

Representative Jeff Kaufmann – June 23, 2007

FROM JEFF KAUFMANN jeff.kaufmann@legis.state.ia.us

Here is my June Electronic Newsletter.

Thanks to my staff for the informative articles on a wide variety of topics. Summer is in full swing with meetings, constituent contacts and, of course, parades. This is not an election year but I will still be in 10 parades. It is important that I show my support for your community and that you see me in person and not just a column or e-mail.

If you have any questions, concerns, or just want to share your opinion, I answer my e-mails personally and throughout the year, whether the Legislature is in session or not. Jeff

Governor Takes Action; But Vetoes Very Little Spending

On May 29, the Governor completed taking action on all of the remaining budget bills. In the end, the Governor signed almost the entire budget in full.

Of a \$5.86 billion budget for FY 08, Culver vetoed \$160,000 in spending and \$1.2 million of the potential \$6.5 billion budget in FY 09. After the vetoes, overall spending grew by \$580 million (11 percent) above Fiscal Year 07 and is likely to grow by another \$650 million (12 percent) next year.

In addition, the Governor vetoed \$120,000 in spending from the Road Use Tax Fund (RUTF) and Primary Road Fund (PRF) and \$200,000 in spending from the Rebuild Iowa Infrastructure Fund (RIIF).

The largest amount of spending vetoed came in FY 2011, 2012 and 2013. The Governor vetoed an extension of the Community Attractions and Tourism (CAT) fund, which was approved in order to allow the Earthpark rain forest project to get up to \$36 million in state funds. The breakdown of the funding vetoed is as follows:

- FY 11 — \$12 million for CAT (\$7 million General Fund, \$5 million RIIF)
- FY 12 — \$12 million for CAT (\$7 million General Fund, \$5 million RIIF)
- FY 13 — \$12 million for CAT (\$7 million General Fund, \$5 million RIIF)

The General Fund spending vetoed in FY 08 was \$150,000 for the Plasma Arc project in Cedar Rapids and \$10,000 for extracorporeal support at the Department of Public Health. For FY 09, the Governor vetoed \$1 million for the World Food Prize and \$160,000 for the Real Estate Education Program at UNI.

The RIIF funding vetoed for FY 08 was \$120,000 for decorative planters in the East Village and \$80,000 to restore the Kimball organ in Clermont. This came after Rep. Kaufmann from Cedar County raised awareness statewide on the pork and wasteful spending in the budgets this year. This is very little of the total pork but a small victory for fiscal responsibility. The Governor also vetoed \$500,000 that was to go to the regional sports authority in FY 09, \$750,000 for the Volga River State Recreation Area project and \$500,000 for the Levi Carter Lake project, for a total of \$1.75 million in FY 09.

Fiscal Committee Meets, Hears that Cigarette Tax Will Not Reach the REC Estimate

On June 14, the first meeting of the 2007 interim for the Fiscal Committee was held at the Capitol.

The first topic of discussion was the status of General Fund revenue. Jeff Robinson of Fiscal Services said that revenue should be within plus or minus \$25 million of the REC estimate. This is a huge change from the previous three fiscal years when revenue exceeded the estimate by \$200 million per year.

The big news was the admission that cigarette tax revenue will not meet the REC estimate. **It will likely be \$3 million less than what the tax increase was supposed to generate.** Whether this is because fewer people are smoking or buying their cigarettes out-of-state (or both) is unknown at this point.

While \$3 million doesn't seem to be a very big number, that was over three months' time. Over the course of a fiscal year, that would translate to cigarette tax revenue falling short by \$12 million.

The next topic was a discussion of the General Fund balance sheet. One thing that impacted the FY 07 balance sheet is the \$71 million in supplemental appropriations. If the usual \$20 million or so in supplemental appropriations had been approved, that would mean another \$50 million in the ending balance, which would go to repay the Senior Living Trust Fund (SLTF).

For FY 08, the ending balance is projected to be \$81.5 million. This is \$50 million less than what will be needed to fund the property tax credits at this year's level. It will also impact the SLTF, which under current projections will be completely drained by FY 09 if current spending levels are maintained.

One piece of good news is that the cost of the salary package negotiated by the Governor and the unions is going to be \$13 million less than projected. This was primarily due to older workers taking retirement (and being replaced by lower paid younger workers) and lower health insurance premiums.

