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Committee on Higher Education Capital Projects and Facilities

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FINAL REPORT

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The Cochairs wish to thank the members of this Committee who put in many long hours studying the capital and facility needs of West Virginia's public higher education system: Senators Earl Ray Tomblin, President, Larry Edgell, Mike Green, Walt Helmick, Brooks McCabe, Jesse Guills, Mike Hall, and Dave Sypolt; and Delegates Richard Thompson, Speaker, Larry Barker, Charlene Marshall, Brady Paxton, Dale Stephens, Harry Keith White, William Anderson, and William Romine.

We also wish to express our deepest appreciation to two employees of the Higher Education Policy Commission and the Council for Community and Technical College Education, Mr. Dennis Taylor, Vice Chancellor for Administration and Mr. Richard Donovan, Co-Interim Director of Finance and Facilities, who not only provided staff support and technical expertise, but also worked tirelessly to bring this important project to a successful conclusion.

<u>Summary of Recommendations</u>

<u>Financing New Capital Projects and Major Renovations</u>

1. Over time the Legislature should take primary responsibility for financing most new E&G capital projects, including new construction and major renovations.

2. In the near term, the Legislature should redirect lottery revenue dedicated to Education, Arts, Science and Technology (EAST) bonds, due to be paid off in 2010, to a new higher education E&G facility bond issue for the benefit of four-year institutions.

3. A significant percentage of any new State bond funding should be devoted to E&G capital projects that align with state economic development needs.

4. Four-year institutions should take primary responsibility for financing most Auxiliary facilities, while the State should take primary responsibility for financing Auxiliary facilities at most two-year institutions.

5. Institution boards of governors, the Commission and Council must scrutinize both E&G and Auxiliary bonding proposals carefully in terms of both institution <u>and</u> student debt capacity.

6. The Legislature should consider indirectly "buying down" the capital fees of the formerly administratively-linked community and technical colleges.

7. The Legislature should study further options that may be available in 2012 when a significant amount of old Board of Regents bonds are paid off.

<u>Facilities Planning</u>

8. The Commission and Council should develop a system-wide facilities plan that identifies key priorities from a system perspective.

9. Institution governing boards, the Commission and Council should scrutinize facilities plans more carefully to ensure that they align with state, system and institution goals, objectives and priorities and are reasonable.

10. The Commission and Council should submit <u>reasonable</u> requests for capital funding after making hard choices about projects worthy of funding.

11. Priority should be given to funding the renovation and reuse of existing E&G facilities over new facilities.

Capital Project Management

12. If the Legislature is to fund most higher education capital construction and renovations, the Commission and Council must ensure that state resources are maximized and that state capital funds are spent efficiently.

13. The Commission and Council should have adequate staff to perform the capital project management functions outlined in these recommendations and to assist institutions in evaluating facilities needs. At least one staff member should have a Leadership in Energy and Environmental Design (LEED) certification. Large institutions (WVU and MU) should have LEED-certified staff, as well.

14. Modify statutory limits on the acquisition of architectural and engineering services that appear in Chapter 5G of the West Virginia Code.

15. Additional study into "creative" methods of funding institution capital projects, such as Marshall University's Capstone student housing and wellness center project and West Virginia University's energy savings lease-purchase project, needs to be done to determine whether smaller institutions can benefit from these types of business arrangements.

Maintenance

16. If the Legislature takes primary responsibility for financing most new E&G facilities and major renovations, institutions must ensure that these facilities are maintained adequately.

17. Move from one-time funding, which rewards institutions that are not investing properly in maintenance, to a systematic approach that requires confirmed annual investments by (1) maintaining a system-wide building inventory; and (2) calculating the amount of money that should be invested for maintenance and building renewal on a yearly basis to reduce accumulated deferred maintenance.

18. Guarantee that institutions set aside sufficient capital revenues for maintenance.

19. Ensure that institutions plan for and use E&G and Auxiliary capital funds properly.

20. Ensure that maintenance revenue and expenditures can be tracked easily to ensure that adequate resources are devoted to this issue.

21. Consider one-time funding to remove obsolete facilities from institution inventories.

Charge

In Senate Bill No. 595 (2008) (Vision 2020), the Legislature directed the Joint Committee on Government and Finance to create a committee to make a detailed analysis of higher education capital and facilities issues and provide recommendations to the Legislature to address these needs. Among other things, this committee was charged to examine:

- Capital projects and facilities maintenance needs;
- The appropriate capital debt load that reasonably should be maintained by the Higher Education Policy Commission (Commission), the Council for Community and Technical College Education (Council), and public higher education institutions under their jurisdiction;
- Recommendations to reduce student obligations for debt service, capital projects and facilities maintenance;
- Deferred maintenance; and
- Priorities for funding capital projects.

