

Legislative Report – Mr. Mahler

State Budget - and Threat of Backend Referendum – While both the House and Senate Republicans had discussions with their members on the basic framework last week, there are still many important details to work out, so nothing is final and nothing is set in stone. Here is what appears to be on the table now:

- \$350 million new money for basic education funding (no decision on how to distribute, although it is likely at least some will go through the new formula)
- \$50 million new money for special education to be distributed via the new formula
- \$2 billion to be generated through an increase in the sales tax from 6% to 7.25%. This money would go to property tax relief (formula for distribution is yet to be determined)
- Gaming money that is currently funding property tax relief would be diverted to pay for pension costs
- Pension reform for new employees in the form of (likely) a side by side hybrid plan, maybe the lump sum withdrawal change for current employees and likely a tapering of the collars beginning in 2016-17
- Backend referendum to control school district property tax increases.
- Additional revenue generation through (potentially) online gaming, fantasy sports, increased cigarette tax, e-cigarette tax
- Liquor privatization in some form

While there is a basic framework in place, there is still a long way to go. While discussion and debates occur over the issues above, there are also debates over other issues such as PlanCon, charter school funding reform, economic furloughs and school turnaround.

Property Tax Elimination – SB 76, the property tax elimination bill, was scheduled for a vote in the Senate this week. The bill would eliminate all property taxes by raising sales tax from 6% to 7%, applying that tax to more items, and raising income tax from 3.07% to 4.34%. It would allow School Boards to levy or raise taxes on personal income or earned income and net profits, but only if approved by a referendum vote during the primary election preceding the school year. If this bill passes, it is likely to threaten the potential deal outlined above. On Tuesday, voting on this bill was postponed until next week.

Keystone Exam Moratorium – An effort to delay the Keystone exams as a high school graduation requirement is being discussed during state budget talks. The Keystones, end-of-course exams in algebra, English and biology, were first administered in 2012-13 and are set to become graduation requirements for students with the class of 2017. Over the summer, the state Senate passed a bill, sponsored by Sen. Lloyd Smucker, that would delay making them a graduation requirement until the class of 2019. The bill was passed by the House Education Committee on Tuesday. It was amended, relative to the version passed by the Senate, to add a

provision requiring the state Department of Education to study alternatives to the Keystone Exams and report its findings to the House and Senate education committees within six months.

Education Funding Lawsuit – According to a story on Capitolwire (11/6/15), the Wolf administration and General Assembly each filed court documents arguing that the Supreme Court should not interfere with the General Assembly’s responsibilities for managing and funding public schools. Commonwealth Court in April dismissed a lawsuit filed by seven school districts and several parents that claimed the General Assembly has failed to comply with the constitutional mandate to provide “a thorough and efficient system of education.” In court documents, the administration urges the court to stay out of the funding debate and leave the funding responsibility with the legislature. “The relief sought by the school districts would violate both sovereign immunity and the separation of powers,” the documents note, and “an injunction requiring the General Assembly to ‘fund’ a [particular funding] system would intrude upon core legislative powers.” The Supreme Court is expected to hear oral arguments early next year.

Legislation:

* **Hazing: HB 1574:** Passed by the House on Tuesday. The bill broadens the scope of the offense of hazing to prohibit hazing when done for admission to any organization and requires secondary schools (defined as schools providing instruction in grades 7-12 or any combination of those grades) to adopt anti-hazing policies.

* **Tax Collector Training: HB 823;** signed into law as Act 48 of 2015. The bill makes some revisions to existing law, providing for training and additional qualifications for tax collectors and the appointment of a deputy tax collector. The bill clarifies that the municipality electing the tax collector must approve the deputy.

* **Use of Facilities: HB 1168;** passed by the House; sent to the Senate. The bill requires school districts to provide their facilities to the PA Game Commission for the purpose of holding hunter education classes.

* **Posting Financial Information: HB 1606;** passed by the House unanimously; sent to the Senate. The bill codifies the posting of the school district and charter school financial information that is currently posted on the School Performance Profile website. The original bill was used as a vehicle for an omnibus School Code bill and was vetoed by the governor, so this is another attempt to move the bill through the process.

