

Citi will be responsible for two (2) wires as a condition of this transaction. Citi will wire the total amount of **$76,274,581.79** which represents the purchase price of the Series 2010 Bonds. Details for both wires are provided below. The net amount delivered is calculated as follows. Please review the following carefully.

Par Amount	$76,865,000.00
- Net Original Issue Discount	(200,113.95)
- Underwriter's Discount	(390,304.26)
Bond Proceeds Available	**$76,274,581.79**

Wire #1: Citi to the West Virginia Municipal Bond Commission ***(acting as paying agent for the 2010 Series Bonds, and will hereon be called the "Paying Agent")***

Citi will wire the **West Virginia Municipal Bond Commission** the amount of **$1,338,285.38** which represents the Interest Subsidy Reserve Fund of the 2010 Series B Bonds.

The wire instructions are as follows:

$1,338,285.38
B B & T
State of West Virginia
Acct. #: 5270517317
ABA #: 051503394
Credit Account: West Virginia Higher Education Policy Commission
Attn: MBC Sara Boardman
Telephone: (304) 558-3971
Email: sboardman@state.wv.us

Wire #2: Citi to Wells Fargo Bank, N.A. ***(acting as registrar and Construction Trustee for the 2010 Series Bonds, and will hereon be called the "Registrar")***

Citi will wire **Wells Fargo Bank, N.A.** the amount of **$74,936,296.41** which represents the bond proceeds available for deposit to the Series 2010 Bonds Bond Proceeds Fund and Cost of Issuance Fund.

The wire instructions are as follows:

$74,936,296.41
Wells Fargo Bank, N.A.
ABA # 121 000 248
Account # 001038377
BNF Corporate Trust Clearing
Re: WVHEPC Series 2010 Bonds
Attn: Joe Progar
Telephone: (412) 454-4613
Email: Joseph.C.Progar@wellsfargo.com

II. PAYING AGENT AND REGISTRAR DEPOSITS

Please Note: The Paying Agent and the Registrar are hereby instructed to hold in escrow all funds wired from Citi until such time as Citi, on behalf of the Commission, verbally instructs their release for wire or further credit to other accounts.

A. Deposits by the Paying Agent

Deposit #1: Deposit to the 2010 Bonds Interest Subsidy Reserve Fund

The Paying Agent will deposit **$1,338,285.38**, upon release from Citi, to the 2010 Bonds Interest Subsidy Reserve Fund. This amount represents the funds required to meet the Interest Subsidy Reserve Fund Requirement associated with the 2010 Series B Bonds.

B. Deposits by the Registrar

Deposit #1: Deposit to the 2010 A Bonds Bond Proceeds Fund

The Registrar will deposit **$16,188,952.51**, upon release from Citi, to the 2010 A Bonds Bond Proceeds Fund. This amount represents the 2010 A Bonds bond proceeds available for deposit on the construction fund.

Deposit #2: Deposit to the 2010 B Bonds Bond Proceeds Fund

The Registrar will deposit **$48,521,047.49**, upon release from Citi, to the 2010 B Bonds Bond Proceeds Fund. This amount represents the 2010 B Bonds bond proceeds available for deposit on the construction fund.

Deposit #3: Deposit to the 2010 C Bonds Bond Proceeds Fund

The Registrar will deposit **$10,000,000.00**, upon release from Citi, to the 2010 C Bonds Bond Proceeds Fund. This amount represents the 2010 C Bonds bond proceeds available for deposit on the construction fund.

Deposit #4: Deposit to the 2010 Bonds Cost of Issuance Fund

The Registrar will deposit **$226,296.41**, upon release from Citi, to the 2010 Series A, B and C Cost of Issuance Fund. This amount represents the funds required to pay the cost of issuance ($225,000.00) and the rounding amount ($1,296.41) associated with the 2010 Series A, B and C Bonds.

III. RECONCILIATION OF FUNDS

Sources of Funds:	
Citi's Wire #1 to the West Virginia Municipal Bond Commission	$1,338,285.38
Citi's Wire #2 to Wells Fargo Bank, N.A.	74,936,296.41
Total Sources of Funds:	**$76,274,581.79**

Uses of Funds:	
Deposit to 2010 Interest Subsidy Reserve Fund	$1,338,285.38
Deposit to 2010 A Bonds Bond Proceeds Fund	16,188,952.51
Deposit to 2010 B Bonds Bond Proceeds Fund	48,521,047.49
Deposit to 2010 C Bonds Bond Proceeds Fund	10,000,000.00
Deposit to 2010 Bonds Cost of Issuance Fund	226,296.41
Total Uses of Funds:	**$76,274,581.79**

IV. CUSIP NUMBERS

Maturity	Coupon	CUSIP Number
2010 Series C		
April 1, 2012	2.140%	95639RDY2
April 1, 2013	2.740%	95639RDZ9
April 1, 2014	3.330%	95639REA3
April 1, 2015	3.930%	95639REB1
April 1, 2016	4.390%	95639REC9
April 1, 2017	4.840%	95639RED7
April 1, 2018	5.280%	95639REE5
2010 Series A		
April 1, 2018	3.500%	95639RDV8
April 1, 2019	3.750%	95639RDS5
April 1, 2020	4.000%	95639RDT3
April 1, 2026	5.000%	95639RDU0
2010 Series B		
April 1, 2030	7.450%	95639RDW6
April 1, 2040	7.650%	95639RDX4

VI. CONTACTS

Mary Jo Murphy	Citi Operations	(212) 723-7095
Sarah Boardman	West Virginia Municipal Bond Commission	(304) 558-3971
Joseph Progar	Wells Fargo Bank, N.A.	(412) 454-4613
Paul Creedon	Citi Public Finance	(212) 723-5589
Jessica Donnelly	Citi Public Finance	(215) 854-6036
Chris Beacham	Citi Public Finance	(215) 854-6036

SOURCES AND USES OF FUNDS

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C
FINAL NUMBERS

Dated Date	12/23/2010
Delivery Date	12/23/2010

Sources:	Taxable Bonds	Tax-Exempt Bonds	Build America Bonds	Total
Bond Proceeds:				
Par Amount	10,080,000.00	16,520,000.00	50,265,000.00	76,865,000.00
Original Issue Discount		-200,113.95		-200,113.95
	10,080,000.00	16,319,886.05	50,265,000.00	76,664,886.05

Uses:	Taxable Bonds	Tax-Exempt Bonds	Build America Bonds	Total
Project Fund Deposits:				
Project Fund for HEPC	10,000,000.00			10,000,000.00
Project Fund for MU		6,184,023.36	18,815,976.64	25,000,000.00
Project Fund for GSC		2,720,970.28	8,279,029.72	11,000,000.00
Project Fund for SU		2,922,569.44	8,892,430.56	11,815,000.00
Project Fund for WLU		3,153,851.91	9,596,148.09	12,750,000.00
Additional Project Fund		1,207,537.52	2,937,462.48	4,145,000.00
	10,000,000.00	16,188,952.51	48,521,047.49	74,710,000.00
Other Fund Deposits:				
BABs Subsidy Reserve			1,338,285.38	1,338,285.38
Delivery Date Expenses:				
Cost of Issuance	29,506.29	48,357.50	147,136.21	225,000.00
Underwriter's Discount	46,805.06	84,968.28	258,530.92	390,304.26
	76,311.35	133,325.78	405,667.13	615,304.26
Other Uses of Funds:				
Additional Proceeds	3,688.65	-2,392.24		1,296.41
	10,080,000.00	16,319,886.05	50,265,000.00	76,664,886.05