The Committee on Higher Education Capital Projects and Facilities met each month beginning in May and ending in November. Additionally, a Deferred Maintenance Subcommittee met in August, September and October.

Background

The Committee on Higher Education Capital Projects and Facilities gathered extensive information on two major topics: (1) the impact of current capital project and facilities maintenance funding practices on West Virginia students, institutions and taxpayers; and (2) possible methods of addressing future capital project and facilities maintenance needs.

West Virginia is unique among states for historically relying almost exclusively on student fees to fund practically all higher education capital improvements and maintenance for both Educational and General (E&G) and Auxiliary facilities.[1]

- E&G facilities include facilities devoted to instruction and research, as well as academic support and general administration.
- Auxiliary facilities include, but are not necessarily limited to, student unions and recreation/wellness centers, residence halls and dining facilities, parking garages, and most athletic facilities.

[1] The exceptions: In 1997, higher education received $25 million in capital project proceeds from the sale of Education, Arts, Science and Technology (EAST) bonds by the State Building Commission; in 2004 a $161.4 million bond sale, supported by an annual $10 million excess lottery appropriation, benefitted both two-year and four-year institutions; and beginning in FY 2009 the Legislature appropriated $5 million in regular lottery revenue to support a $78 to $80 million bond sale exclusively for the benefit of community and technical colleges.

In most states, except West Virginia, E&G projects are funded primarily by state appropriations, or a combination of state appropriations, federal grants, private donations, and, only in limited cases, student fees. On the other hand, in most states, including West Virginia, Auxiliary projects are funded primarily by student fees, which generally have the ability to generate user fees and are traditionally considered to be self-supporting.

The Committee learned that, as a result of relying on student fees to fund facilities, West Virginia's higher education institutions carry fairly high debt loads, and many students pay very high capital fees. At the beginning of July 2008, higher education had a debt load (principal and interest) of almost $1.1 billion for both system and institution-funded E&G and Auxiliary bond projects that must be paid from student fees between Fiscal Years 2008 and 2037. This amounts to approximately $600 in debt for every West Virginia citizen and almost $15,000 in debt for every full-time equivalent (FTE) student in West Virginia's public higher education system. The current capital funding system creates student affordability issues and affects institutions' abilities to provide financial support for operations, including faculty and staff salaries and development and maintenance of high-quality academic programs.

The Committee also learned that West Virginia higher education could improve its systems for funding facilities maintenance. Over the years some institutions have maintained their facilities and dealt with ever more stringent life safety and accessibility code demands better than other institutions. Two reasons: (1) there currently is no mechanism in place to ensure that institutions generate and expend sufficient revenue to address facilities maintenance needs; and (2) the State's current strategy of providing one-time funding periodically to address maintenance needs, while necessary in the short term to address a backlog of projects, is not a sound long-term strategy because it encourages deferring maintenance projects until state funding is available.

Finally, the Committee learned that improving capital funding and facilities maintenance systems will require a multi-year approach. First, higher education institutions have made long-term commitments that will affect students through 2032. Second, there is no short-term solution to deferred maintenance challenges, which have developed over a number of years. The Committee, however, believes strongly that the 2009 Legislative Session provides an excellent opportunity to undertake the multi-year process of creating a framework that will allow the Commission, the Council and higher education institutions to begin addressing these issues in a way that will redound to the benefit of West Virginia students and taxpayers for years to come.

Recommendations

The Committee on Higher Education Capital Projects and Facilities offers the following recommendations in the areas of financing, facilities planning, capital project management, and facilities maintenance:

Financing New Capital Projects and Major Renovations

Recommendation No. 1. Over time the Legislature should take primary responsibility for financing most new E&G capital projects, including new construction and major renovations.

> *Implications.* Legislative support for E&G capital projects ultimately would assist institutions in addressing student affordability and improving institution quality. Additionally, it would allow the Commission, the Council and Legislature to target capital resources in a manner that aligns with state priorities for higher education. In order for this approach to work effectively, however, institutions must be convinced that the state will be a reliably consistent partner for long-term E&G capital funding. Otherwise, they probably will continue to make substantial multi-year commitments of student fees to fund E&G capital projects.
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> *Implementation.* To accomplish this goal, the Legislature must identify a dedicated state revenue source or sources over time to support higher education capital financing and from which debt service payments may be made. Regular lottery revenue provides a viable funding source because it has been stable over time, a small amount of the total revenue generated annually is pledged to bonded indebtedness, and it may be unnecessary to utilize student capital fees as the primary pledge. The Committee recognizes that it is not reasonable to expect the Legislature to generate sufficient funding for this purpose during any one year, but periodic infusions of funding for higher education bonding and capital projects are possible.

