Government Strategy Associates
4023 Terramere Avenue
Arlington Heights, Illinois 60004

M E M O R A N D U M

To: Brian Lawlor
Matt Kincaid

From: Terry Steczo
Maureen Mulhall

Re: Legislative Report

Date: March 31, 2017

Legislation of Interest

- **House Bill 235** prohibits the sale or distribution of single or loose cigarettes that are not contained within a sealed container, pack, or package to persons who are 18 years of age or older. **Status: House – Judiciary – Criminal Committee**

- **House Bill 3208** raises the age for whom tobacco products, electronic cigarettes, and alternative nicotine products may be sold to and possessed by from at least 18 years of age to at least 21 years of age. **Status: House – Consumer Protection Committee**

- **House Bill 3221** provides that no person shall smoke within 15 feet of any entrance to an enclosed or partially enclosed youth sporting event. Also provides that no person shall smoke within 250 feet of the field of play, including areas for spectators and participants, at a youth sporting event held in an outdoor setting. **Status: House – Consumer Protection Committee**

- **House Bill 3388 -** Requires a home medical equipment and services provider that provides or a pharmacist that dispenses pressurized oxygen or any oxygen delivery system to a patient to inform the municipal fire department or fire protection district that serves the patient of the patient's oxygen use in his or her home in case of a fire. **Status: House: Fire & Emergency Services Committee**

- **House Bill 3877 -** Creates the Vapor Products Regulatory Act. Provides for the licensing and regulation of retail sellers of vapor pens and vapor products by the Department of Revenue. Provides that persons licensed as retailers under the Cigarette Tax Act need not obtain a license under this act to sell vapor products. Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act to exclude vapor products from the definition of "alternative nicotine product". **Status: House – 2nd Reading**

- **House Bill 3809** - requires that all tobacco and alternative nicotine products (rather than single packs of cigarettes and alternative nicotine products) must be sold from behind the counter or in an age restricted area or in a sealed display case. Provides that candy may not be displayed within 5 feet of a counter that has behind it any tobacco products. **Status: House – Consumer Protection Committee**

- **Senate Bill 1221** - Prohibits operation of a motor vehicle while a person is smoking in the vehicle and a person under the age of 18 is present in the vehicle. Provides that police officers may not stop or detain a motor vehicle or its driver for violation or suspected violation of this Section. Makes a violation of this Section a petty offense with a fine not to exceed $100. **Status: Senate – Public Health Committee**

Grand Bargain: *Requiesce In Pace*?

It's still on a respirator but the time is fast approaching when the grand bargain will breathe its last and rest in peace. That is, unless there's some major new development that starts the juices flowing again. But at this point the signs are not good that survival is in the cards.

Senate President John Cullerton and Senate Minority Leader Christine Radogno, to their credit, have tried and tried again to keep their patient alive. Radogno, in particular, has kept plugging away at trying to hammer out a compromise even though the Governor has undercut her at every turn. Last week she even issued a strong rebuke to the Governor's Office when it released a statement that described the sentiments of the Senate GOP Caucus. But, with March at an end and with the General Assembly schedule showing a two week break in mid-April the time for any hopeful action on the plan is rushing by quickly. Plus, if an income tax increase is retroactive to the beginning of the year then it should be enacted as soon as possible so additional levels of withholding needed aren't too burdensome.

The "grand bargain" contains a group if interconnected bills that cover both budget and tax issues as well as portions of the Governor's "Turnaround Agenda". Each bill contains a provision that stipulates it does not become law until each of the others does. If one fails, they all fail.

Some of the bills have already been successfully considered by the Senate (Senate Bill 3 – local government consolidation; Senate Bill 6 – FY 2017 budget; Senate Bill 7 – gaming expansion; and Senate Bill 8 – procurement reform). Each received enough votes to pass but are being held in the Senate with a parliamentary maneuver. The remaining bills are the "heavies" that will cause heartburn to many who find themselves pushing the green button should it get to that. Those bills (Senate Bill 1 – school funding reform; Senate Bill 4 - $7 billion bond sale; Senate Bill 9 – income and sales taxes plus other revenues; Senate Bill 16 – pension reform; Senate Bill 12 – workers compensation reform; and Senate Bill 13 – property tax freeze) get the Illinois fiscal house in order and end our bill backlog. They are, obviously, the most controversial.

