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MEMORANDUM

To: Brian Lawlor
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From: Terry Steczo
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Re: Legislative Report

Date: January 31, 2016

Yada, Yada, Yada

It could have been better. It could have been worse. It could have given a glimpse of hope. And it could have been a more definitive, especially with the dramatic service and employee cutback announcement the prior weekend from Lutheran Social Services, about ending the seven-month budget stalemate. But while the rhetoric was measurably softer, the bottom line taken from Governor's State of the State message is that it was more of the same as it has been since July ... no budget unless his agenda gets addressed first.

In the weeks leading up to the speech the Governor shot so many slings and arrows at the Democratic legislative leadership that expectations of anything positive in the speech and hope for a sign of compromise were low. To his credit, the Governor's speech rhetoric was far tamer than expected, and to that extent was a breath of fresh air. And, he even suggested a few areas (workers compensation and pension reform) where bipartisan compromise was possible on his Turnaround Agenda issues. But, as has been the case with the Governor during the past year, he has the penchant to douse hope by placing conditions, sometimes subtle, on his willingness to negotiate.

Similar to the fairy tale "The Princess and the Pea," the Governor's mention of collective bargaining "reform" was the "pea" or burr under the saddle that most assuredly will make Democrats turn their backs on any serious discussions to end the impasse. Lots of places to find common ground but one item that complicates the process. Rauner has been on an anti-union rant since he took the oath of office which obviously doesn't sit well with the Democratic legislative majorities. While he wasn't specific about anti-union proposals in his speech, with the exception of a quip about labor unions and trial lawyers, the "collective bargaining reform" portion was code for those. He knows that those specific proposals have little chance of succeeding. He also knows that if that portion of his agenda is taken off the table there is a better than even chance of productive negotiations taking place along with a possible end to the

stalemate. So in his speech the Governor provided pieces to solve the impasse puzzle but when those pieces are put together the picture has a gaping hole.

Another factor that will have to be overcome if there is to be any resolution is trust. For the two weeks prior to his speech the Governor spent his time ripping Democrats and their leaders, unions, and Chicago, among others. While the State of the State address was toned down dramatically anyone involved in pursuing a solution would have to be wondering which of those personas will be showing up for any discussions.

During the week prior to the speech there was an item in Capitol Fax blog that sought to quantify the Governor's Turnaround Agenda. Information received from the Governor's office suggested that the "revenue from economic growth" would total \$220+ million in one place and \$510 million in another section ... paltry sums considering the state's deplorable and worsening fiscal condition and the tumult that has been created in the seven months without a state budget. The Governor's report shows savings in other areas that most assuredly could be accomplished through administrative and other noncontroversial statutory changes, but to have waged war for such apparently minor gain may have everyone scratching their heads before it's over.

A second inconsistency in the Governor's proposals related to his education proposals to increase state aid to schools while freezing local property taxes. It's admirable to seek an increase in school funding for elementary and secondary education but that obviously can't be done without a major influx in state revenue and the Governor has been silent about that with the exception of comments about the possibility of raising taxes once his agenda has been successfully enacted. If local property taxes are frozen before additional state revenues are in place to offset the loss of local funds then schools may be pushed over the cliff. Add them to the social service structure that has been severely ruptured over the past seven months.

February 17 is the date that the Governor is scheduled to present his budget message. When asked about the continuing stalemate last week the Governor said, "Change takes time. Nothing important, nothing transformative comes quickly or easily." But let's hope that it comes sooner rather than later otherwise the budget message could be very, very short.

A Pension Deal?

Even though the initial announcement may have been botched, there appears to have been an agreement reached between the Governor and at least Senate Democrats on a pension reform proposal. The basis of the "agreement" is the concept of "consideration" that was championed by Senate President John Cullerton a few years ago during pension reform deliberations but not included in the final legislation that was approved by the legislature but ruled unconstitutional by the Illinois Supreme Court.

Article XIII, Section 5 of the Illinois Constitution states, "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." But, in its spring ruling the Court, in a footnote, said, "Additional benefits may also be added, of course ... and the State may require additional employee contributions or other considerations in exchange. However, once the additional benefits are in place and the employee continues to work, remains a member of the covered retirement system, and complies with any qualifications imposed when the additional benefits

were first offered the additional benefits cannot be unilaterally diminished or eliminated." The phrase "additional employee contributions or considerations in exchange" is the relevant portion that could be the roadmap to a successful court ruling on reform. At least, Governor Rauner and President Cullerton think it might be.