The last major topic was the proposed lease purchase of the Mercy Capitol hospital. Mollie Anderson of the Department of Administrative Services (DAS) made the case for spending \$8 million for a lease purchase agreement with Mercy. She made the case that this should be done because it is a good deal for the state and Mercy is motivated to sell. Also, DAS believes that buying Mercy Capitol will reduce the cost of the new state office building, which is estimated to cost \$77 million. *(Please refer to a related story in the State Government section of this newsletter.)*

After the meeting concluded, several members of the committee and staff took a tour of Mercy Capitol.

General Fund Revenue Above the REC Estimate

On June 1, Fiscal Services released the General Fund revenue numbers for the first eleven months of FY 07. After being below the Revenue Estimating Conference (REC) estimate at the end of April, actual revenue rebounded and exceeded the latest estimate set by the REC.

Through May, year-to-date receipts grew by \$355 million, or 6.8 percent compared to actual FY 06. This is above the April 6 REC estimate of \$338 million, or 5.9 percent above FY 06. All major sources of General Fund revenue were up compared to FY 06 but sales and use tax receipts continue to lag.

Personal income tax was up \$212 million (8 percent), corporate income tax was up \$89.5 million (31 percent), other taxes were up \$14.8 million (5.2 percent) and other receipts were up \$17.2 million (5.5 percent). However, sales and use taxes were up a mere \$21.7 million, or 1.2 percent over FY 06.

Fiscal Services states that the two reasons for the strong growth in personal income tax is the lowering of the withholding tables (thereby increasing payments with tax returns) and capital gains due to the strong growth in

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the stock market. Sales and use tax receipts were up compared to April but are still behind the estimate of 1.3 percent above last year. Corporate profits continue to be strong and that has caused corporate income tax revenue to beat the estimate of a 26.4 percent increase by a substantial margin.

Thanks to the strong growth in May, it is now likely that the 5.9 percent increase projected by the REC will be exceeded by actual revenue. This is what the majority party is counting on in order to make their FY 09 budget work. However, it is unlikely that the estimate will be exceeded by a significant amount.

Year-to-date cigarette tax revenue increased by 136 percent compared to May, 2006. Since the tax was increased by 277 percent, even with a 20 percent reduction in sales the growth (the estimate used by Fiscal Services), the revenue should have been almost twice what actually was brought in. Unless the tax brings in \$24 million in the month of June, the cigarette tax will not meet the estimate of \$122.2 million set by the REC after the tax was increased.

New Regent Admission Standards Approved

A 2005 House initiative is bearing fruit. This week the Administrative Rules Review Committee (ARRC) blessed the Board of Regents' new admission standards.

In the 2005 session, legislation asked the Board of Regents to review their 50-year old admission standard, which said that any Iowa high school graduate in the top half of the class is automatically accepted.

This old standard ignored differences in school districts' grading systems. More importantly it acted as a disincentive for juniors and seniors to take hard courses.

The 2008-2009 undergraduate applicants will be subject to the new standard with balances four factors. The new Regents Admission Index (RAI) is as follows:

$RAI = (2 \times \text{ACT composite score}) + (1 \times \text{high school rank expressed as a percentile}) + (20 \times \text{high school grade point average}) + (5 \times \text{number of high school courses completed in the core subject areas})$

An applicant with a total score of 245 or more gains admission.

The universities continue their policy of a case-by-case review of those students not meeting the 245 cut score. Admission for nontraditional students, such as those returning to school after a 10-year absence, will be reviewed differently.

The board will review the new standard and its impact in 2009 and every two years thereafter.

New Death Penalty Study

Note: the following is an official copy of an article I received outlining a new study on the death penalty and a criticism of it. This is not intended to be an endorsement or refutation of this issue. I wanted you to see what I see on issues that may be a topic for future legislation.

Anti-death penalty forces have gained momentum in the past few years, with a moratorium in Illinois, court disputes over lethal injection in more than a half-dozen states and progress toward outright abolishment in New Jersey. Statewide polling consistently shows support for the death penalty in Iowa at around 60%. The steady drumbeat of DNA exonerations — pointing out flaws in the justice system — has weighed against capital punishment. The moral opposition is loud, too, echoed in Europe and the rest of the industrialized world, where all but a few countries banned executions years ago.

However, is a series of academic studies over the last half-dozen years that claim to settle a once hotly debated argument — whether the death penalty acts as a deterrent to murder. The analyses say yes. They count between three and 18 lives that would be saved by the execution of each convicted killer. The reports have horrified death penalty opponents and several scientists, who vigorously question the data and its implications.

