TOPIC: **REVISION OF COMMISSION POLICY REGARDING CAPITAL ASSETS**

PREPARED BY: **DANIEL KRUG, DIRECTOR OF CAPITAL ASSETS AND COMPLIANCE**

I. SUMMARY

This item requests the repeal of Commission Policy Section III Part S, entitled "Policy Regarding Prioritization of Capital Construction Projects Financed with Recovery Zone Economic Development Bonds and/or Recovery Zone Private Facility Bonds." The policy was adopted by the Commission in September 2009 as the mechanism for institutions of higher education to utilize two unique and limited financing programs. Paragraph 1.03 of the policy states: "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."

II. BACKGROUND

The American Recovery and Reinvestment Act (ARRA) provided numerous opportunities to open bond markets and promote capital construction as means to stimulate the economy and create jobs. Three of these opportunities were viewed as potentially reducing the interest costs for higher education capital construction financing over the term of the bond issuance.

Build America Bonds (BABs)

Financing with Build America Bonds allowed units of government to receive a direct payment equal to 35 percent of the interest paid, effectively reducing the total cost of the financing. There is no cap on the amount of BABs that could be issued nation- or state-wide, nor were there additional requirements in HB09-1346 about how BABs must be issued or administered. Compared to the Recovery Zone Economic Development Bond instrument discussed below, BABs provide a lower tax credit to the issuer and are therefore a slightly less attractive opportunity on paper. However, because projects financed with BABs do not have to adhere to Davis-Bacon prevailing wage standards, which can increase costs, institutions of higher education were encouraged to perform a cost-benefit analysis to determine whether BABs or the 45% subsidy from RZEDBs (which do require prevailing wages) provided a better benefit over the term of the issuance. It was also possible to finance projects through a combination of BABs and RZEDBs to realize the greatest savings over time.

Recovery Zone Economic Development Bonds (REZDBs); Recovery Zone Facility Bonds (Private Facility Bonds); Volume Caps

The state was granted about $99 million in Recovery Zone Economic Development Bonds (REZDBs) and $148.5 million in Recovery Zone Facility Bonds (Private Facility Bonds) to allocate. Federal guidance on June 12, 2009, notified the state of this allocation and its initial distribution among counties and large municipalities (populations exceeding 100,000). This distribution was a proportionate allocation to counties and large municipalities based on employment decline between December 2007 and December 2008, and some areas did not receive an allocation, presumably because there was no decline in employment over the time frame measures. For example, Larimer County, Fort Collins, and Mesa County did not receive an allocation.

Under HB09-1346, counties and large municipalities had until November 11, 2009 to use their allotted volume cap for higher education capital construction projects. On November 11, any unused cap reverted to the Commission.

III. STAFF ANALYSIS

This policy has been defunct since January 1, 2011. The request to formally repeal it is consistent with past practices of maintaining current policies.

IV. STAFF RECOMMENDATION

That the Commission repeal Policy Section III Part S, entitled "Policy regarding prioritization of Capital Construction Projects Financed with Recovery Zone Economic Development Bonds and/or Recovery Zone Private Facility Bonds."

V. STATUTORY AUTHORITY

C.R.S. 23-1-106 (7)

ATTACHMENT A: CCHE Policy Section III Part S with strikethrough.