Notes:
Rates as of 12/16/10
Net Debt Service reflects debt service net of 35% Build America Bond subsidy from US Government
Build America Bonds subject to a Make Whole Call

BOND SUMMARY STATISTICS

West Virginia Higher Education Policy Commission
Taxable Bonds

Dated Date	12/23/2010
Delivery Date	12/23/2010
Last Maturity	04/01/2018
Arbitrage Yield	4.290265%
True Interest Cost (TIC)	4.410145%
Net Interest Cost (NIC)	4.427096%
All-In TIC	4.486117%
Average Coupon	4.320305%
Average Life (years)	4.348
Duration of Issue (years)	3.964
Par Amount	10,080,000.00
Bond Proceeds	10,080,000.00
Total Interest	1,893,546.67
Net Interest	1,940,351.73
Total Debt Service	11,973,546.67
Maximum Annual Debt Service	1,731,448.00
Average Annual Debt Service	1,646,477.01
Underwriter's Fees (per $1000)	
Average Takedown	4.500000
Other Fee	0.143359
Total Underwriter's Discount	4.643359
Bid Price	99.535664

Bond Component	Par Value	Price	Average Coupon	Average Life
Taxable Serials	10,080,000.00	100.000	4.320%	4.348
	10,080,000.00			4.348

	TIC	All-In TIC	Arbitrage Yield
Par Value	10,080,000.00	10,080,000.00	10,080,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-46,805.06	-46,805.06	
- Cost of Issuance Expense		-29,506.29	
- Other Amounts			
Target Value	10,033,194.94	10,003,688.65	10,080,000.00
Target Date	12/23/2010	12/23/2010	12/23/2010
Yield	4.410145%	4.486117%	4.290265%

BOND SUMMARY STATISTICS

West Virginia Higher Education Policy Commission
Tax-Exempt Bonds

Dated Date	12/23/2010
Delivery Date	12/23/2010
Last Maturity	04/01/2026
Arbitrage Yield	4.932768%
True Interest Cost (TIC)	4.991207%
Net Interest Cost (NIC)	4.956000%
All-In TIC	5.024639%
Average Coupon	4.811583%
Average Life (years)	11.949
Duration of Issue (years)	9.149
Par Amount	16,520,000.00
Bond Proceeds	16,319,886.05
Total Interest	9,498,167.15
Net Interest	9,783,249.38
Total Debt Service	26,018,167.15
Maximum Annual Debt Service	2,513,750.00
Average Annual Debt Service	1,703,626.81
Underwriter's Fees (per $1000)	
Average Takedown	5.000000
Other Fee	0.143358
Total Underwriter's Discount	5.143358
Bid Price	98.274321

Bond Component	Par Value	Price	Average Coupon	Average Life
Tax-Exempt Serial Bond	3,770,000.00	98.277	3.864%	8.687
Term Bond 2021-2026	12,750,000.00	98.940	5.000%	12.914
	16,520,000.00			11.949

	TIC	All-In TIC	Arbitrage Yield
Par Value	16,520,000.00	16,520,000.00	16,520,000.00
+ Accrued Interest			
+ Premium (Discount)	-200,113.95	-200,113.95	-200,113.95
- Underwriter's Discount	-84,968.28	-84,968.28	
- Cost of Issuance Expense		-48,357.50	
- Other Amounts			
Target Value	16,234,917.77	16,186,560.27	16,319,886.05
Target Date	12/23/2010	12/23/2010	12/23/2010
Yield	4.991207%	5.024639%	4.932768%

Notes:
Preliminary; subject to change
Rates as of 9/20/2010
Analysis assumes uninsured bonds rated Aa3/A+

BOND SUMMARY STATISTICS

West Virginia Higher Education Policy Commission
Build America Bonds

Dated Date	12/23/2010
Delivery Date	12/23/2010
Last Maturity	04/01/2040
Arbitrage Yield	4.949162%
True Interest Cost (TIC)	4.986728%
Net Interest Cost (NIC)	7.639372%
All-In TIC	5.008229%
Average Coupon	7.617673%
Average Life (years)	23.703
Duration of Issue (years)	17.690
Par Amount	50,265,000.00
Bond Proceeds	50,265,000.00
Total Interest	90,760,631.13
Net Interest	91,019,162.05
Total Debt Service	141,025,631.13
Maximum Annual Debt Service	6,496,677.50
Average Annual Debt Service	4,817,728.91
Underwriter's Fees (per $1000)	
Average Takedown	5.000000
Other Fee	0.143359
Total Underwriter's Discount	5.143359
Bid Price	99.485664

Bond Component	Par Value	Price	Average Coupon	Average Life
Build America Bond Term 1	10,800,000.00	100.000	7.450%	17.831
Build America Bond Term 2	39,465,000.00	100.000	7.650%	25.310
	50,265,000.00			23.703

	TIC	All-In TIC	Arbitrage Yield
Par Value	50,265,000.00	50,265,000.00	50,265,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-258,530.92	-258,530.92	
- Cost of Issuance Expense		-147,136.21	
- Other Amounts			
Target Value	50,006,469.08	49,859,332.87	50,265,000.00
Target Date	12/23/2010	12/23/2010	12/23/2010
Yield	4.986728%	5.008229%	4.949162%

