

Representative Jeff Kaufmann

March Electronic Newsletter



Hello 79th District:

Here is the second installment of the March Electronic Newsletter. It has been an incredibly busy month and now with a little more than 3 weeks to go in the session there are some hectic days to go. As usual if you have a question, concern, or opinion, do not hesitate to contact me.

Jeff Kaufmann

Revenue Estimating Conference to Meet April 4th, Majority Party Looking to Spend Additional Revenue

In an exchange on the House floor this week, Representative McCarthy said the majority party had a balance sheet but would not be sharing it because it would “be meaningless”. This is because the majority party is waiting until after the Revenue Estimating Conference (REC) meets on April 4 to decide if they should scoop any additional revenue that is forecasted.

The REC consists of Charlie Krogmeier (Department of Management Director, Governor’s designee), Dennis Prouty (Legislative Services Agency Director, Legislature’s designee), and David Underwood (retired CFO and Treasurer, AADG, Inc. in Mason City, designee of the other two members).

The REC is responsible for setting the revenue estimate to be used by the Governor and the Legislature when formulating the budget. According to Chapter 8.22A of the Iowa Code:

- By December 15 of each fiscal year the conference shall agree to a revenue estimate for the fiscal year beginning the following July 1. That estimate shall be used by the governor in the preparation of the budget message and by the general assembly in the budget process.
- If the conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount agreed to by December 15, the governor and the general assembly shall continue to use the initial estimate in the budget process for that year.
- However, if the conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount, the governor and the general assembly shall use the lesser amount in the budget process for that fiscal year.

The REC gross revenue estimate for FY 08 is 6.9 percent and the estimate for FY 09 is 2.7 percent. Although there are some ominous economic signs on the horizon, year-to-date revenue growth is running at 11 percent above FY 07. Therefore, while the REC might stay at 2.7 percent for FY 09 (or go lower), it will be more than made up for by the expected increase for FY 08.

If, for instance, the REC were to increase the FY 08 estimate to 7.9 percent, it would increase available revenue by \$60 million provided they do not increase the estimate for tax refunds. That would allow the REC to lower the estimate for FY 09 to 1.8 percent. This is because 1.8 percent growth on the higher base of 7.9 percent will actually generate just as much revenue as 2.7 percent on a 6.9 percent base.

Since Krogmeier will likely push for the higher estimate for FY 08, he will likely have to agree to lower the FY 09 estimate in order to address Underwood's concerns about the future of the economy? Conversely, with revenue running above 11 percent, it will be difficult for Underwood to argue that the FY 08 estimate should not be revised upward.

Under this scenario, the majority party would *not* have to notwithstand the expenditure limitation law (as outlined above) because they would simply be increasing the amount of supplemental appropriations and like last year, allow the money to be carried forward into FY 09. Considering they approved \$50 million of supplemental spending in FY 07 which was carried forward into FY 08, this would be one way to increase spending without having to notwithstand the expenditure limitation law.

Despite these additional funds however, the majority party will need one-time proceeds from another round of tobacco securitization (\$103.3 million) and shift up to \$90 million of general fund spending into the Rebuild Iowa Infrastructure Fund (RIIF) in order to finance the excessive spending approved last year. This level of spending (approaching \$1 billion over two years) is simply not sustainable.

Bottle Bill Amendment

On Wednesday, March 26, 2008, the House passed House File 2570 by a unanimous 96-aye vote. HF 2570 creates a designation of Environmental Management System which encourages solid waste management agencies to develop and use responsible environmental management and provides for financial incentives for such action.

One for the amendments adopted to the bill, H-8202 as amended by H-8258, added language establishing a "comprehensive recycling planning task force" to examine the state's current beverage container law and program and potential alternatives and how the beverage container law affects the larger, collective state recycling effort. The amendment's language would create a 25 voting member task force of interested and affected parties. The task force is charged to complete its duties by January 1, 2009, but may dissolve itself at an earlier date if it finishes its work before this date. The enumerated voting members of this task force are:

- One member selected by the Iowa Recycling Association.
- One member selected by the Iowa Society of Solid Waste Operations.
- Three members selected by the Iowa Society of Solid Waste operations representing solid waste planning areas of various sizes and from different areas of the state.
- One member selected by the Iowa League of Cities.
- One member selected by the Solid Waste Association of North America representing private solid waste disposal entities.
- The Director of the Department of Natural Resources, or the Director's designee
- One member of the Iowa Environmental Council.
- One member selected by the League of Women Voters of Iowa.
- One member selected by the Iowa Wholesale Beer Distributors Association.
- One member selected by the Iowa Beverage Association representing juice and soft drink distributors.
- One member selected by the Iowa Bottle Bill Coalition representing independent redemption centers.
- One member selected by the Iowa Association of Counties.
- One member selected by the Iowa Farm Bureau Federation.
- One member selected by the Association of Business and Industry.
- One member selected by the Home Builders Association of Iowa
- The Director of the Alcoholic Beverages Division of the Department of Commerce, or the Director's designee.
- One member selected by the Keep Iowa Beautiful.
- One member selected by the Iowa Grocery Industry Association.
- One member selected by the Iowa Dairy Foods Association.

- One member selected by the Petroleum Marketers and Convenience Stores of Iowa.
- One member selected by the Iowa retail Federation.
- One member selected by the Iowa Wine Growers Association.
- The Director of the Iowa Department of Transportation, or the Director's designee.

Inclusion of this language probably means that the stand-alone beverage container deposit expansion legislation, House File 2537, will die in the second funnel. However, inclusion of this task force language may create a vehicle to reattach beverage container deposit language should majority parties reconsider their termination of the Governor's proposal to expand the bottle bill coverage and increase of the handling charge.

Health Care Reform Keeps Moving

Last week, the Senate Appropriations Committee passed House File 2539 on to the floor of the Senate for future debate. In passing the bill, the Senate proposed major changes that dramatically shift the tenor of the bill and the future of health care in Iowa.

One of the central principles that guided the bipartisan work of Republicans and Democrats in the House was any changes had to be doable and sustainable. Senators apparently did not feel bound by that guiding principle as they enacted a series of mandates on Iowans.

The Senate Appropriations amendment to the bill would require all children in Iowa to have health care coverage by January 1, 2011. The Senate amendment also expands HAWK-I eligibility to 300% of the Federal Poverty level (about \$60,000 for a family of four) on July 1, 2009. Finally, the amendment creates a new health care program – Iowa Choice – that would offer unsubsidized health care plans to children whose families make over 300% of poverty and to families who earn less than 400%.

In order to make this happen, the Senate amendment includes a multi-year appropriation to HAWK-I. The increased funding starts with \$4.8 million in FY 09 and builds to an additional \$24.8 million in FY 2011.

Electronic Health Records language also is significantly revised in the Senate amendment. Instead of focusing on building a system that would work in a variety of health care settings, the amendment focuses solely on the development of an information backbone system for hospitals.

While House File 2539 tries to limit the creation of additional boards and commissions, the Senate amendment is full of new state-sanctioned groups. Among these would be the creation of an Office of Health Care Quality, Cost Containment and Consumer Information and a Bureau of Health Care Access. The amendment also provides additional staff and funding for the Department of Public Health to implement many of the new health initiatives. The total amount of new dollars for DPH would be \$1.3 million under the amendment.

The amendment strikes language directing DHS and the Iowa Medicaid Enterprise to seek federal waivers to implement chronic disease prevention and management efforts in the Medicaid and IowaCare programs. It also requires nonprofit hospitals to report annual compensation for officers, directors, trustees, and other highly-paid employees.

The Senate is expected to debate House File 2539 and the amendment next week.

How Much Insurance Do You Carry?

A bill on the house calendar seeks to put in place a process where an individual can request information about another individual's insurance coverage. HF 2583 allows a "claimant" or their representative, most likely a trial attorney, to make a written request for insurance policy information. When a written request is received by an insurance provider, they would have to pass on this insurance information within 30 days. This would include both the extent and type of coverage an individual has as well as the limits on those policies.

There are a number of concerns about this bill: from privacy issues, to "shopping" for worthwhile lawsuits, to the increased burden on insurance claims departments. The bill would apply in various situations, not just in your average vehicular fender bender. A claimant could request information about your business's coverage or the amount of malpractice insurance a professional carries.

The disclosed motivation behind the bill was to make the process of bringing a law suit or choosing NOT to file a lawsuit, more manageable. When this information is available prior to filing an individual claimant and their attorney can make better decisions about how to proceed with the subsequent lawsuit. However, insurance policy information, including the limits and extent of coverage are part of the initial fact finding that occurs between parties once a lawsuit is filed. Essentially this bill abrogates that process and requires policy information to be given to one party before a suit is brought.