According to the proposal, state employees hired prior to January 1, 2012, the date new laws for new hires took effect, would be given two choices. The first choice would change their COLA from 3% compounded annually to 3% or 1/2 of the CPI, whichever is less. Future salary increases would be considered part of pensionable salaries. The second choice would allow those employees to keep their automatic 3% compounded benefit. However, future salary increases would not be counted as pensionable salary. This proposal would not impact current retirees or state employees or teachers hired after January 1, 2012.

Previous studies have indicated that the one factor driving the high pension costs in Illinois is the automatic compounded COLA. Over the next 30 years a change in that one provision, if the Supreme Court approved, could resolve 70% or more of the pension deficit and get the state a long way toward getting the \$115 billion unfunded liability for the five state pension systems under control.

There has been no word from the House as to whether or not Speaker Madigan is on board with the proposal, but there has been some indication that he would allow the proposal to move forward.

Attorney General Rules In Favor of Transparency

Over the last year the Governor's office has taken a position that his daily meeting and event schedule can be redacted for reasons of security, internal policy debate or attorney-client relationship. In the past the Governor's office has argued that his schedule is not a public record. The Attorney General's office has recently ruled otherwise and in a recent opinion ruled that the Governor's office was shielding too much.

The Illinois Freedom of Information Act does allow government agencies to withhold some records and information. In the case of the Governor's schedule brief descriptions of the meetings that had taken place as well as some of the participants had been blocked. The Governor's office argued that the governor's legal strategies are protected. The Attorney General's office disagreed.

There has been no indication that the ruling would be appealed to the courts.

Session Schedule/Deadline Dates

Here are relevant dates for the 2016 legislative session:

- January 13 - 2016 Legislative session begins
- January 27 – Governor's State of the State Address
- February 17 – Governor's Budget Message
- February 11 – House Bill Introduction Deadline
- February 19 – Senate Bill Introduction Deadline
- April 8 – House/Senate Committee Deadline
- March 21 – April 3 – Spring/Easter Recess

- April 22 – House/Senate 3rd Reading Deadline
- April 25 - May 1 - Passover Recess
- May 13 – House/Senate Committee Deadline (Bills from other chamber)
- May 27 – House/Senate 3rd Reading Deadline (Bills from other chamber)
- May 31 – Session Adjournment

Legislation of Interest

SB 32 – Sen. Morrison - Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. Provides that a person under 18 years of age shall not possess an alternative nicotine product. Establishes penalties. **(Status – Passed House; Senate - Concurrence)**

SB 1862 - Sen. Rose - Amends the Hospital Licensing Act. Requires hospitals to adopt, implement, periodically update, and submit to the Department of Public Health evidence-based protocols for the early recognition and treatment of patients with sepsis, severe sepsis, or septic shock that are based on generally accepted standards of care. Requires the protocols to contain certain components, including components specific to the identification, care, and treatment of adults and of children. Requires hospitals to submit the protocols to the Department no later than 6 months after the effective date of the amendatory Act. Provides that protocols shall be resubmitted at the request of the Department, but not more frequently than once every 2 years unless the Department identifies hospital-specific performance concerns. Requires hospitals to report certain sepsis-related data to the Department. **(Status – Senate – 3rd Reading)**

SB 1919 – Sen. Morrison/Rep. Evans - Amends the Cigarette Tax Act and the Tobacco Products Tax Act of 1995. Provides that a person who is both a licensed distributor and a licensed retailer shall be issued a single license number by the Department of Revenue. Provides that records may be kept electronically and may be kept at an out-of-state location so long as those records are made available upon reasonable notice for the purpose of investigation and control by the Department of Revenue. Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. In provisions that provide for increased penalties for retailers that do not have training programs, provides that those training programs may be conducted electronically. Provides that, if a retailer has a training program in place prior to the effective date of the amendatory Act, has a training program approved by another state, or follows the guidelines set forth by the federal Food and Drug Administration, then that training program shall be deemed to meet the minimum standards in this State. Effective January 1, 2016. **(Status – Passed Senate; House – 2nd Reading)**