BOND PRICING

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C
FINAL NUMBERS

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Premium (-Discount)	Takedown
Taxable Bonds, Taxable Serials:							
	04/01/2012	1,340,000	2.140%	2.140%	100.000		2.500
	04/01/2013	1,370,000	2.740%	2.740%	100.000		3.750
	04/01/2014	1,405,000	3.330%	3.330%	100.000		5.000
	04/01/2015	1,455,000	3.930%	3.930%	100.000		5.000
	04/01/2016	1,510,000	4.390%	4.390%	100.000		5.000
	04/01/2017	1,580,000	4.840%	4.840%	100.000		5.000
	04/01/2018	1,420,000	5.280%	5.280%	100.000		5.000
		10,080,000					
Tax-Exempt Bonds, Tax-Exempt Serial Bond:							
	04/01/2018	235,000	3.500%	3.680%	98.856	-2,688.40	5.000
	04/01/2019	1,735,000	3.750%	3.980%	98.387	-27,985.55	5.000
	04/01/2020	1,800,000	4.000%	4.250%	98.095	-34,290.00	5.000
		3,770,000				-64,963.95	
Tax-Exempt Bonds, Term Bond 2021-2026:							
	04/01/2021	1,875,000	5.000%	5.100%	98.940	-19,875.00	5.000
	04/01/2022	1,970,000	5.000%	5.100%	98.940	-20,882.00	5.000
	04/01/2023	2,065,000	5.000%	5.100%	98.940	-21,889.00	5.000
	04/01/2024	2,170,000	5.000%	5.100%	98.940	-23,002.00	5.000
	04/01/2025	2,280,000	5.000%	5.100%	98.940	-24,168.00	5.000
	04/01/2026	2,390,000	5.000%	5.100%	98.940	-25,334.00	5.000
		12,750,000				-135,150.00	
Build America Bonds, Build America Bond Term 1:							
	04/01/2027	2,510,000	7.450%	7.450%	100.000		5.000
	04/01/2028	2,635,000	7.450%	7.450%	100.000		5.000
	04/01/2029	2,760,000	7.450%	7.450%	100.000		5.000
	04/01/2030	2,895,000	7.450%	7.450%	100.000		5.000
		10,800,000					
Build America Bonds, Build America Bond Term 2:							
	04/01/2031	3,035,000	7.650%	7.650%	100.000		5.000
	04/01/2032	3,185,000	7.650%	7.650%	100.000		5.000
	04/01/2033	3,345,000	7.650%	7.650%	100.000		5.000
	04/01/2034	3,510,000	7.650%	7.650%	100.000		5.000
	04/01/2035	3,685,000	7.650%	7.650%	100.000		5.000
	04/01/2036	3,870,000	7.650%	7.650%	100.000		5.000
	04/01/2037	4,060,000	7.650%	7.650%	100.000		5.000
	04/01/2038	4,265,000	7.650%	7.650%	100.000		5.000
	04/01/2039	4,475,000	7.650%	7.650%	100.000		5.000
	04/01/2040	6,035,000	7.650%	7.650%	100.000		5.000
		39,465,000					
		76,865,000				-200,113.95	

Dated Date	12/23/2010	
Delivery Date	12/23/2010	
First Coupon	04/01/2011	
Par Amount	76,865,000.00	
Original Issue Discount	-200,113.95	
Production	76,664,886.05	99.739655%
Underwriter's Discount	-390,304.26	-0.507779%
Purchase Price	76,274,581.79	99.231876%
Accrued Interest		
Net Proceeds	76,274,581.79	

Notes:
Rates as of 12/16/10
Net Debt Service reflects debt service net of 35% Build America Bond subsidy from US Government
Build America Bonds subject to a Make Whole Call

BOND DEBT SERVICE

West Virginia Higher Education Policy Commission
Taxable Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
04/01/2011			105,600.17	105,600.17	105,600.17
10/01/2011			193,959.50	193,959.50	
04/01/2012	1,340,000	2.140%	193,959.50	1,533,959.50	1,727,919.00
10/01/2012			179,621.50	179,621.50	
04/01/2013	1,370,000	2.740%	179,621.50	1,549,621.50	1,729,243.00
10/01/2013			160,852.50	160,852.50	
04/01/2014	1,405,000	3.330%	160,852.50	1,565,852.50	1,726,705.00
10/01/2014			137,459.25	137,459.25	
04/01/2015	1,455,000	3.930%	137,459.25	1,592,459.25	1,729,918.50
10/01/2015			108,868.50	108,868.50	
04/01/2016	1,510,000	4.390%	108,868.50	1,618,868.50	1,727,737.00
10/01/2016			75,724.00	75,724.00	
04/01/2017	1,580,000	4.840%	75,724.00	1,655,724.00	1,731,448.00
10/01/2017			37,488.00	37,488.00	
04/01/2018	1,420,000	5.280%	37,488.00	1,457,488.00	1,494,976.00
	10,080,000		1,893,546.67	11,973,546.67	11,973,546.67

BOND DEBT SERVICE

West Virginia Higher Education Policy Commission
Tax-Exempt Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
04/01/2011			213,092.15	213,092.15	213,092.15
10/01/2011			391,393.75	391,393.75	
04/01/2012			391,393.75	391,393.75	782,787.50
10/01/2012			391,393.75	391,393.75	
04/01/2013			391,393.75	391,393.75	782,787.50
10/01/2013			391,393.75	391,393.75	
04/01/2014			391,393.75	391,393.75	782,787.50
10/01/2014			391,393.75	391,393.75	
04/01/2015			391,393.75	391,393.75	782,787.50
10/01/2015			391,393.75	391,393.75	
04/01/2016			391,393.75	391,393.75	782,787.50
10/01/2016			391,393.75	391,393.75	
04/01/2017			391,393.75	391,393.75	782,787.50
10/01/2017			391,393.75	391,393.75	
04/01/2018	235,000	3.500%	391,393.75	626,393.75	1,017,787.50
10/01/2018			387,281.25	387,281.25	
04/01/2019	1,735,000	3.750%	387,281.25	2,122,281.25	2,509,562.50
10/01/2019			354,750.00	354,750.00	
04/01/2020	1,800,000	4.000%	354,750.00	2,154,750.00	2,509,500.00
10/01/2020			318,750.00	318,750.00	
04/01/2021	1,875,000	5.000%	318,750.00	2,193,750.00	2,512,500.00
10/01/2021			271,875.00	271,875.00	
04/01/2022	1,970,000	5.000%	271,875.00	2,241,875.00	2,513,750.00
10/01/2022			222,625.00	222,625.00	
04/01/2023	2,065,000	5.000%	222,625.00	2,287,625.00	2,510,250.00
10/01/2023			171,000.00	171,000.00	
04/01/2024	2,170,000	5.000%	171,000.00	2,341,000.00	2,512,000.00
10/01/2024			116,750.00	116,750.00	
04/01/2025	2,280,000	5.000%	116,750.00	2,396,750.00	2,513,500.00
10/01/2025			59,750.00	59,750.00	
04/01/2026	2,390,000	5.000%	59,750.00	2,449,750.00	2,509,500.00
	16,520,000		9,498,167.15	26,018,167.15	26,018,167.15

Notes:
Preliminary; subject to change
Rates as of 9/20/2010
Analysis assumes uninsured bonds rated Aa3/A+