Recommendation No. 2. In the near term, the Legislature should redirect lottery revenue dedicated to Education, Arts, Science and Technology (EAST) bonds, due to be paid off in 2010, to a new higher education E&G facility bond issue for the benefit of four-year institutions.

> *Implications.* The payoff of the EAST bonds will free up $10 million in regular lottery revenue. Before the recent credit market crisis, a $10 million appropriation would have generated $150-$160 million in bond funding.
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> *Implementation.* The Legislature would need to pass legislation similar to Senate Bill 682 (2008) (community and technical college bonding) that identifies the $10 million pledge, which would assume third priority behind School Building Authority and community and technical college bonds.

Recommendation No. 3. A significant percentage of any new State bond funding should be devoted to E&G capital projects that align with state economic development needs.

> *Implications.* Research, the expansion of education in science, technology, engineering and math (STEM) fields, and the creation of institution centers of excellence are major objectives identified in Senate Bill No. 595 (2008) (Vision 2020) and could have a

significant economic impact, particularly if federal and private funding also can be leveraged for their support.

Implementation. The Legislature may want to mandate that a certain percentage of new State bond funding be devoted to facilities that align closely with state and system goals, objectives, and priorities and state economic development needs.

Recommendation No. 4. Four-year institutions should take primary responsibility for financing most Auxiliary facilities, while the State should take primary responsibility for financing Auxiliary facilities at most two-year institutions.

Implications. This proposal generally would continue current practice. While institution funding of Auxiliary facilities does have an impact on student costs, funding generally comes from fees from those who benefit from the service (e.g., those students who live in institution housing). Auxiliary spaces at two-year institutions typically are limited and inextricably linked to E&G facilities and thus are not segregable.

Implementation. No legislation is necessary to implement this provision. The Legislature, however, may want to identify this as a funding principle.

Recommendation No. 5. Institution boards of governors, the Commission and Council must scrutinize both E&G and Auxiliary bonding proposals carefully in terms of both institution and student debt capacity.

Implications. Unless the Legislature provides sufficient funding to finance all new E&G new capital projects and major renovations, which is unlikely, the higher education system and institutions will continue to bond some E&G and all major Auxiliary projects. Because of the long-term implications of bonding on both institutions and students, such proposals must be scrutinized carefully. Otherwise, institutions risk creating financial problems for themselves and access and affordability issues for students.

Implementation. The Legislature should identify criteria that the Commission and Council must consider before approving a new bond issue (e.g., an institution's current debt load, student debt load, and the reasonableness of the enrollment projections upon which calculations are based). Concurrently or alternately, the Legislature also may want to set restrictions on maximum institution debt capacity (e.g., no more than 7% of annual operating revenues may go to make debt service payments) and student debt capacity (e.g., no institution that charges a higher tuition rate than its peer institutions may increase its capital fees to support a new bond issue). The Commission and Council also should require a more detailed analysis of institution debt ratios and student fee impacts during the Financial Feasibility Study process that currently precedes institution governing board and Commission and Council approval of institution bond sales.

Recommendation No. 6. The Legislature should consider indirectly "buying down" the capital fees of the formerly administratively-linked community and technical colleges.

> *Implications.* This proposal would allow institutions to align tuition rates much more closely across the community and technical college system. At present, there is a significant difference between the tuition and required fees paid by students at long-standing free-standing and administratively-linked community and technical colleges because of capital fee differences.
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> *Implementation.* To accomplish this goal, the Legislature would need to subsidize the base budgets of formerly administratively-linked community and technical colleges during the remaining period over which debt service payments must be made. In return, institutions would be mandated to reduce tuition used to support operating costs by a concomitant amount.

Recommendation No. 7. The Legislature should study further options that may be available in 2012 when a significant amount of old Board of Regents bonds are paid off.

> *Implications.* From a policy perspective, the year 2012 provides a good opportunity for state policymakers and institution governing boards to adjust funding priorities. Although the capital fees supporting these debt service payments are pledged for later bond issues and thus simply cannot be reduced, there may be creative ways to leverage the reduced funding needed for debt service for other purposes such as maintenance and faculty and staff salaries.
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> *Implementation.* The Legislature may want to mandate that the Commission and Council work with institutions to submit a set of recommendations for handling the upcoming pay off date.

Facilities Planning

Recommendation No. 8. The Commission and Council should develop a system-wide facilities plan that identifies key priorities from a system perspective.

