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MEMORANDUM

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

Date: October 30, 2015

Legislature to Return on November 10

There are currently three bills dealing with appropriations that are working their way through the General Assembly. One, SB 2046, is the one that is in the best position to be approved on November 10 when the legislature reconvenes. Legislation has been stymied in the House due to the constitutional requirement of a three-fifths vote to approve legislation with an immediate effective date. Since the Democratic three-fifths majority in the House was broken due to the death of Rep. Esther Golar there had been no attempt to approve any bills. Now that her replacement, Rep. Sonya Harper, has been named there no doubt will be a renewed effort to pass the legislation.

Senate Bill 2046 would give the Governor authority to make payments to human services providers not already funded pursuant to court orders. It passed the Senate in September and most likely will be considered on November 10 now that the Democrats have their full complement of members. There is a good likelihood it will pass unless a wayward member of the majority walks. The Governor has also threatened a veto.

House Bill 4150 provides \$85 million for first the four months of mental health services not covered under consent decrees and all federally funded mental health services in community settings. The legislation also provides \$12 million for law enforcement training grants that are pass through revenues from traffic ticket surcharges, \$5 million for victim assistance and \$82 million for early intervention. If approved by the House this legislation will need at least three legislative days before the Senate can consider final passage. The Governor has also issued a veto threat should the bill pass.

House Bill 4305 does not impact human services but does make appropriations for various purposes, like 9-1-1 and certain distributions of funds to local governments. Like House Bill

4150 it will require three days of Senate action before it can receive final action. Like the others, the Governor has threatened a veto of this bill should it pass.

There is one other factor at play as these bills are considered. Should any of them pass and be vetoed there is no guarantee that the three-fifths majority required to override will be available. One Democrat, Rep. Kenneth Dunkin, has not been cooperative on veto motions and has been at least partially responsible for the failure of a few important ones. Rep. Jack Franks and Rep. Scott Drury are also wild cards. Should either of them decide to oppose a veto override or decide to vote against any of the bills during a final action vote then any or all of these proposals would be in jeopardy.

November 18 – 9:30 a.m.

Just maybe there is a glimmer of hope that some substantive discussion of the budget stalemate might occur. If that happens it may be due to the efforts of a coalition of groups (Illinois Campaign for Political Reform, League of Women Voters of Illinois, Business and Professional People for the Public Interest, Citizen Advocacy Center, CHANGE Illinois, and the Better Government Association) that last week sent an open letter to the Governor and legislative leaders urging them to meet to discuss the budget impasse. The letter was sent to the principals as well as to the media and the groups involved no doubt expected little or no reaction as has been the case throughout the stalemate. But exactly the opposite occurred.

The day following the release of the letter House Speaker Madigan contacted the coalition and indicated that he would be willing to participate. Not only did he accept the invitation but he suggested that the meeting be held in public. Shortly after, Senate President John Cullerton accepted the invitation and the public meeting suggestion. Shortly after that House and Senate Minority Leaders Jim Durkin and Christine Radogno accepted. The event was set for the Union League Club on November 18 at 9:30 a.m.

Last Friday, the Governor also responded. He indicated that since the Governor's Office is usually the one to establish and conduct such meetings he would host it in his office either in Chicago or Springfield and that an agenda and media access would be decided prior to the meeting. So, it appears that the first meeting of all five individuals involved in the budget fracas since May will occur in a little over two weeks ... and in public.

Madigan's suggestion that the meeting be public is a sign that he feels the public will side with the legislature's position when there is an airing of the points of view on all sides of the stalemate. It also puts pressure on the Governor to be able to convince Illinoisans that there is merit to the specifics of his Turnaround Agenda. If true that, according to Madigan and Cullerton, conversations with the Governor devolve into a regurgitation of talking points with little detail, the public meeting will be a time to put some meat on the bones of his proposals. Likewise, Madigan and Cullerton have long opposed term limits and redistricting reforms and the public meeting will allow them the opportunity to make their positions and the reasons clear.