BOND DEBT SERVICE

West Virginia Higher Education Policy Commission
Build America Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
04/01/2011			1,040,888.63	1,040,888.63	1,040,888.63
10/01/2011			1,911,836.25	1,911,836.25	
04/01/2012			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2012			1,911,836.25	1,911,836.25	
04/01/2013			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2013			1,911,836.25	1,911,836.25	
04/01/2014			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2014			1,911,836.25	1,911,836.25	
04/01/2015			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2015			1,911,836.25	1,911,836.25	
04/01/2016			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2016			1,911,836.25	1,911,836.25	
04/01/2017			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2017			1,911,836.25	1,911,836.25	
04/01/2018			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2018			1,911,836.25	1,911,836.25	
04/01/2019			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2019			1,911,836.25	1,911,836.25	
04/01/2020			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2020			1,911,836.25	1,911,836.25	
04/01/2021			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2021			1,911,836.25	1,911,836.25	
04/01/2022			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2022			1,911,836.25	1,911,836.25	
04/01/2023			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2023			1,911,836.25	1,911,836.25	
04/01/2024			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2024			1,911,836.25	1,911,836.25	
04/01/2025			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2025			1,911,836.25	1,911,836.25	
04/01/2026			1,911,836.25	1,911,836.25	3,823,672.50
10/01/2026			1,911,836.25	1,911,836.25	
04/01/2027	2,510,000	7.450%	1,911,836.25	4,421,836.25	6,333,672.50
10/01/2027			1,818,338.75	1,818,338.75	
04/01/2028	2,635,000	7.450%	1,818,338.75	4,453,338.75	6,271,677.50
10/01/2028			1,720,185.00	1,720,185.00	
04/01/2029	2,760,000	7.450%	1,720,185.00	4,480,185.00	6,200,370.00
10/01/2029			1,617,375.00	1,617,375.00	
04/01/2030	2,895,000	7.450%	1,617,375.00	4,512,375.00	6,129,750.00
10/01/2030			1,509,536.25	1,509,536.25	
04/01/2031	3,035,000	7.650%	1,509,536.25	4,544,536.25	6,054,072.50
10/01/2031			1,393,447.50	1,393,447.50	
04/01/2032	3,185,000	7.650%	1,393,447.50	4,578,447.50	5,971,895.00
10/01/2032			1,271,621.25	1,271,621.25	
04/01/2033	3,345,000	7.650%	1,271,621.25	4,616,621.25	5,888,242.50
10/01/2033			1,143,675.00	1,143,675.00	
04/01/2034	3,510,000	7.650%	1,143,675.00	4,653,675.00	5,797,350.00
10/01/2034			1,009,417.50	1,009,417.50	
04/01/2035	3,685,000	7.650%	1,009,417.50	4,694,417.50	5,703,835.00
10/01/2035			868,466.25	868,466.25	
04/01/2036	3,870,000	7.650%	868,466.25	4,738,466.25	5,606,932.50
10/01/2036			720,438.75	720,438.75	
04/01/2037	4,060,000	7.650%	720,438.75	4,780,438.75	5,500,877.50
10/01/2037			565,143.75	565,143.75	
04/01/2038	4,265,000	7.650%	565,143.75	4,830,143.75	5,395,287.50
10/01/2038			402,007.50	402,007.50	
04/01/2039	4,475,000	7.650%	402,007.50	4,877,007.50	5,279,015.00
10/01/2039			230,838.75	230,838.75	
04/01/2040	6,035,000	7.650%	230,838.75	6,265,838.75	6,496,677.50
	50,265,000		90,760,631.13	141,025,631.13	141,025,631.13

NET DEBT SERVICE

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C
FINAL NUMBERS

Period Ending	Principal	Interest	Total Debt Service	35% Direct Subsidy	BABs Subsidy Reserve	Net Debt Service
04/01/2011		1,359,580.95	1,359,580.95	-364,311.02		995,269.93
04/01/2012	1,340,000	4,994,379.00	6,334,379.00	-1,338,285.38		4,996,093.62
04/01/2013	1,370,000	4,965,703.00	6,335,703.00	-1,338,285.38		4,997,417.62
04/01/2014	1,405,000	4,928,165.00	6,333,165.00	-1,338,285.38		4,994,879.62
04/01/2015	1,455,000	4,881,378.50	6,336,378.50	-1,338,285.38		4,998,093.12
04/01/2016	1,510,000	4,824,197.00	6,334,197.00	-1,338,285.38		4,995,911.62
04/01/2017	1,580,000	4,757,908.00	6,337,908.00	-1,338,285.38		4,999,622.62
04/01/2018	1,655,000	4,681,436.00	6,336,436.00	-1,338,285.38		4,998,150.62
04/01/2019	1,735,000	4,598,235.00	6,333,235.00	-1,338,285.38		4,994,949.62
04/01/2020	1,800,000	4,533,172.50	6,333,172.50	-1,338,285.38		4,994,887.12
04/01/2021	1,875,000	4,461,172.50	6,336,172.50	-1,338,285.38		4,997,887.12
04/01/2022	1,970,000	4,367,422.50	6,337,422.50	-1,338,285.38		4,999,137.12
04/01/2023	2,065,000	4,268,922.50	6,333,922.50	-1,338,285.38		4,995,637.12
04/01/2024	2,170,000	4,165,672.50	6,335,672.50	-1,338,285.38		4,997,387.12
04/01/2025	2,280,000	4,057,172.50	6,337,172.50	-1,338,285.38		4,998,887.12
04/01/2026	2,390,000	3,943,172.50	6,333,172.50	-1,338,285.38		4,994,887.12
04/01/2027	2,510,000	3,823,672.50	6,333,672.50	-1,338,285.38		4,995,387.12
04/01/2028	2,635,000	3,636,677.50	6,271,677.50	-1,272,837.12		4,998,840.38
04/01/2029	2,760,000	3,440,370.00	6,200,370.00	-1,204,129.50		4,996,240.50
04/01/2030	2,895,000	3,234,750.00	6,129,750.00	-1,132,162.50		4,997,587.50
04/01/2031	3,035,000	3,019,072.50	6,054,072.50	-1,056,675.38		4,997,397.12
04/01/2032	3,185,000	2,786,895.00	5,971,895.00	-975,413.26		4,996,481.74
04/01/2033	3,345,000	2,543,242.50	5,888,242.50	-890,134.88		4,998,107.62
04/01/2034	3,510,000	2,287,350.00	5,797,350.00	-800,572.50		4,996,777.50
04/01/2035	3,685,000	2,018,835.00	5,703,835.00	-706,592.26		4,997,242.74
04/01/2036	3,870,000	1,736,932.50	5,606,932.50	-607,926.38		4,999,006.12
04/01/2037	4,060,000	1,440,877.50	5,500,877.50	-504,307.12		4,996,570.38
04/01/2038	4,265,000	1,130,287.50	5,395,287.50	-395,600.62		4,999,686.88
04/01/2039	4,475,000	804,015.00	5,279,015.00	-281,405.26		4,997,609.74
04/01/2040	6,035,000	461,677.50	6,496,677.50	-161,587.12	1,338,285.38	4,996,805.00
	76,865,000	102,152,344.95	179,017,344.95	-31,766,221.00	1,338,285.38	145,912,838.57

Notes:
Rates as of 12/16/10
Net Debt Service reflects debt service net of 35% Build America Bond subsidy from US Government
Build America Bonds subject to a Make Whole Call

UNIVERSAL BOND SOLUTION

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C
FINAL NUMBERS
Universal Bond Solution Component #1