Over the past few months there have been disputes over various portion of the "bargain". For instance, the Governor's Office of Management and Budget insists that revenues to be derived are about $750 million short and are prodding Senate Democrats to find cuts to make up the difference. Democrats, on the other hand, have asked the Governor's agency heads to divulge where they would cut with little success. This past week Sen. Bill Brady (R-Bloomington) introduced his own budget plan that he insists saves $5 billion that stands to confuse the issue even more. In other areas, there have also been some disputes as to the level of workers compensation changes and also whether or not to add a permanent property tax freeze as the Governor has insisted or a counter plan from Senate Democrats for a two year freeze with a three year option. And the beat goes on.

It could be that the whole concept of the "grand bargain" was wishful thinking on behalf of Cullerton and Radogno; a high stakes game of risk/reward. It is also highly reminiscent and borrows the name of the thwarted attempts at the federal level to do something similar on the national level with President Obama, House Speaker John Boehner and Senate Minority Leader Mitch McConnell. The results then were no different than the efforts in Illinois this year. But, there are still two months left in the legislative session and things can change in a flash so there is still some slight chance that the efforts will bear fruit before May 31.

<u>State Revenue Sliding Backward</u>

Observing the state in action, or inaction, on a daily basis for the past two years has not created a sense of confidence. Quite the contrary, but how much worse can it get? Well, according to the Commission on Government Finance and Accountability (COGFA), the non-partisan number crunching legislative agency, plenty.

Last week the Illinois House Revenue and Finance Committee held a hearing to determine an update of current fiscal year revenue estimates in addition to estimated revenues for Fiscal Year 2018 that begins on July 1. What they heard was certainly not music to their ears; more likely it was like an ear piercing screech. In a state that has struggled to move forward as other states have after the debilitating 2008 recession, the news that the Illinois economy is still behind and revenue estimates are slipping backward was more than depressing.

Modest revenue growth had been predicted for FY 2017 that ends on June 30. According to COGFA, "very modest expectations have failed to materialize" and "With each passing month it becomes more difficult to envision a change in trajectory that would alter the current revenue picture enough to avoid a significant downward revision." According to COGFA, their "significant downward revision" shows Illinois base receipts for FY 2017 off by approximately $1.46 billion, or 7.5%. Very significant, indeed. The downward revisions show anticipated declines in personal income tax ($456 million), corporate income tax ($482 million), and utility taxes ($67 million). Sales tax receipts are anticipated to increase by $52 million but that is considered a paltry increase compare to what had been anticipated. If the legislature and the Governor were working together to create a budget this would be debilitating news. But, being without a budget for two years and spending money at a $38 billion clip, and with anticipated proceeds now inching under $30 billion, the COGFA assessment is horrific.

As of this week the state's bill backlog listed on the Comptroller's website is approximately $12.8 billion. Add billions more if the COGFA estimates come to fruition. And, while the revenue projections for FY 2018 show a projected increase of $938 million being awash in red ink with no end of the impasse in sight guarantees that there will be no quick fixes. Last month the Center for Tax and Budget Accountability and the Governor's Office of Management and

Budget predicted that if the state goes two more years without a budget, a distinct possibility at this point, the working deficit could balloon to a point in the $24 billion range … a deficit number so outrageous that it's almost feels surreal.

In A Corner?

Governing is hard. And it can be very, very hard. President Trump has been finding that out since January and Governor Rauner since January, 2015. Running a government is completely different from a business environment where a few like minded individuals can find a meeting of the minds. Sheer willpower and strong willed negotiation techniques that have a place in the private sector have the same effect as lead balloons in the context of government. In government, there can be so many varied interests that to balance them all you have to almost walk the tightrope like Nik Wallenda. Plus, negotiating with divergent groups can be like playing Whack-A-Mole where trying to placate one group disenchants another, or two. The Obamacare replacement debate was a case in point. There, by the end of the day none of the dissidents were happy so governmental policy discussions and negotiations must be handled delicately and cautiously with some sense of the impact of each lever that is pulled.