It's important to note that this bill does not change the evidentiary rules regarding insurance information in a trial. The Iowa rules of evidence prohibit attorneys from discussing insurance dollar amounts in court when assessing the final damages awarded in a case. Liability coverage also cannot be discussed as a way of showing intent to act in a certain way. This restriction remains unchanged by the contents of this bill.

Several amendments have been filed on the bill, including an amendment that requires that the claimant make a good faith showing of the factual circumstances that they believe give them a reason to file a claim. The bill has been on and off the debate calendar in the House, so it remains to be seen whether this issue will come up for discussion in the House.

Full House to Consider Bill Relating to the Sale of American Flags

HF 2559 prohibits a person from selling or offering for sale at retail in this state on or after January 1, 2009 any of the following flags not manufactured in the United States:

- United States Flag
- State Flag of Iowa
- Flag representing or commemorating United States soldier characterized as missing in action or POW

The bill defines flag to mean a piece of woven cloth or other material designed to be flown for purposes of public display from a pole or mast.

The restriction does not apply to representations or depictions of a flag not meeting the definition of a flag which are affixed or attached to physical objects, works of art or memorabilia.

A person violating this section shall be guilty of a simple misdemeanor. Each sale made in violation of this section constitutes a separate offense.

In addition an amendment has been filed which would restrict beginning July 1, 2008 the state, a state agency, political subdivisions of the state, school district, area education agency, community college, an institution under the control of the state board of regents, other public entity, or a state, county, or municipal cemetery from purchasing any of the above mentioned flags from a manufacturer outside the United States.

Districts Must Have Ability To Make Decisions on Teachers

*By JACK L. HILL, president of the Iowa Association of School Boards
Des Moines Register article from March 25, 2008*

In Iowa, we claim some of the nation's - if not the world's - best teachers, who work together with their administration and school boards to improve student achievement in their districts. The Iowa Association of School Boards is passionate about ensuring these great teachers have the best conditions in which to teach for high student learning.

The Iowa Legislature has approved a bill that makes sweeping changes to the laws affecting public-employee collective bargaining and the hiring and termination of teachers. If signed into law, HF 2645 will significantly cripple school districts in their authority to improve student achievement in their districts, by, among other things, stripping them of their right to make decisions that affect the quality of teaching in their classrooms.

Under current law, local school boards and administration decide whether a teacher's competence or integrity is lacking and whether the employment contract should be terminated. The board's decision to terminate the contract can be appealed to an adjudicator, whose ruling can be appealed to district court.

This bill removes the ability to appeal that decision to district court. School board decisions, overturned by adjudicators, are regularly upheld by the courts. For example, the Iowa Supreme Court ruled in favor of the school board in *Sheldon Community School District v. Lundblad* despite its loss at the adjudicator level. The case involved a Sheldon teacher who berated and humiliated students. In response to a student who had written a paper on teen suicide, the teacher had suggested the student "try it" for extra credit. The teacher was repeatedly instructed to improve his behavior and was ordered to take classes to do so. When the behavior didn't improve, the board terminated the teacher.

In *Board of Directors of the Fairfield Community School District v. Justmann*, the board terminated a teacher's contract for engaging in a sexual relationship with a student. The board lost that decision at the adjudicator level but eventually won at the Iowa Supreme Court.

These cases show how important it is to allow a court to hear a teacher termination case. And, in each of these cases, the performance issue was one of misconduct, not competence. If adjudicators won't support a school board's decision to terminate a teacher who has sexual relations with a student or repeatedly bullies and intimidates his students, how will they rule when it's a competency issue?

In order to improve student achievement, research shows that the quality of the teaching force is paramount. Iowa has spent years and millions of dollars on professional development and mentoring programs to help teachers fine-tune their teaching and classroom management skills.

But, in the rare case when these programs don't work and a teacher just isn't making the grade, districts must have the flexibility to make the decision to terminate that teacher. That decision is never made lightly. Our children's education is too important to sentence them to a year with a bad teacher. We cannot afford to allow an outsider to make decisions which, granted, have a significant impact upon one teacher but have an even more significant impact upon the children in the classroom.

Please encourage the governor to veto HF 2645 in favor of future legislation that's thoughtfully and carefully crafted based on input from all parties affected by it.

Those who respect the collective bargaining process should be open to a collective process of changing the law - both the collective bargaining law and the teacher termination law. By leaving the school board voice out of this amendment and rushing this bill through the process, they are violating the very nature of the process they are claiming to improve.