Period Ending	Proposed Principal	Proposed Debt Service	Debt Service Adjustments	Total Adj Debt Service	Revenue Constraints	Unused Revenues	Debt Serv Coverage
04/01/2011		1,359,581	-364,311	995,270	2,500,000	1,504,730	251.18814%
04/01/2012	1,340,000	6,334,379	-1,338,285	4,996,094	5,000,000	3,906	100.07819%
04/01/2013	1,370,000	6,335,703	-1,338,285	4,997,418	5,000,000	2,582	100.05167%
04/01/2014	1,405,000	6,333,165	-1,338,285	4,994,880	5,000,000	5,120	100.10251%
04/01/2015	1,455,000	6,336,379	-1,338,285	4,998,093	5,000,000	1,907	100.03815%
04/01/2016	1,510,000	6,334,197	-1,338,285	4,995,912	5,000,000	4,088	100.08183%
04/01/2017	1,580,000	6,337,908	-1,338,285	4,999,623	5,000,000	377	100.00755%
04/01/2018	1,655,000	6,336,436	-1,338,285	4,998,151	5,000,000	1,849	100.03700%
04/01/2019	1,735,000	6,333,235	-1,338,285	4,994,950	5,000,000	5,050	100.10111%
04/01/2020	1,800,000	6,333,173	-1,338,285	4,994,887	5,000,000	5,113	100.10236%
04/01/2021	1,875,000	6,336,173	-1,338,285	4,997,887	5,000,000	2,113	100.04228%
04/01/2022	1,970,000	6,337,423	-1,338,285	4,999,137	5,000,000	863	100.01726%
04/01/2023	2,065,000	6,333,923	-1,338,285	4,995,637	5,000,000	4,363	100.08733%
04/01/2024	2,170,000	6,335,673	-1,338,285	4,997,387	5,000,000	2,613	100.05228%
04/01/2025	2,280,000	6,337,173	-1,338,285	4,998,887	5,000,000	1,113	100.02226%
04/01/2026	2,390,000	6,333,173	-1,338,285	4,994,887	5,000,000	5,113	100.10236%
04/01/2027	2,510,000	6,333,673	-1,338,285	4,995,387	5,000,000	4,613	100.09234%
04/01/2028	2,635,000	6,271,678	-1,272,837	4,998,840	5,000,000	1,160	100.02320%
04/01/2029	2,760,000	6,200,370	-1,204,130	4,996,241	5,000,000	3,760	100.07525%
04/01/2030	2,895,000	6,129,750	-1,132,163	4,997,588	5,000,000	2,413	100.04827%
04/01/2031	3,035,000	6,054,073	-1,056,675	4,997,397	5,000,000	2,603	100.05208%
04/01/2032	3,185,000	5,971,895	-975,413	4,996,482	5,000,000	3,518	100.07041%
04/01/2033	3,345,000	5,888,243	-890,135	4,998,108	5,000,000	1,892	100.03786%
04/01/2034	3,510,000	5,797,350	-800,573	4,996,778	5,000,000	3,223	100.06449%
04/01/2035	3,685,000	5,703,835	-706,592	4,997,243	5,000,000	2,757	100.05518%
04/01/2036	3,870,000	5,606,933	-607,926	4,999,006	5,000,000	994	100.01988%
04/01/2037	4,060,000	5,500,878	-504,307	4,996,570	5,000,000	3,430	100.06864%
04/01/2038	4,265,000	5,395,288	-395,601	4,999,687	5,000,000	313	100.00626%
04/01/2039	4,475,000	5,279,015	-281,405	4,997,610	5,000,000	2,390	100.04783%
04/01/2040	6,035,000	6,496,678	-1,499,873	4,996,805	5,000,000	3,195	100.06394%
	76,865,000	179,017,345	-33,104,506	145,912,839	147,500,000	1,587,161	

Notes:
Rates as of 12/16/10
Net Debt Service reflects debt service net of 35% Build America Bond subsidy from US Government
Build America Bonds subject to a Make Whole Call

COST OF ISSUANCE

West Virginia Higher Education Policy Commission
Revenue Bonds (Higher Education Facilities)
2010 Series A, B and C
FINAL NUMBERS

Cost of Issuance	$/1000	Amount
Bond Counsel	0.65049	50,000.00
Financial Advisor (PRAG)	0.45534	35,000.00
Underwriter's Counsel	0.58544	45,000.00
Registrar (Wells Fargo)	0.01236	950.00
S&P	0.52039	40,000.00
Moody's	0.58544	45,000.00
Printing	0.02602	2,000.00
Miscellaneous	0.09172	7,050.00
	2.92721	225,000.00

Notes:
Rates as of 12/16/10
Net Debt Service reflects debt service net of 35% Build America Bond subsidy from US Government
Build America Bonds subject to a Make Whole Call

PROOF OF ARBITRAGE YIELD

West Virginia Higher Education Policy Commission
Taxable Bonds

Date	Debt Service	Present Value to 12/23/2010 @ 4.2902653%
04/01/2011	105,600.17	104,386.93
10/01/2011	193,959.50	187,704.58
04/01/2012	1,533,959.50	1,453,315.91
10/01/2012	179,621.50	166,604.52
04/01/2013	1,549,621.50	1,407,137.10
10/01/2013	160,852.50	142,995.02
04/01/2014	1,565,852.50	1,362,781.65
10/01/2014	137,459.25	117,120.18
04/01/2015	1,592,459.25	1,328,337.40
10/01/2015	108,868.50	88,904.68
04/01/2016	1,618,868.50	1,294,244.39
10/01/2016	75,724.00	59,268.04
04/01/2017	1,655,724.00	1,268,695.24
10/01/2017	37,488.00	28,121.85
04/01/2018	1,457,488.00	1,070,382.50
	11,973,546.67	10,080,000.00

Proceeds Summary

Delivery date	12/23/2010
Par Value	10,080,000.00
Target for yield calculation	10,080,000.00

PROOF OF ARBITRAGE YIELD

West Virginia Higher Education Policy Commission
Tax-Exempt Bonds

Date	Debt Service	Present Value to 12/23/2010 @ 4.9327679%
04/01/2011	213,092.15	210,284.11
10/01/2011	391,393.75	376,939.36
04/01/2012	391,393.75	367,866.36
10/01/2012	391,393.75	359,011.75
04/01/2013	391,393.75	350,370.28
10/01/2013	391,393.75	341,936.80
04/01/2014	391,393.75	333,706.32
10/01/2014	391,393.75	325,673.95
04/01/2015	391,393.75	317,834.92
10/01/2015	391,393.75	310,184.58
04/01/2016	391,393.75	302,718.38
10/01/2016	391,393.75	295,431.90
04/01/2017	391,393.75	288,320.80
10/01/2017	391,393.75	281,380.87
04/01/2018	626,393.75	439,487.66
10/01/2018	387,281.25	265,182.17
04/01/2019	2,122,281.25	1,418,206.21
10/01/2019	354,750.00	231,354.23
04/01/2020	2,154,750.00	1,371,420.12
10/01/2020	318,750.00	197,989.61
04/01/2021	2,193,750.00	1,329,835.55
10/01/2021	271,875.00	160,841.71
04/01/2022	2,241,875.00	1,294,372.80
10/01/2022	222,625.00	125,441.29
04/01/2023	2,287,625.00	1,257,969.17
10/01/2023	171,000.00	91,769.82
04/01/2024	2,341,000.00	1,226,093.97
10/01/2024	116,750.00	59,675.74
04/01/2025	2,396,750.00	1,195,589.96
10/01/2025	59,750.00	29,088.14
04/01/2026	2,449,750.00	1,163,907.51
	26,018,167.15	16,319,886.05

Proceeds Summary

Delivery date	12/23/2010
Par Value	16,520,000.00
Premium (Discount)	-200,113.95
Target for yield calculation	16,319,886.05

Notes:
Preliminary; subject to change
Rates as of 9/20/2010
Analysis assumes uninsured bonds rated Aa3/A+

