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Cc: Skaggs, David; 'Esgar, Lisa'; 'Marturano, Chad'
Subject: Capital Construction Flexibility Draft Language

Hi All-

Below is draft of what the Department and OSPB believes to be language that gives the institutions flexibility in capital construction and addresses the concerns of the Executive branch; mainly that if an institution is going to receive state funds in out years for controlled maintenance or uses the state's bond rating then the Commission will review the project. We have also added a section to eliminate the need for a supplemental appropriation for instances when a building is already under construction and a donation or gift is made.

Hopefully we can come to agreement around this language, please let me know if you have any questions or concerns.

Thanks,

John

Projects with no state funded controlled maintenance are exempt from ALL review processes:

23-1-106 (9) (d) A governing board may exempt any eligible capital construction project that is to be constructed, operated, and maintained solely from the cash sources outlined in subsection (9)(a) of this section from the review and approval process outlined in subsection (9) of this section, in section 24-37-304 (c.3), sections 2-3-1304 and 1305, and section 2-3-203 (b.1), provided the governing board is not participating in the Intercept Act outlined in 23-5-139. Prior to commencing the project the governing board shall submit notification of the project to the commission, the capital development committee, and the joint budget committee describing how the project is consistent with role and mission and master planning of the institution.

Projects requiring state funded controlled maintenance are exempt from ALL review processes except CCHE:

23-1-106 (10) (c) A governing board may exempt any eligible capital construction project that is to be constructed solely from the cash sources outlined in subsection (10)(a) of this section, if the project is operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both, from the review and approval process outlined in section 24-37-304 (c.3), sections 2-3-1304 and 1305, and section 2-3-203 (b.1), provided the governing board is not participating in the Intercept Act outlined in 23-5-139. Prior to commencing the project and following approval by the commission, the governing board shall submit notification of the project to the office of state planning and budgeting, the capital development committee, and the joint budget committee describing how the project is consistent with role and mission and master planning of the institution. The capital development committee in conjunction with the state architect shall maintain a list of these projects that have review process exemptions outlined in subsection (10) paragraph (c) of this section.

Existing Paragraph

23-1-106 (11) Each institution shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that was not subject to or was exempt from review by the commission pursuant to subsections (9) and (10) of this section. The commission shall submit a compilation of such projects to the capital development committee on or before December 1 of each year.

New Section on funds brought to a project that has already started:

If a governing board receives an additional gift, grant, or donation for any capital construction project that has been approved by the commission under subsections (5), (9), or (10) of this section and the project has commenced, the governing board can amend the project without approval from the commission, capital development committee, and joint budget committee provided the governing board submits notification to the commission, capital development committee, and Joint budget committee explaining how the project has been amended and verifying the additional gift, grant, or donation. The Joint budget committee shall include the new source of funds in the long appropriations act for informational purposes.

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