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Subject: Brief Thoughts on Bonding

You probably have the answers to these already, but Swati and I were watching some of this afternoon's floor activity, and we wanted to weigh-in on three of the major points that were raised:

(1) Bonding. The Department of Administration wouldn't be taking on any kind of a financial role here whatsoever. It's important to look at the project approval process and the incurring of debt as being two distinct activities. The Department's approval of a project carries with it no cost. Only the Treasurer's incurring of debt (provided it is permissible within the General Assembly's caps) has a true fiscal impact. My kids can approve as many items for their Christmas lists as they like; there is no fiscal impact until Santa puts a dollhouse and a baseball bat on his credit card. Also, an earlier draft of the amendment required that the General Assembly approve every individual request for bonding. This would be a cumbersome process - especially when the legislature isn't in session. And would it even apply to a refinancing that would result in lower debt service levels? A strict wording of the earlier language would imply Yes.

(2) Memorandum of Understanding. Due to some phone calls and walk-in traffic, I missed most of the specifics, but got the sense that there were concerns with this. We worked with the House Judiciary Committee to develop this language, and Sen. McConnell actually complimented it during the Senate Judiciary Committee hearing last year. That bit at the end of the bill...I think where that comes from is that earlier drafts of the bill had a process for the Budget and Control Board to review and approve the MOU. That's obviously not an option without a BCB anymore. Sen. McConnell makes a valid point that that current language gives the executive the ability to stonewall and still prevail in the end, which is certainly no one's preferred outcome. On the other hand, I think we'd also want to prevent the opposite situation - we wouldn't want the other branches to be able to refuse to negotiate in good faith, and thereby indefinitely prevent General Services from transferring. Is there a way to construct language that prevents either of those dead-ends?

(3) Deficits. I don't think the floor description of the previous draft's language was really accurate. The Department of Administration wouldn't have been empowered to approve deficits and allow agencies to deficit-spend. The Department would have just validated the Office of State Budget's assessment that a deficit was likely, and would have been able to direct agencies (but not legislative or judicial ones) to cut spending in order to close the predicted gap. The major issue was that we thought it made the most sense to take a "cut first" approach instead of the "do supplemental appropriations and spend first" approach that the earlier amendment had incorporated. For whatever that's worth... I also just looked at the new deficit language that appears in this most recent draft of the amendment, and I'm curious as to what happens with this new process if the Office of State Budget notifies the General Assembly that a deficit is likely, but the General Assembly isn't in session and elects not to return.

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