* **Right-to-Know Law: SB 411;** amended and approved by the Senate. The bill amends the Right to Know Law, including requiring agencies to register their open records officer with the Office of Open Records, lowering the threshold for prepayment to \$50, allowing reasonable fees for the search, retrieval, review and redaction of documents for commercial purposes (fees cannot exceed the hourly wage of the lowest paid employee of the agency who is capable of doing the

job and a fee cannot be charged for the first hour of work), excluding the home addresses of employees of local agencies and requiring local agencies to develop policies regarding requests for the home address of employees. The bill was approved with a 46-0 vote and will now go to the House for consideration, where additional changes are expected.

* **School Discipline Findings: HR 540**; passed by the House unanimously in October. The resolution requires the Joint State Government Commission to review school discipline policies, related laws and regulations and to issue a report on its findings.

Legislative Schedule –While only the House was in session last week, both the House and Senate are in session this week, and the budget deal is expected to either come into more clear focus or totally fall apart.

This Week's Senate Floor Schedule and Actions –

The following bills have been may be considered this week:

* **Municipal Debt: SB 340**. The bill amends the Local Government Unit Debt Act to provide for review of project financing by the Department of Community and Economic Development, define the different types of debt a municipality may enter into, and to set limits on the amount of debt a municipality can incur without voter approval. *This bill was re-referred to Appropriations on Tuesday.*

* **Swaps: SB 342**. The bill limits the use of qualified interest rate management agreements, or swaps, by local governments and puts in place several safeguards in an attempt to reduce the risk of engaging in swaps. *The bill was re-referred to the Appropriations committee.*

* **Cost of Regulations: SB 731**. The bill requires the State Board of Education to submit to the House and Senate Education Committee chairs a fiscal impact statement to accompany every change in regulations pertaining to the Keystone Exams. *No action taken at this time.*

* **Referendum – SB 909**. The bill would amend Act 1 by eliminating the index and requiring a referendum for any and all property tax increases. *No action taken at this time.*

* **Students with Disabilities – HB 400**. The bill establishes the Work Experience for High School Students with Disabilities Act. *Removed from the table on Monday.*

* **HB 1296** expands the investment options for school districts and other political subdivisions. *It was given First Consideration today.*

Committee Activities –

* **Wednesday, Nov. 18: House Local Government Committee** was to consider **HB 1647**. The bill clarifies that reverse appeals can be made by taxing districts following the sale of a property,

but only on those properties that are not eligible for homestead or farmstead status. On Tuesday, Nov. 10, the House State Government Committee was scheduled to consider a series of bills that would make changes to Open Meetings law.

* **Executive Session: HB 340**– The bill makes changes to the open meetings law to permit executive sessions for the discussion of security or emergency preparedness plans and also requires the recording of executive sessions as well as advice from a solicitor, or prior to holding an executive session to ensure that the matters to be discussed during the executive session are appropriate.

* **Printed Agendas: HB 1080**– The bill makes changes to the open meetings law to require printed agendas to be circulated at the beginning of each meeting.

* **Agenda Notice: HB 1155**– The bill makes changes to the open meetings law to require the posting of the agenda of a meeting containing all business to be discussed at the meeting at least 24 hours in advance of the meeting on the entity’s public website. The bill specifies that official action may not be taken on an item not included in the notice unless emergency action is required.

* **Executive Session: HB 1263**– The bill makes changes to the open meetings law to permit issues regarding safety and security to be discussed in executive session.

* **Public Comment: HB 1651**– The bill makes changes to the open meetings law to prohibit an entity from requiring an individual from registering prior to making comments at a public meeting.

The House Labor & Industry Committee was also scheduled to meet on November 10 to consider **SB 333**. The bill prohibits the ability of a municipality to mandate that all employers within its border provide certain types of vacation or other forms of leave not required by federal or state law. The bill exempts any mandates imposed by a municipality on its own employees.

* **Pensions & Tax Deferred Status: HB 1332**; passed by the Senate Finance Committee in October. The bill makes purely technical fixes to PSERS and SERS to ensure compliance with IRS rules and that current state and school district employees retain tax deferred status while working on future retirement benefits. Without these changes, employees would have to pay income tax every year on the additional investment income their retirement accounts accumulated. The bill now will go to the Senate floor for consideration.

* **Diabetes Care: HB 1625**; approved by the House Health Committee in October. The bill permits school entities to designate a person (in addition to the school nurse) in each building with a diabetic student to complete training in diabetic care and management, and allows diabetic students to possess medication and to self-medicate, subject to several conditions.