PROOF OF ARBITRAGE YIELD

West Virginia Higher Education Policy Commission
Build America Bonds

Date	Debt Service	Expenses	Total	Present Value to 12/23/2010 @ 4.9491624%
04/01/2011	1,040,888.63	-364,311.02	676,577.61	667,632.88
10/01/2011	1,911,836.25	-669,142.69	1,242,693.56	1,196,652.33
04/01/2012	1,911,836.25	-669,142.69	1,242,693.56	1,167,755.28
10/01/2012	1,911,836.25	-669,142.69	1,242,693.56	1,139,556.04
04/01/2013	1,911,836.25	-669,142.69	1,242,693.56	1,112,037.76
10/01/2013	1,911,836.25	-669,142.69	1,242,693.56	1,085,184.00
04/01/2014	1,911,836.25	-669,142.69	1,242,693.56	1,058,978.71
10/01/2014	1,911,836.25	-669,142.69	1,242,693.56	1,033,406.24
04/01/2015	1,911,836.25	-669,142.69	1,242,693.56	1,008,451.29
10/01/2015	1,911,836.25	-669,142.69	1,242,693.56	984,098.96
04/01/2016	1,911,836.25	-669,142.69	1,242,693.56	960,334.70
10/01/2016	1,911,836.25	-669,142.69	1,242,693.56	937,144.30
04/01/2017	1,911,836.25	-669,142.69	1,242,693.56	914,513.91
10/01/2017	1,911,836.25	-669,142.69	1,242,693.56	892,430.01
04/01/2018	1,911,836.25	-669,142.69	1,242,693.56	870,879.39
10/01/2018	1,911,836.25	-669,142.69	1,242,693.56	849,849.18
04/01/2019	1,911,836.25	-669,142.69	1,242,693.56	829,326.82
10/01/2019	1,911,836.25	-669,142.69	1,242,693.56	809,300.03
04/01/2020	1,911,836.25	-669,142.69	1,242,693.56	789,756.86
10/01/2020	1,911,836.25	-669,142.69	1,242,693.56	770,685.61
04/01/2021	1,911,836.25	-669,142.69	1,242,693.56	752,074.91
10/01/2021	1,911,836.25	-669,142.69	1,242,693.56	733,913.62
04/01/2022	1,911,836.25	-669,142.69	1,242,693.56	716,190.90
10/01/2022	1,911,836.25	-669,142.69	1,242,693.56	698,896.14
04/01/2023	1,911,836.25	-669,142.69	1,242,693.56	682,019.03
10/01/2023	1,911,836.25	-669,142.69	1,242,693.56	665,549.47
04/01/2024	1,911,836.25	-669,142.69	1,242,693.56	649,477.62
10/01/2024	1,911,836.25	-669,142.69	1,242,693.56	633,793.87
04/01/2025	1,911,836.25	-669,142.69	1,242,693.56	618,488.86
10/01/2025	1,911,836.25	-669,142.69	1,242,693.56	603,553.44
04/01/2026	1,911,836.25	-669,142.69	1,242,693.56	588,978.69
10/01/2026	1,911,836.25	-669,142.69	1,242,693.56	574,755.89
04/01/2027	4,421,836.25	-669,142.69	3,752,693.56	1,693,738.38
10/01/2027	1,818,338.75	-636,418.56	1,181,920.19	520,565.31
04/01/2028	4,453,338.75	-636,418.56	3,816,920.19	1,640,529.34
10/01/2028	1,720,185.00	-602,064.75	1,118,120.25	468,968.08
04/01/2029	4,480,185.00	-602,064.75	3,878,120.25	1,587,303.19
10/01/2029	1,617,375.00	-566,081.25	1,051,293.75	419,900.65
04/01/2030	4,512,375.00	-566,081.25	3,946,293.75	1,538,139.50
10/01/2030	1,509,536.25	-528,337.69	981,198.56	373,204.67
04/01/2031	4,544,536.25	-528,337.69	4,016,198.56	1,490,696.35
10/01/2031	1,393,447.50	-487,706.63	905,740.87	328,066.45
04/01/2032	4,578,447.50	-487,706.63	4,090,740.87	1,445,918.04
10/01/2032	1,271,621.25	-445,067.44	826,553.81	285,099.65
04/01/2033	4,616,621.25	-445,067.44	4,171,553.81	1,404,129.79
10/01/2033	1,143,675.00	-400,286.25	743,388.75	244,179.52
04/01/2034	4,653,675.00	-400,286.25	4,253,388.75	1,363,365.11
10/01/2034	1,009,417.50	-353,296.13	656,121.37	205,232.02
04/01/2035	4,694,417.50	-353,296.13	4,341,121.37	1,325,094.10
10/01/2035	868,466.25	-303,963.19	564,503.06	168,149.25
04/01/2036	4,738,466.25	-303,963.19	4,434,503.06	1,289,013.45
10/01/2036	720,438.75	-252,153.56	468,285.19	132,833.24
04/01/2037	4,780,438.75	-252,153.56	4,528,285.19	1,253,470.03
10/01/2037	565,143.75	-197,800.31	367,343.44	99,228.48
04/01/2038	4,830,143.75	-197,800.31	4,632,343.44	1,221,092.69
10/01/2038	402,007.50	-140,702.63	261,304.87	67,217.02
04/01/2039	4,877,007.50	-140,702.63	4,736,304.87	1,188,927.10
10/01/2039	230,838.75	-80,793.56	150,045.19	36,755.43
04/01/2040	6,265,838.75	-80,793.56	6,185,045.19	1,478,516.41
	141,025,631.13	-31,766,221.00	109,259,410.13	50,265,000.00

Proceeds Summary

Delivery date	12/23/2010
Par Value	50,265,000.00
Target for yield calculation	50,265,000.00

FORM 8038 STATISTICS

West Virginia Higher Education Policy Commission
Taxable Bonds

Dated Date	12/23/2010
Delivery Date	12/23/2010

Bond Component	Date	Principal	Coupon	Price	Issue Price	Redemption at Maturity
Taxable Serials:						
	04/01/2012	1,340,000.00	2.140%	100.000	1,340,000.00	1,340,000.00
	04/01/2013	1,370,000.00	2.740%	100.000	1,370,000.00	1,370,000.00
	04/01/2014	1,405,000.00	3.330%	100.000	1,405,000.00	1,405,000.00
	04/01/2015	1,455,000.00	3.930%	100.000	1,455,000.00	1,455,000.00
	04/01/2016	1,510,000.00	4.390%	100.000	1,510,000.00	1,510,000.00
	04/01/2017	1,580,000.00	4.840%	100.000	1,580,000.00	1,580,000.00
	04/01/2018	1,420,000.00	5.280%	100.000	1,420,000.00	1,420,000.00
		10,080,000.00			10,080,000.00	10,080,000.00

	Maturity Date	Interest Rate	Issue Price	Stated Redemption at Maturity	Weighted Average Maturity	Yield	Net Interest Cost
Final Maturity	04/01/2018	5.280%	1,420,000.00	1,420,000.00			
Entire Issue			10,080,000.00	10,080,000.00	4.3481	4.2903%	4.3203%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	76,311.35
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	0.00