> *Implications.* A comprehensive facilities plan will align facilities planning with state goals and objectives (e.g., SB No. 595 (2008) (Vision 2020)) and the Commission and Council master plans and contain a capital prioritization system to be utilized in ranking institution capital projects for purposes of state funding.
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> *Implementation.* The Legislature may wish to mandate a date by which the Commission and Council should develop a system-wide facilities plan, as well as identify the basic elements that should appear in such a plan.

Recommendation No. 9. Institution governing boards, the Commission and Council should scrutinize facilities plans more carefully to ensure that they align with state, system and institution goals, objectives and priorities and are reasonable.

Implications. At present, too many institution ten-year facilities plans more closely resemble "wish lists" than thoughtful plans that align with state, system, and institution goals. Such plans must take a "long view" of campus development.

Implementation. The Commission and Council should take responsibility for ensuring that institution governing boards implement this recommendation.

Recommendation No. 10. The Commission and Council should submit reasonable requests for capital funding after making hard choices about projects worthy of funding.

Implications. In the past, the Commission has submitted capital funding requests that exceeded $1 billion to the Legislature. The Legislature is ill-suited to evaluate these requests and reasonably should be able to rely on the Commission and Council to identify consistent funding priorities.

Implementation. The Commission and Council must take responsibility for implementing this recommendation. The Commission and Council should utilize objective criteria and a transparent process to rank institution capital projects.

Recommendation No. 11. Priority should be given to funding the renovation and reuse of existing E&G facilities over new facilities.

Implications. Unless an institution's existing facilities are fully utilized or special circumstances exist (e.g., increased enrollment, a need to focus on more technical programs for which current facilities are inadequate), it generally is wiser to invest in renovating facilities rather than in building new ones, especially if they have been maintained properly over the years.

Implementation. While a hard-and-fast rule probably would not be a good idea, the Legislature may want to identify this as a goal in any capital legislation. Ultimately, the Commission and Council must take responsibility for implementing this recommendation. Currently, the Commission has benchmarks for classroom and classlab utilization, but those benchmarks have not been a significant factor in determining funding recommendations for new projects.

Capital Project Management

Recommendation No. 12. If the Legislature is to fund most higher education capital construction and renovations, the Commission and Council must ensure that state resources are maximized and that state capital funds are spent efficiently.

- The Commission and Council should play a larger role in overseeing capital projects at smaller institutions, as is being done with community and technical college bond projects, than at larger institutions.
- Larger institutions that receive capital funding should be audited periodically to ensure that they are using state and student capital resources effectively.
- Institutions should be required to submit annual reports to the Commission or Council on capital projects completed during the last year and capital projects that will continue into and/or start during the upcoming fiscal year.

> *Implications.* Smaller institutions that build major facilities infrequently often do not have staff experienced in the intricacies of capital project management, which may lead to massive cost overruns and construction claims, or negatively affect the quality of design and construction. Larger institutions with more experienced staff do not need the same level of oversight, but should be held accountable for the wise use of state and student capital funds through periodic post audits.
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> *Implementation.* The Legislature should set forth general expectations concerning effective capital project management. Ultimately, the Commission and the Council and institution governing boards all must take responsibility for ensuring that scarce capital resources are utilized effectively.

Recommendation No. 13. The Commission and Council should have adequate staff to perform the capital project management functions outlined in these recommendations and to assist institutions in evaluating facilities needs. At least one staff member should have a Leadership in Energy and Environmental Design (LEED) certification. Large institutions (WVU and MU) should have LEED-certified staff, as well.

> *Implications.* This recommendation would require the employment of one LEED-certified employee and sufficient staff at the system level to ensure that state and system capital project management goals are met.
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> *Implementation.* The Legislature would need to provide funding to ensure adequate staffing. The fiscal note associated with this proposal is approximately $100,000.

Recommendation No. 14. Modify statutory limits on the acquisition of architectural and engineering services that appear in Chapter 5G of the West Virginia Code.

Implications. Chapter 5G of the West Virginia Code for "Procurement of Architectural and Engineering Service by the State and its Subdivisions" specifies two procurement methods for architectural and engineering services for projects. The first, for projects estimated to cost less than $250,000, requires advertising and submission of expressions of interest. Because this legislation was enacted in 1990, inflation has eroded the purchasing power of the $250,000 limit.

Implementation. The Legislature should increase the statutory limit. This would require cooperative interaction with the West Virginia Chapter of the American Institute of Architects (AIA).

<u>Recommendation No. 15.</u> Additional study into "creative" methods of funding institution capital projects, such as Marshall University's Capstone student housing and wellness center project and West Virginia University's energy savings lease-purchase project, needs to be done to determine whether smaller institutions can benefit from these types of business arrangements.