There has been some speculation that there could be disagreement over the meeting agenda or procedures that could scuttle it. However, being considered responsible for the demise of the meeting carried a lot of negative weight. Both sides have been pleading with the public since last June, arguing the merits of their case as the stalemate has continued. Whoever plays hard to please or is adjudged responsible will tilt the field to the other side ... not only for the time being

but for the remainder of the Governor's term of office. There's a lot at stake here and this could be the one and only chance for one side or the other to break the debate wide open. If the meeting digresses into a finger pointing debacle about how we got to where we are then both sides will be considered losers. It is going to be urgently important for both sides to make the focus looking forward rather than backward.

While the agenda and discussion points remain to be determined, it appears that it may be somewhat difficult for the Governor to quantify how and how much the provisions of the Turnaround Agenda will benefit the state's economy. It's easy to say that it will help the business climate but it's the details and specifics that are crucial. Since he announced his candidacy for governor and through today the Governor has not been one to provide many specifics of his proposals. He has very few press availabilities and when in public chooses not to answer questions when asked about details. The upcoming meeting will require him to not only justify his agenda proposals but create the validation for having placed budget considerations on hold until they are enacted. Are they worth the recent further diminishing of the state's credit rating, as well as the service disruptions many Illinoisans have or will be experiencing? That will be his challenge. Will the average Illinoisan understand why workers compensation "causation" needs to be addressed before a budget is enacted? How about unemployment compensation and tort reform? A vast majority of Illinoisans want term limits, but at the cost of service shutdowns? Most support property tax reforms, but sometimes back off when the impact is realized. In the case of the Governor's proposal the organized labor limitations are pretty far reaching and may be too much too soon. The Governor's job, and it may come with some pressure because he's still a somewhat unknown quantity with tepid job approval ratings, is to make constituents feel comfortable that he's leading the state in the right direction.

Democrats, on the other hand, will try to poke holes in the provisions of the Turnaround Agenda and argue that the first priority of the governor and legislature should be to enact a budget. However, they are also going to have to justify their general opposition to the workers compensation, unemployment compensation and tort reforms included in the Governor's agenda, as well as the property tax and collective bargaining restrictions. That, and the general opposition to term limits and redistricting reforms. It may be easier for them to create the argument that the budget has to be addressed as soon as possible but if the Governor is able to convey and convince those paying attention that his position is meritorious then it could cause some thawing and lead to an eventual resolution.

It could be that little or nothing happens on November 18. If that's the case then it will have been a golden opportunity squandered.

Pointing Arrows

It's not often that former governors will step forward and criticize another chief executive from the same political party, but that's what happened in the last few weeks when Jim Edgar and Jim Thompson both questioned the current state of the budget stalemate and suggested that Governor Rauner move ahead with trying to craft a budget so that the state doesn't sink further into the mire. Even state Comptroller Leslie Munger got into the act, urging that some resolution be found to stop the fiscal bleeding.

In Edgar's case, it wasn't the first time that he has encouraged an end to the deadlock and a start to discussions. He also made the suggestion during the summer as a way to help and maybe even

to provide some cover to Governor Rauner. It didn't help. Two weeks ago he strongly suggested that the budget not be held hostage because of the damage the impasse was creating. He also counseled that the attacks legislative leaders that were an earlier part of the Governor's strategy have not helped the process. A flashy, innovative governor Edgar was not. But, he did keep his hand firmly on the fiscal rudder of the state when conditions were pretty bleak. He's regarded as one of Illinois' better chief executives.

Thompson, also considered to have been a governor who was able to walk the political tightrope and leave office with not only accomplishments but bipartisan respect, got into the fray in late October when he suggested that Governor Rauner stop trying to avoid face-to-face negotiations and start moving forward with the difficult negotiations that lie ahead. Governor Rauner was not pleased. His response to both was that he was attempting to help solve problems that both Thompson and Edgar had helped create.