So far, the studies have had little impact on public policy. New Jersey's commission on the death penalty this year dismissed the body of knowledge on deterrence as "inconclusive."

But the ferocious argument in academic circles could eventually spread to a wider audience, as it has in the past.

"Science does really draw a conclusion. It did. There is no question about it," said Naci Mocan, an economics professor at the University of Colorado at Denver. "The conclusion is there is a deterrent effect."

A 2003 study he co-authored, and a 2006 study that re-examined the data, found that each execution results in five fewer homicides, and commuting a death sentence means five more homicides. "The results are robust, they don't really go away," he said. "I oppose the death penalty. But my results show that the death penalty (deters) — what am I going to do, hide them?"

Statistical studies like his are among a dozen papers since 2001 that capital punishment has deterrent effects. They all explore the same basic theory — if the cost of something (be it the purchase of an apple or the act of killing someone) becomes too high, people will change their behavior (forgo apples or shy from murder).

To explore the question, they look at executions and homicides, by year and by state or county, trying to tease out the impact of the death penalty on homicides by accounting for other factors, such as unemployment data and per capita income, the probabilities of arrest and conviction, and more.

Among the conclusions:

Each execution deters an average of 18 murders, according to a 2003 nationwide study by professors at Emory University. (Other studies have estimated the deterred murders per execution at three, five and 14.)

The Illinois moratorium on executions in 2000 led to 150 additional homicides over the four years following, according to a 2006 study by professors at the University of Houston.

Speeding up executions would strengthen the deterrent effect. For every 2.75 years cut from time spent on death row, one murder would be prevented, according to a 2004 study by an Emory University professor.

In 2005, there were 16,692 cases of murder and non-negligent manslaughter nationally. There were 60 executions.

The studies' conclusions drew a philosophical response from a well-known liberal law professor, the University of Chicago's Cass Sunstein. A critic of the death penalty, in 2005 he co-authored a paper titled "Is capital punishment morally required?"

"If it's the case that executing murderers prevents the execution of innocents by murderers, then the moral evaluation is not simple," he told The Associated Press. "Abolitionists or others, like me, who are skeptical about the death penalty haven't given adequate consideration to the possibility that innocent life is saved by the death penalty." Sunstein said that moral questions aside, the data needs more study.

Critics of the findings have been vociferous.

Some claim that the pro-deterrent studies made profound mistakes in their methodology, so their results are untrustworthy. Another critic argues that the studies wrongly count all homicides, rather than just those homicides where a conviction could bring the death penalty. And several argue that there are simply too few executions each year in the United States to make a judgment.

"We just don't have enough data to say anything," said Justin Wolfers, an economist at the Wharton School of Business who last year co-authored a sweeping critique of several studies, and said they were "flimsy" and appeared in "second-tier journals".

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“This isn’t left vs. right. This is a nerdy statistician saying it’s too hard to tell,” Wolfers said. “Within the advocacy community and legal scholars who are not as statistically adept, they will tell you it’s still an open question. Among the small number of economists at leading universities whose bread and butter is statistical analysis, the argument is finished.”

Several authors of the pro-deterrent reports said they welcome criticism in the interests of science, but said their work is being attacked by opponents of capital punishment for their findings, not their flaws.

“Instead of people sitting down and saying ‘let’s see what the data shows’, it’s people sitting down and saying ‘let’s show this is wrong,’” said Paul Rubin, an economist and co-author of an Emory University study. “Some scientists are out seeking the truth, and some of them have a position they would like to defend.”

The latest arguments replay a 1970s debate that had an impact far beyond academic circles.

Then, economist Isaac Ehrlich had also concluded that executions deterred future crimes. His 1975 report was the subject of mainstream news articles and public debate, and was cited in papers before the U.S. Supreme Court arguing for a reversal of the court’s 1972 suspension of executions. (The court, in 1976, reinstated the death penalty.)

Ultimately, a panel was set up by the National Academy of Sciences which decided that Ehrlich’s conclusions were flawed. But the new pro-deterrent studies haven’t gotten that kind of scrutiny.

At least not yet. The academic debate, and the larger national argument about the death penalty itself — with questions about racial and economic disparities in its implementation — shows no signs of fading away.