Implications. There are advantages and disadvantages to "creative" methods of funding capital projects. While larger institutions may have experienced staff who are able to analyze the risks and rewards of these types of long-term business relationships, smaller institutions may not.

Implementation. Legislation ultimately may be needed to better accommodate "creative" capital financing arrangements for all institutions, both large and small.

<u>Maintenance</u>

<u>Recommendation No. 16.</u> If the Legislature takes primary responsibility for financing most new E&G facilities and major renovations, institutions must ensure that these facilities are maintained adequately.

Implications. If the Legislature provides greater funding for construction and renovation of E&G facilities and/or buys down some existing E&G debt, this will free up institution E&G capital fees to pay the remaining debt service and concentrate on taking care of maintenance and deferred maintenance needs.

Implementation. The Legislature should set forth general expectations and an overall process by which institutions would be expected to maintain facilities. The Legislature may want to supplement maintenance funding for community and technical colleges to keep tuition and required fees low.

<u>Recommendation No. 17.</u> Move from one-time funding, which rewards institutions that are not investing properly in maintenance, to a systematic approach that requires confirmed annual

investments by (1) maintaining a system-wide building inventory; and (2) calculating the amount of money that should be invested for maintenance and building renewal on a yearly basis to reduce accumulated deferred maintenance.

> *Implications.* Institutions would be required to assist the Commission and Council in maintaining an accurate and up-to-date building inventory. Using a building renewal formula would provide the Commission and Council and institution governing boards with objective information to determine when under-investments are being made.
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> *Implementation.* The Legislature should set forth general expectations and an overall process by which institutions would be expected to maintain facilities.

<u>Recommendation No. 18.</u> Guarantee that institutions set aside sufficient capital revenues for maintenance.

> *Implications.* It will not be possible to ensure that all institutions are setting aside sufficient capital revenues for maintenance over a one-year period. A phased-in period may be required at some institutions. For Auxiliary facilities, a significant Auxiliary fee increase may be needed at some institutions because insufficient fees currently are being charged to meet the needs for operations, maintenance, and to build a capital improvements reserve.
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> *Implementation.* The Legislature should mandate this goal and give the Commission, Council and institutions a fixed period of time (until 2012?) to accomplish it. For E&G facilities, require institutions to generate E&G capital fees up to the amount the maintenance formula requires annually for E&G facility maintenance, after meeting debt service requirements and before spending the funds for other purposes. For Auxiliary facilities, ensure that fees are sufficient not only to operate the auxiliary operation, but also to meet annual maintenance formula requirements and to build a reserve for major renovations or replacements.

<u>Recommendation No. 19.</u> Ensure that institutions plan for and use E&G and Auxiliary capital funds properly.

> *Implications.* The ultimate goal of this recommendation is to bring a degree of discipline to the process of planning maintenance and deferred maintenance projects. It does place an additional reporting and auditing burden on the institutions and Commission and Council staff.
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> *Implementation.* The Legislature could ensure that this goal is accomplished by requiring that an appropriate amount be line itemed in the budget bill for maintenance from both E&G and Auxiliary capital funds at each institution and/or that institutions identify for the Commission and Council the deferred maintenance projects they intend to fund from their line item appropriations in the budget bill for the upcoming fiscal year. Alternately or concurrently, the Legislature should specify the purposes for

which E&G and Auxiliary capital fees may be used, charge the Commission and Council to ensure that funds are being used for these purposes, and require institution reporting and periodic audits.

Additionally, the Commission and the Council should consider establishing a maintenance and capital project tracking module in the Higher Education Facilities Information System (HEFIS) to track institution progress in completing projects and require the institutions to update project information periodically.

<u>Recommendation No. 20.</u> Ensure that maintenance revenue and expenditures can be tracked easily to ensure that adequate resources are devoted to this issue.

Implications. Unless maintenance revenue and expenditures can be tracked, the Legislature, Commission, Council and institution governing boards will be unable to evaluate whether sufficient resources are being devoted to maintenance.

Implementation. Legislation ultimately may be needed to implement this recommendation, or it may be accomplished by working with the State Auditor's Office and/or institutions.

<u>Recommendation No. 21.</u> Consider one-time funding to remove obsolete facilities from institution inventories.

Implications. It would be advantageous to remove obsolete buildings from campus inventories. Institutions would be required to identify obsolete facilities, identify any hazardous materials in the buildings and provide estimates of the cost of demolition. State funding would need to be provided.

Implementation. The Commission and Council should submit a proposal to be evaluated by the Legislature.