SECTION III

PART S POLICY REGARDING PRIORITIZATION OF CAPITAL CONSTRUCTION PROJECTS FINANCED WITH RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS AND/OR RECOVERY ZONE PRIVATE FACILITY BONDS

1.0 General

1.01 The American Recovery and Reinvestment Act (ARRA) provides new financing opportunities for public entities allowing states limited access to public financing with Recovery Zone Economic Development Bonds (RZEDBs) and/or Recovery Zone Private Facility Bonds (Private Facility Bonds). Eligibility criteria for these programs is further delineated in HB09-1346, state enabling legislation that requires these opportunities to be first used to finance projects that are either owned or used by institutions of higher education, or that are expected to increase economic development in the vicinity of institutions of higher education. HB09-1346 created Article 59.7 in Title 11 of the Colorado Revised Statutes, entitled the "Colorado Recovery and Reinvestment Finance Act of 2009," which directs the Commission to review and approve self-funded capital projects at institutions of higher education that are financed, in whole or in part, with RZEDBs, Private Facility Bonds, or a combination of the two. Implicit in the legislation is the charge to the Commission to prioritize eligible projects should the amount requested by the institutions of higher education exceed the volume caps described below in Paragraph 1.03.

1.02 Definitions

Eligible institution – is defined in Section 11-59.7-103 (21), C.R.S. (2009)7 as a state supported institution of higher education that is obligated to conform to the policies set by the Commission pursuant to Section 23-1-102 (2), C.R.S. (2008). These institutions include those under the authority of the governing boards, the local district colleges, and the area vocational schools.

Eligible project – is defined as a project meeting the criteria outlined in Section 24-30-1301, C.R.S. (2008) and that is approved by the Commission, the Capital Development Committee (CDC), and the Joint Budget Committee (JBC). Approval by the CDC and the JBC are only required if bonding is authorized by an institution of higher education; bonds sponsored by other entities such as public authorities and municipalities or counties would only need Commission approval.

Shovel ready project – is defined as a project that has received the applicable approvals from the Commission, the Capital Development Committee, and the Joint Budget Committee.

Recovery zone – is defined in ARRA and Section 11-59.7-103 (30), C.R.S. (2009) as follows:

- Any area designated by the public entity that issues or enters into a recovery zone bond as having significant poverty, unemployment, rate of home foreclosures, or general distress; or
- Any area designated by the public entity that issues or enters into a recovery zone bond as economically distressed by reason of closure or realignment of a military installation pursuant to the Federal 'Defense Base Closure and Realignment Act of 1990', Pub. L. 101-510; or,
- Any area for which a designation as an empowerment zone or renewal community is in effect.

1.03 This policy shall be in effect until January 1, 2011, the date upon which both volume caps expire and these financing opportunities are no long available.

2.0 Local Government Volume Cap Reversion to the Commission

2.01 The state received volume cap distributions of $99,018,000 and $148,527,000 for RZEDBs and Private Facility Bonds, respectively. The Federal government distributed these caps to Colorado counties and large municipalities based on employment decline from December 2007 to December 2008. In the event local governments have not used their volume cap allocations on bonds issued or a lease-purchase agreement to finance Commission-approved projects owned or used by institutions of higher education by November 10, 2009, their allocation shall revert to the Commission on November 11, 2009.

2.02 In the event a local government has entered into a contract to purchase bonds or instruments evidencing interest in a lease-purchase agreement by November 10, 2009, the local government shall have until November 30, 2009 to issue or enter into the related bonds or lease-purchase agreement, or its allocation shall revert to the Commission.

2.03 The Commission may reallocate unused or reverted volume cap allocations to institutions of higher education for the purpose of financing self-funded, Commission-approved projects which are located in a recovery zone and are expected to increase economic development within the vicinity of the project. Any volume cap that the Commission allocates that is not used on bonds or a lease-purchase agreement by December 31, 2009, shall revert back to the Commission .

3.0 Project Approval and Prioritization

3.01 The Commission shall review and consider for approval capital projects at institutions of higher education consistent with the process outlined in paragraphs (9) and (10) of Section 23-1-106, C.R.S. (2008). Project requests from the local district colleges and the area vocational schools shall be reviewed by the Commission pursuant to Article 59.7 or Title 11 of the Colorado Revised Statutes.

3.02 In addition to its customary considerations in determining whether to approve capital requests from institutions of higher education, the Commission will determine that a project is in a recovery zone and will increase economic development in its vicinity.

3.03 As necessary, the Commission will develop a prioritization list of eligible capital projects that are to be financed through RZEDBs, Private Facility Bonds, or a combination of the two. In addition to its customary consideration in prioritizing capital requests from institutions of higher education, the Commission shall give priority to those projects which are shovel ready and which maximize the use of both volume caps.

4.0 Commission Volume Cap Reversion to the Colorado Department of Local Affairs

4.01 Ninety days prior to the expiration of the volume cap allocations, the Commission is required to revert any unused allocations to the Department of Local Affairs. If it is evident that remaining volume cap allocations will not be utilized by institutions of higher education before such time, the Commission may relinquish allocations prior to this deadline.