* **Intellectual Property: SB 590**; approved by the House Education Committee. The bill corrects an error in current law that jeopardizes intellectual property at institutions of higher education.

In National News...

ESEA Reauthorization Update –Sen. Lamar Alexander, R-Tenn., Sen. Patty Murray, D-Wash., Reps. John Kline, R-Minn., and Bobby Scott, D-Va., on Friday announced that they have a framework for moving forward on a long-stalled rewrite of the Elementary and Secondary Education Act. The next step: a conference committee, which could kick off in coming days. The goal is to pass a bill to revise the ESEA—the current version of which is the No Child Left Behind Act—for the first time in 15 years, by the end of 2015. (from *Education Week*, 11/16/15)

Results of Grant Program – A national program that pumped a record \$7 billion into failing schools — and became one of U.S. Education Secretary Arne Duncan’s signature policies — has yielded mixed results, according to a new federal analysis released last Thursday. Students in about two-thirds of the schools studied posted gains on math and reading tests, but one-third showed no improvements or even slid backwards. Schools that participated in the program the longest showed the strongest improvements in math and reading. The average high school graduation rate also increased for schools that received School Improvement Grants (SIG). But the government analysis is incomplete. Almost 1,400 schools received grants from 2010 to 2013, but the report does not include data from about half of those schools. Federal officials blamed the gap on several factors, including the fact that some states switched to new tests during the study period, making it impossible to compare student test scores over time. Meanwhile, the analysis does not include performance statistics from the two most recent school years. *Read the rest of the story: “Feds Spend \$7 Billion to Fix Failing Schools, with Mixed Results”* (from *The Washington Post*, 11/12/15).

Using Test Scores for Teacher Evaluation – The American Educational Research Association became the latest organization to caution against using value-added models — complex algorithms that attempt to measure a teacher’s impact on student test scores — to evaluate teachers and principals. A growing number of states have begun using value-added models, or VAMs, to judge and in some cases fire teachers. But there are still a lot of unanswered questions about how to ensure that such models provide valid, reliable and accurate information about teachers, AERA said in a statement released last Wednesday. AERA cautioned against using these formulas for “high-stakes decisions” about educators. “Many states and districts have incorporated VAM in a comprehensive system to evaluate teachers, principals, and educator preparation programs,” the statement says. “There are considerable risks of misclassification and misinterpretation in the use of VAM to inform these evaluations.” *Read the rest of the story: “Education Researchers Caution Against Using Students’ Test Scores to Evaluate Teachers”* (from *The Washington Post*, 11/12/15).

NAEP Scores –

*** Recent NAEP Results:** U.S. 4th and 8th grade students are performing worse in math, and somewhat worse in reading, than they were two years ago, according to new data from a national test. The results were a surprise to some since scores on the National Assessment of Educational Progress had been showing an upward trend over the last two decades. "This isn't a pattern that we saw coming," Peggy G. Carr, the acting commissioner of the National Center for Education Statistics, which administers the NAEP, said in a media call. "It was an unexpected downturn." Even so, Carr emphasized that scores are still much higher than they were in the 1990s, and that the downturn doesn't necessarily indicate a long term trend. "We're trying not to read too much into a decline," she said. "We understand it's a pattern that's consistent across many of the states and distributions, but we like to see multiple years before we address it with that [high] level of concern." Read the rest of the story: "Math NAEP Scores Drop for 4th and 8th Grades" (from Education Week, 10/28/15).

*** Study of State NAEP Scores:** Texas and Florida, not usually renowned for quality education, turn out to be educational powerhouses once you adjust for student demographics. A new report from the Urban Institute looked at how students from each state compare with similar students in other states on fourth and eighth-grade tests in reading and math. The researcher, senior fellow Matt Chingos, adjusted states' scores based on a variety of factors, including race, ethnicity, the share of students still learning English, and the share of students living in poverty. Plenty of factors other than a state's school system affect how students perform on standardized tests. Students in Massachusetts test better than students in Mississippi, but Mississippi also has more students of color and more students living in poverty. Using Chingos's adjusted scores, Massachusetts still looks very good. Texas and Florida look much better. And Utah, which is about average based on test scores alone, slides nearly to the bottom when adjusted for demographics. Pennsylvania ranked in the top ten in both categories. *Read the rest of the story: "These Are the States That Really Have the Best Schools in the U.S."* (from vox.com, 10/26/15).