FORM 8038 STATISTICS

West Virginia Higher Education Policy Commission
Tax-Exempt Bonds

Dated Date	12/23/2010
Delivery Date	12/23/2010

Bond Component	Date	Principal	Coupon	Price	Issue Price	Redemption at Maturity
Tax-Exempt Serial Bond:						
	04/01/2018	235,000.00	3.500%	98.856	232,311.60	235,000.00
	04/01/2019	1,735,000.00	3.750%	98.387	1,707,014.45	1,735,000.00
	04/01/2020	1,800,000.00	4.000%	98.095	1,765,710.00	1,800,000.00
Term Bond 2021-2026:						
	04/01/2021	1,875,000.00	5.000%	98.940	1,855,125.00	1,875,000.00
	04/01/2022	1,970,000.00	5.000%	98.940	1,949,118.00	1,970,000.00
	04/01/2023	2,065,000.00	5.000%	98.940	2,043,111.00	2,065,000.00
	04/01/2024	2,170,000.00	5.000%	98.940	2,146,998.00	2,170,000.00
	04/01/2025	2,280,000.00	5.000%	98.940	2,255,832.00	2,280,000.00
	04/01/2026	2,390,000.00	5.000%	98.940	2,364,666.00	2,390,000.00
		16,520,000.00			16,319,886.05	16,520,000.00

	Maturity Date	Interest Rate	Issue Price	Stated Redemption at Maturity	Weighted Average Maturity	Yield	Net Interest Cost
Final Maturity	04/01/2026	5.000%	2,364,666.00	2,390,000.00			
Entire Issue			16,319,886.05	16,520,000.00	11.9540	4.9328%	4.9712%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	133,325.78
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	0.00

Notes:
Preliminary; subject to change
Rates as of 9/20/2010
Analysis assumes uninsured bonds rated Aa3/A+

FORM 8038 STATISTICS

West Virginia Higher Education Policy Commission
Build America Bonds

Dated Date	12/23/2010
Delivery Date	12/23/2010

Bond Component	Date	Principal	Coupon	Price	Issue Price	Redemption at Maturity
Build America Bond Term 1:						
	04/01/2027	2,510,000.00	7.450%	100.000	2,510,000.00	2,510,000.00
	04/01/2028	2,635,000.00	7.450%	100.000	2,635,000.00	2,635,000.00
	04/01/2029	2,760,000.00	7.450%	100.000	2,760,000.00	2,760,000.00
	04/01/2030	2,895,000.00	7.450%	100.000	2,895,000.00	2,895,000.00
Build America Bond Term 2:						
	04/01/2031	3,035,000.00	7.650%	100.000	3,035,000.00	3,035,000.00
	04/01/2032	3,185,000.00	7.650%	100.000	3,185,000.00	3,185,000.00
	04/01/2033	3,345,000.00	7.650%	100.000	3,345,000.00	3,345,000.00
	04/01/2034	3,510,000.00	7.650%	100.000	3,510,000.00	3,510,000.00
	04/01/2035	3,685,000.00	7.650%	100.000	3,685,000.00	3,685,000.00
	04/01/2036	3,870,000.00	7.650%	100.000	3,870,000.00	3,870,000.00
	04/01/2037	4,060,000.00	7.650%	100.000	4,060,000.00	4,060,000.00
	04/01/2038	4,265,000.00	7.650%	100.000	4,265,000.00	4,265,000.00
	04/01/2039	4,475,000.00	7.650%	100.000	4,475,000.00	4,475,000.00
	04/01/2040	6,035,000.00	7.650%	100.000	6,035,000.00	6,035,000.00
		50,265,000.00			50,265,000.00	50,265,000.00

	Maturity Date	Interest Rate	Issue Price	Stated Redemption at Maturity	Weighted Average Maturity	Yield	Net Interest Cost
Final Maturity	04/01/2040	7.650%	6,035,000.00	6,035,000.00			
Entire Issue			50,265,000.00	50,265,000.00	23.7033	4.9492%	7.6177%

Proceeds used for accrued interest	0.00
Proceeds used for bond issuance costs (including underwriters' discount)	405,667.13
Proceeds used for credit enhancement	0.00
Proceeds allocated to reasonably required reserve or replacement fund	1,338,285.38

TAX REPORTING AGENT AGREEMENT

This TAX REPORTING AGENT AGREEMENT dated as of this 23rd day of December, 2010 (the "Agreement") is by and between the State of West Virginia Higher Education Policy Commission (the "Issuer") and Wells Fargo Bank, National Association (the "Bank").

RECITALS

The governing body of the Issuer adopted a resolution on December 3, 2010 (the "Resolution") authorizing and providing for the issuance of its Revenue Bonds 2010 Series B Federally Taxable – Issuer Subsidy – Build America Bonds, dated December 23, 2010, in the aggregate principal amount of $50,265,000 (the "Bonds"), such Bonds to be issued in fully registered form, without coupons.

The Issuer has delivered a true and correct copy of the Resolution to the Bank;

The Bonds are scheduled to be delivered to the initial purchasers of the Bonds on or about December 23, 2010;

All things necessary to make the Bonds the valid obligations of the Issuer, in accordance with their terms, have been or will be taken upon the issuance and delivery thereof;

The Issuer has requested that the Bank provide certain services to assist the Issuer in applying for and receiving tax credit payments with respect to the Bonds from the federal government; and

The Issuer has duly authorized the execution and delivery this Agreement; and all things necessary to make this Agreement the valid agreement of the Issuer, in accordance with its terms, have been done.

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE

APPOINTMENT OF BANK AS AGENT

Section 1.01. Appointment; Defined Terms.

The Issuer hereby appoints the Bank to serve as its Agent for the purposes of preparing and filing the IRS Form 8038-CP, or such other form or forms as may be requested by the Issuer and agreed to by the Bank. The Bank hereby accepts such appointments and agrees to serve as the Agent of the Issuer for the purposes of preparing and filing the IRS Form 8038-CP or such other form or forms agreed to as provided above. In addition, if other

actions prove necessary or advisable in connection with Issuer applying for and receiving tax credit payments with respect to the Bonds from the federal government, the Issuer shall notify the Bank in writing of such other actions and the Bank may in its sole discretion determine whether it is willing to perform such actions. Terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Resolution.

Section 1.02. Compensation.

As compensation for the Bank's services as Agent hereunder, the Issuer agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto for the first year of this Agreement and, thereafter, in accordance with the Bank's fee schedule in effect when such services are performed. In addition, the Issuer agrees to reimburse the Bank for all reasonable expenses, disbursements and advances incurred or made by the Bank in connection with this Agreement (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

ARTICLE TWO

AGENT DUTIES

Section 2.01. Duties of Agent.

(a) At least ninety-five (95) days prior to each interest payment date with respect to the Bonds (an "Interest Payment Date"), the Trustee shall deliver to the Issuer by a delivery method which provides the Trustee with evidence of delivery (i) a completed IRS Form 8038-CP, which is to be signed by an Authorized Officer of the Issuer, and (ii) a certification by an Authorized Officer of the Trustee stating that, to its knowledge, the Form 8038-CP is accurate and complete. The form and certification shall be sent to the attention of the Director of Facilities & Finance. The Issuer shall return such signed Form 8038-CP to the Trustee not later than ninety (90) days prior to each Interest Payment Date with respect to the Bonds, by a delivery method which provides the Issuer with evidence of delivery. The Issuer may hire an independent consultant at its own expense to review the Form 8038-CP.