Earlier, Comptroller Leslie Munger had also encouraged an end to the impasse after an announcement that the state would have to delay or could only pay a portion of a scheduled November pension payment. She also vented her frustration with having to balance the needs of the state and its vendors with severe cash flow restrictions. Comptroller Munger explained that, basically, the state is out of cash at the end of every day as bills are paid with the proceeds that arrive. She also explained that while the state will never be "broke" because there will always be some revenue flow, more and longer delays will occur as bills mount and revenue recedes.

When and How?

Even if the November 18 meeting begins the process of impasse resolution there will still be the humungous matter of legislators approving whatever is contained in any final deal, and that most certainly will mean additional taxes and revenues. The Governor has made it crystal clear that he both expects that revenues will have to be raised and that he will support doing so, presently conditioned on the legislature approving his reform agenda. It is also fairly certain that it is going to take support from both sides of the aisle to approve any revenue increases that are agreed to ... and, as per Shakespeare's Hamlet, "ah, there's the rub." How to overcome the resulting conundrum is going to take almost every ounce of energy the Governor and legislative leaders can muster.

The first question that needs to be answered is when the most logical time might be for any deal to be approved. The answer lies somewhere after January 1. With the new year comes a lowered voting requirement for passing legislation with an immediate effective date. From June 1 through December 31 any legislation with an immediate effective date requires a three-fifths vote. From January 1 through May 31 that number is reduced to a simple constitutional majority. Since the enactment of a budget needs immediate implementation and it will be easier to corral fewer members, post January 1 makes the most sense. It also makes sense in that even without a deal the legislature will find it easier to send legislation to put pressure on the Governor with the lesser vote requirement.

Even though legislative Democrats have a three-fifths membership in both chambers, House Democrats have had a difficult time keeping everyone together. And, on any question raising revenue Democrats are tired of taking the collar for tax increases while Republicans vote no and then help spend the money. In order to seal any deal there more than likely will be a demand/requirement that a certain number of Republicans join the roll call. Democrats view it as

sharing the sacrifice. They also view it as a way to protect some of their most vulnerable members from an election hassle. Over the last few months Senate Minority Leader Radogno and House Minority Leader Durkin have appeared in the press criticizing the budget passed by the legislative Democrats and vetoed by Governor Rauner as not only being out of balance but mentioning "Democratic tax increases" that would be necessary to implement it. They might want to choose their words more carefully because if a deal is reached that includes new revenues they, themselves, are going to be expected to support it as well as bringing certain of their members along with them.

There are other forces at play that might also cause havoc with any timetable for final action on a budget deal. Legislative candidates are currently in the process of distributing re-election petitions that will be filed in early December. It is safe to assume that nothing is going to happen until incumbent legislators know if they have opposition in the primary elections and how serious that opposition may be. Additionally, the Governor earlier in the year had threatened to find primary opponents for Democratic legislators. If that should materialize then there may not be any action on major items until after the primary election in mid-March. Not good if with the state's precarious fiscal condition.

Another potential cause for concern in terms of getting any deal approved by legislators is a growing mistrust of the way the Governor might treat any spending priorities of the Democratic caucuses. There has been some discussion of requiring Memoranda of Understanding in order to try to assure funds get spent where the legislature intends ... reminiscent of the Blagojevich days. The trust issue may also make it more difficult for Democrats who might normally vote for increased taxes and revenues to push the switch.

As hopeful as the prospect of a budget summit meeting might sound the subtexts associated with also appear to be monumental and will be the real test of leadership for all involved.

Legislative Transition

State Rep. Sonya Harper (D-Chicago) has been appointed to replace Rep. Esther Golar who passed away recently.

Session Schedule/Deadline Dates

Here are the relevant upcoming legislative schedule and deadline dates:

- House Overtime Session: November 10
- Senate Overtime Session: November 10

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)**