Steven Shavell, a professor of law and economics at Harvard Law School and co-editor-in-chief of the *American Law and Economics Review*, said in an e-mail exchange that his journal intends to publish several articles on the statistical studies on deterrence in an upcoming issue.

Source: Associated Press

Tax Notes

Iowa Individual Income Tax e-File

Iowa Individual Income Tax eFiling Statistics June 1, 2007	
eFile/refund returns	687,828
eFile/pay returns	263,223
TeleFile/refund returns	4,085
TeleFile/pay returns	3,003
Total Electronic Returns	958,139
Number of Refunds Issued	817,336
Total Refund Amount	\$353,538,152.63
Average Refund	\$432.55

Source: Iowa Department of Revenue

For tax year 2005, 66 percent of individual income tax returns were filed electronically. Ninety-six percent of e-filers had their refunds in 14 days. Eighty-six percent of refunds from paper-filed returns were issued in 60 days.

Federal News

Following months of political wrangling, President Bush signed the Small Business and Work Opportunity Tax Act of 2007 on May 25. The legislation passed the House by a 280-142 vote on May 24, 2007, followed the same day by Senate approval by an 80-14 margin.

The new tax law targets nearly \$5 billion in tax incentives principally to small businesses but also to some larger ones. It also includes tax incentives to help taxpayers recovering from Hurricane Katrina, as well as an important package of S corporation reforms. However, unlike past tax bills, the revenue raisers that mean more taxes for certain taxpayers are significantly fewer in number; although one - an expansion of the kiddie tax to apply to children who are 18 years old or who are full-time students up to age 24 - will impact millions of families.

The major provisions in the most recent tax law designed to assist small business include:

Work Opportunity Tax Credit (WOTC): The new law extends the WOTC for three and-a-half years through September 30, 2011. It also expands the WOTC to allow credit to employers who hire disabled veterans and individuals in counties that have suffered.

Small Business Expensing: The new law extends and expands the Section 179 enhanced expensing provisions through 2010. It provides for an immediate 2007 increase in the expensing limit from \$112,000 to \$125,000, with the phase-out level increasing from \$450,000 to \$500,000.

FICA Tip Credit: In a move to help many small businesses offset the costs of dealing with the higher minimum wage required in the new law, the tax portion allows employers to receive full tip credit despite the increase in the federal minimum wage. The tip credit will be based on a minimum wage of \$5.15 per hour rather than the new minimum wage, which will reach \$7.25 over the next two years. Even though the minimum wage has increased, the amount of the tip credit will not be reduced. The provision applies with respect to tips received for services performed after December 21, 2006.

Family Business Tax Simplification: Under the new law, a married couple that operates a joint venture and who files a joint return can elect not to be treated as a partnership for federal tax purposes. This treatment is available for tax years beginning after December 31, 2006. Each spouse would take into account his or her share of income, gain, loss, and other items as a sole proprietor. They would not have to file a partnership return (Form 1065) and report two Schedule K-1s. Instead, couples would each report their share of income on Form 1040, Schedule C.

S Corp Package: Several modifications to the S corporation rules that will help small businesses keep the tax benefits of being an S Corporation. The legislation's Subchapter S provisions would facilitate the use of S corps by closing some of the traps that could trigger termination of S corp status and by reducing the taxes owed by the shareholders of an S corp.

Revenue "Enhancements"

Not all provisions in the new law are pro-taxpayer. Some provisions have been inserted to offset the cost of the pro-taxpayer provisions, pursuant to Congressional rules. The more significant offsets, all of which are estimated to raise almost \$5 billion over ten years, include:

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Raising those subject to the “kiddie tax.” The new law raises the age from under-18 to under-19 (under-24 if a student) at which a child’s unearned income in excess of \$1700 is taxed at the parent’s rate.

- Interest suspension. The new law doubles the time - from 18 months to 36 months - the time that the IRS has before it must stop charging interest and filing related penalties if it fails to notify the taxpayer about a tax deficiency.
- Collection Due Process (CDP) hearings. The new law eliminates the requirement that the IRS hold a collection due process hearing before issuing a levy on delinquent employment taxes. Post-levy hearings remain an option.
- Bad checks. The \$750 threshold for bad check penalties is increased to \$1,250 and the \$15 fee is increased to \$25 for bounced checks payable to the IRS.
- Preparer penalties. The new law expands preparer penalties to all types of tax returns (e.g., employment, excise, exempt organizations, estate and gift tax). It also raises the amounts of the penalties.

ned me,” Kaufmann said.