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MEMORANDUM

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

Date: August 26, 2015

Respiratory Care Sunset Bill Approved by Governor

On August 3 over a year of planning, preparation and discussion ended successfully when the Governor signed Senate Bill 973, the ten year extension of the Respiratory Care Practice Act, into law. The legislation had overwhelmingly approved by both the Illinois House and Senate.

The process of discussion the content of changes that would be included in the sunset extension began with internal discussions then progressed to talks and negotiations with both the Department of Financial and Professional Regulation as well as other stakeholders and members of the Illinois General Assembly and staffs.

This year's extension was vitally important because it marked the first time the Act was under review since the full Practice Act was enacted in 2005 that was marked by months and months of sometimes contentious dialogue.

Thelma and Louise?

Ninety days into the new fiscal year with no budget in sight and no prospect of a thaw in the relationship between the Governor and the legislature the prospect of movement any time soon appears bleak at best. But, oddly, due to actions of the courts, state statutes and the Governor himself over 90% of the state budget is being paid out with no officially enacted budget in place. And while that may be good news to some it should not be cause to jump for joy because unless there is some agreement in the near future the worst could be yet to come as the state veers toward a steep fiscal cliff.

Here's how "exemption" of 90% of the budget has occurred:

- Courts: Have determined precious consent decrees entered into by the state must be honored; have also exempted certain Medicaid-related child and family programs.
- General Assembly: Approved legislation in previous sessions exempting pension payments, debt service and tax refunds.
- Governor: Signed a portion of the budget funding elementary and secondary schools, made determination to continue to pay state employees, and expanded payment of Medicaid services to include the remainder of those not covered by the court ruling.

With the temporary income tax having been allowed to expire and the resulting \$4 billion in revenue vanishing along with it the estimate of available revenues for the fiscal year is a smidgen over \$32 billion. Some of the exempted funds will be paid out at the Governor's originally requested level, other funds at statutory levels, and yet others at higher levels, and with higher education and human services yet to be budgeted. The result? Payouts that will equal between \$34 billion and \$36 billion, possibly more. And, since even with court decrees and statutory exemptions the state's ability to pay will stop once \$32+ billion is spent there is a potential hurricane forming on the horizon.

With 90% of the budget already "in place" those remaining, higher education and human services, may be in a position to help push a solution forward. Colleges and universities have begin their school years and many human service providers have been teetering financially over the last few months. When those areas begin to curb or curtail services it may provide a push to get a budget settled, but with a schism of this magnitude don't count on it.

At this point in the process each side has been pointing fingers, blaming each other for the fiscal mess and lack of budget discussions. Governor Rauner has said there won't be any budget or revenue talks until he gets his Turnaround Agenda enacted. The General Assembly leadership has said that's not going to happen, at least in the current form the Governor is proposing. And no one appears ready to blink.

How long can this impasse go on? Some pundits were positive that there would be a bargain before the July 1 beginning of the fiscal year; others said that there was no way it could least beyond August 1; and yet others felt that Labor Day would be the target date. All of them way, way off. Columbus Day? Veterans Day? Thanksgiving? Christmas? Take your pick ... those are the next up on the calendar. Here's one thing for sure. Spending at \$36 billion with an estimate of \$32 in revenue means that the money will run out at some point. An inexact calculation suggests that with \$2.6 billion per month coming in and \$4 billion per month going out by the end of February the state coffers will be bone dry and in need of replenishment. It can't possibly go that long before some discussion and resolution takes place. Or can it?

Singular Focus

If there is one word that can be used to describe the apparent focus of Governor Rauner during the first eight months of his administration that word would have to be "unions". From his inauguration to today he has devoted most of his rhetoric and many of his proposals toward curbing public sector union activity in Illinois. The budget stalemate today exists primarily because of the Governor's insistence that his Turnaround Agenda, more than half of which is

directed at public and private sector union activity. Democrats chafe at those proposals, as would be expected of a group that has been allied with organized labor for time and eternity.

So much is the focus of the new administration on curbing union power it seems to have tunnel vision and has neglected to look at the bigger picture. Governor Edgar has suggested to the new administration that they look at the budget first and save other battles until later. That advice has been ignored. Governors Edgar, Thompson and Ryan all were able strike an accommodation with Democratic legislative majorities and secure legislative victories on many front. While there certainly disagreements and overtime sessions there were also continual meetings and conversations that brought about agreements fairly quickly. Not so this time.