(b) The Form 8038-CP shall authorize the tax credit payment requested in accordance with clause (a) above to be paid to the Issuer.

(c) Not more than ninety (90) and not less than forty-five (45) days prior to each Interest Payment Date for the Bonds, the Trustee shall prepare and file or cause to be prepared and filed a Form 8038-CP with the Internal Revenue Service Center, Ogden, Utah 84201, or any successor location specified by the Internal Revenue Service, or take such other or additional actions within its power as may be required from time to time under the Code and to which it has agreed as described above, to request the tax credit payment with respect to such Interest Payment Date. Upon completion and filing, the Trustee shall deliver a copy of such Form 8038-CP to the Issuer. The Issuer hereby authorizes and directs the Trustee to take all actions necessary to prepare and file the Form 8038-CP, or take such other or additional actions as may be required from time to time under the Code, to request

the tax credit payment with respect to such Interest Payment Date. Failure by the Trustee to prepare or file the Form 8038-CP shall not affect any payment obligations of the Issuer under the Resolution.

ARTICLE THREE

THE BANK

Section 3.01. Rights of Bank.

The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof. Notwithstanding any other provision contained herein, the Bank is acting solely as agent of the Issuer and is not and shall not be deemed to be providing tax advice.

Section 3.02. Reliance on Documents, Etc.

(a) The Bank shall have no liability or responsibility for any statement made by the Issuer or any other person in connection with the issuance of the Bonds, or for the use or application of any money received by the Issuer in connection with the Bonds.

(b) The Bank may rely upon any instructions provided to it by the Issuer, or upon any advice or instructions provided to it by bond counsel or its own counsel (including its own in-house counsel), in connection with its duties and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with such instructions or advice. The Bank shall be entitled to rely upon and shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons.

(c) No provision of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(e) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(f) The Bank shall have no duties or responsibilities whatsoever except such duties and responsibilities as are specifically set forth in this Agreement, and no covenant or obligation shall be implied in this Agreement against the Bank.

(g) The Bank shall use its best efforts to perform its obligations hereunder, including the timely taking of action as required hereunder, provided, however, that the Bank shall not be liable for its failure to meet such deadlines, except such failure as shall result from its gross negligence or willful misconduct.

(h) The Bank shall not be liable for any loss or damage, including reasonable counsel fees and expenses, resulting from its actions or omissions to act hereunder, except for any loss or damage arising out of its own gross negligence or willful misconduct. IN NO EVENT SHALL THE BANK BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS), EVEN IF THE BANK HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH LOSS OR DAMAGE AND REGARDLESS OF THE FORM OF ACTION.

Section 3.03. Indemnification.

The Issuer hereby agrees, to the extent allowed by law, to indemnify the Bank (including its directors, officers and employees) for, and hold it harmless against, any loss, liability or expense incurred without gross negligence or bad faith on its part arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense (including its counsel fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement. The foregoing indemnities in this paragraph shall survive the resignation or removal of the Bank as Agent and the termination of this Agreement.

Section 3.05. Interpleader.

The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand or controversy over its person as well as actions hereunder in either a Federal or State District Court located in the State and County where either the Bank or the administrative offices of the Issuer are located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 4.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to interplead all of the assets held hereunder into a court of competent jurisdiction to determine the rights of any party claiming any interest herein.

ARTICLE FOUR

MISCELLANEOUS PROVISIONS

Section 4.01. Amendment.

This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 4.02. Assignment.

This Agreement may not be assigned by either party without the prior written consent of the other.

Section 4.03. Notices.

Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page of this Agreement.

Section 4.04. Headings.

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 4.05. Successors and Assigns.

All covenants and agreements herein by the Issuer shall bind its successors and assigns. Any corporation or association into which the Bank may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become successor Paying Agent/Registrar hereunder and vested with all of the powers; discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 4.06. Severability.

In case any provision herein 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 4.07. Benefits of Agreement.

Nothing herein, express of implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy or claim hereunder.

Section 4.08. Entire Agreement.

This Agreement constitutes the entire agreement between the parties hereto relative to the Bank acting as Agent as described herein and if any conflict exists between this Agreement and the Resolution, this Agreement shall govern.

Section 4.09. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 4.10. Termination.

This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Bonds to the Bondholders thereof or (ii) may be earlier terminated by either party upon 60 days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until a successor Agent has been appointed by the Issuer and such appointment accepted. Furthermore, the Bank and Issuer agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Bonds.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Bond Register (or a copy thereof) together with other pertinent books and records relating to the Bonds, to the successor Paying Agent/Registrar designated and appointed by the Issuer. The provisions of Section 1.02 and Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 4.11. Governing Law.

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

Section 4.12. Force Majeure.

In no event shall the Bank be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond the Bank's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Agreement, inability to obtain material, equipment, or communications

or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond the Bank's control whether or not of the same class or kind as specifically named above.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ISSUER
State of West Virginia Higher Education Policy Commission

By_____
Printed Name: Dr. Brian Noland
Title: Chancellor

1018 Kanawha Boulevard East
Suite 700
Charleston, WV 25301

WELLS FARGO BANK, NATIONAL ASSOCIATION

By_____
Printed Name MICHAEL E. PUSHAK
Title VICE PRESIDENT

Four Gateway Center, Suite 1400
444 Liberty Avenue
Pittsburgh, PA 15222

STATE OF WEST VIRGINIA
HIGHER EDUCATION POLICY COMMISSION

$16,520,000 REVENUE BONDS (Higher Education Facilities) 2010 Series A (Tax-Exempt)	**$50,265,000 REVENUE BONDS (Higher Education Facilities) 2010 Series B (Federally Taxable - Issuer Subsidy - Build America Bonds)**	**$10,080,000 Revenue Bonds (Higher Education Facilities) 2010 Series C (Taxable)**

RULE 15c2-12 CERTIFICATE

The undersigned hereby certifies and represents to Citigroup Global Markets Inc., as the representative acting on behalf of itself, Crews & Associates, Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters") that he is the Chancellor of the West Virginia Higher Education Policy Commission (the "Commission"), and is duly authorized to execute and deliver this Certificate and further certifies on behalf of the Commission to the Underwriters as follows:

(1) This Certificate is delivered to enable the Underwriters to comply with Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") in connection with the offering and sale of the Commission's Revenue Bonds (Higher Education Facilities), 2010 Series (the "Bonds").

(2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated December 10, 2010, setting forth information concerning the Bonds and the issuer of the Bonds (the "Preliminary Official Statement").

(3) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings, the identity of the Underwriter and other terms of the Bonds and any underlying obligations depending on such matters, all with respect to the Bonds and any underlying obligations.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, final as of its date, and the information therein is accurate and complete except for the Permitted Omissions.

(5) If, at any time prior to the execution of the final bond purchase agreement, any event occurs as a result of which the Preliminary Official Statement might include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Commission shall promptly notify the Underwriter thereof.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 23rd day of December, 2010.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: _____

Chancellor