In the case of the President and of the Governor, both are transitioning from successful business careers to the more murky government side. In the case of the Governor, he decided early on a "scorched earth" policy to bring his "reform" ideas state government. His reputation in business was "hardball" and that's pretty much what we've seen during the last two years. But it's highly unlikely that he expected to see the steadfastness of the opposition to his proposed agenda and methods. In the private sector such fervent differences in opinion and philosophy would have resulted in an agreement to disagree and a dead deal. In government it doesn't work that way. Most times parties are able to find common ground and find some ways to compromise and keep government afloat. And then there's the isolated situation as we have faced here in the last two years that has created a chasm so deep that it's practically impossible to bridge.

Since the budget fracas began pundits and others have tried to predict the budget end game. Nobody has been close and pretty much everyone has given up on prognostications. But there does seem to be, at least as far as the Governor is concerned, only two options that he has moving forward heading into the 2018 statewide elections. Those two options, obviously, are 1) to work on trying to get a compromise on "grand bargain" issues, including revenue, that will result budgets for FY 2017 and FY 2018, or 2) go into the next election cycle with the stalemate continuing and no budget in sight. Neither are good choices but, at this point, they are the only two that remain and both present potential landmines for the Governor as he heads into reelection mode. But whichever choice he makes will have an impact on Illinois and the services it provides.

Should the Governor cast aside the "grand bargain" and head into 2018 without a budget he faces the real possibility of an electorate that feels frustrated about the lack of a budget for what will have been four years and the mounting state debt. The Governor and his team have spent tens of millions of dollars over the past two years creating Speaker Madigan as a Darth Vader-type villain and it's worked. And that's no doubt what the Governor would highlight in his reelection efforts. But, that only goes so far. Looking back at the past two years it would be very difficult to point to administration accomplishments that would make the public more confident in the Governor's prowess. Looking back only a few months, to his 2017 State of the State address, a list of accomplishments cited by the Governor were actually initiatives of the Quinn administration. So, unless there is a spate of programmatic successes over the next two years the list of accomplishments looks to be very thin. And even if the opposite is true, having had no budget and having the state on the brink of collapse for almost the entire term may not provide the electorate with great confidence. So doing nothing presents a real problem.

On the other hand, there is some slight possibility that the Governor could embrace the tenets of the "grand bargain" and work out a deal on policy and revenues that would move the state back toward fiscal solvency. Our first impression would be that the masses would cheer and toast that accomplishment. But is that really true? While a "grand bargain" deal would start Illinois on the road to recovery what it might take to get there could be adverse to the Governor's base. While ha has not been shy about indicating his willingness to increase revenue with the right policy agreements, the day that those bills reach his desk and he signs them will mark a day of infamy for many conservative groups and their members that the Governor has counted on for support. Increases in income taxes, service taxes, soda taxes and borrowing were not quite what they had envisioned when the elected someone to run Springfield like a business. Some of those groups, the Illinois Policy Institute for instance, have already excoriated the "grand bargain" provisions, most notably the revenue boosters. It would be a fair bet that his base wasn't paying particular attention at his indications that he might be amenable to increasing revenues so there could be a severe backlash should that occur. So this pathway for the Governor is fraught with danger too.

Looking at these two options with no apparently pleasing outlook for the Governor it may be that he has painted himself into a corner. When Ohio Governor John Kasich suggested in 2015 that Governor Rauner take small victories that could add up over time to significant accomplishments Rauner declined the advice, preferring a moon shot rather than a series of suborbital flights. Two years later and beyond he may wish that he had taken that advice.

Session Schedule/Deadline Dates

Here are relevant dates for the remainder of the 2016 and the 2017 legislative session:

- April 10 - April 23 - Spring Break
- April 28 - 3rd Reading Deadline - House and Senate
- May 12 - Senate Committee Deadline - House Bills
- May 19 - House Committee Deadline - Senate Bills
- May 26 - 3rd Reading Deadline - House and Senate
- May 31 - Adjournment