According to a recent published report, Governor Rauner was counseled by a governor from another state to take a few smaller victories today and continue to work on the rest of his agenda in the future. Governor Rauner's alleged response was that he wasn't elected to play "small ball". And his lack of budging thus far shows determination, for sure. Whether or not it's wise only history will decide.

The administration proposals to curb unions began last winter with arguing for the creation of "Right to Work Zones" in various areas of the state. Never drafted into legislation the idea was a non-starter. Other ideas followed and were summarily dismissed by the General Assembly, and most were never officially introduced for legislative consideration so the legislature and the public never had the chance to review, digest and dissect exactly what the administration had in mind.

During the last few weeks the efforts of the administration have become more directed and it seems like every single of their proposals to begin a dialogue on issues relevant to end the overtime session has unions at its base. Property tax freeze? A simple freeze won't do unless union collective bargaining rights are curbed. Additional help for Chicago schools? Ok with the Governor so long as there are collective bargaining curbs considered along with it. They are so oriented toward restricting union activity that the Governor has even said he would consider allowing suburban school districts to pick up a portion of their own pension payments (the state currently picks up the pension payments for all school districts outside Chicago), a very controversial and unpopular idea in many places, so long as there are collective bargaining curbs attached.

The main question on everyone's mind is whether the administration really wants these issues resolved or whether or not the failure to resolve them will become more of a political battle cry in the 2016 and 2018 elections. Three areas that the Governor has suggested be "reformed" as part of his "Turnaround Agenda", worker's and unemployment compensation reform, as well as tort reform, have been the subject of successful State House negotiation in the past and there's no reason why it can't happen again. It just takes willing parties to participate and an open mind about what may or may not be achievable. It used to be called the "agreed bill" process and was successful in breaking through previous stalemates on these issues, considered esoteric by most of the public. Success in the legislative process sometimes is measure in terms of the proverbial water dripping on a block of granite that eventually breaks through. It can be slow and frustrating at times but progress can be, and has been, made in the past. The Oakland Athletics have proven many times that "small ball" works and helps build a foundation for future success. Whether the administration will look for compromise or gamble and risk it all is still a question that is waiting to be answered.

Session Schedule/Deadline Dates

Here are the relevant upcoming legislative schedule and deadline dates:

- House/Senate Overtime Session: Times TBA
- August 30 - Final deadline for Governor to act on legislation from regular session
- Veto Session: Time TBA

Legislation of Interest

HB 3531 – Rep. Golar/Sen. Link - Provides that it is a violation of the Act for any person to smoke tobacco in any area of a day care center, day care home, or group day care home (removing qualifying language regarding services being provided or children being present). **(Status – Approved by Governor - PA 99-0343)**

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 785 – Sen. Harris, N./Rep. Evans - Exempts certain health care professionals licensed to practice in another state or country from State licensure requirements if the professional is practicing in the State while under contract to provide services to an athletic team. Defines "athletic team". Limits the services the health care professional may provide. Limits the licensing exemption period to 10 days per sporting event. Authorizes the Secretary of Financial and Professional Regulation to grant one 20-day extension to the exemption period. Provides that an exempt health care professional is not authorized to practice at a health care clinic or facility. Effective September 1, 2015. **(Status – Approved by Governor - PA 99-0206)**

SB 973 – Sen. Althoff/Rep. Tryon - Amends the Regulatory Sunset Act. Extends the repeal of the Respiratory Care Practice Act from January 1, 2016 to January 1, 2026. Makes changes in provisions regarding definitions, exemptions, restrictions and limitations, powers and duties of the Department of Financial and Professional Regulation, the Respiratory Care Board, examinations, license restoration, grounds for discipline, notice of hearings, transcript of formal hearings, hearing officer proceedings, restoration of suspended or revoked licenses, summary suspension of licenses, administrative review, costs, and the Illinois Administrative Procedure Act. Adds provisions concerning durable medical equipment use and training. Provides that parties involved in disciplinary or other proceedings may enter into negotiated consent orders. **(Status – Approved by Governor - PA 99-0230)**

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)**