

LEGISLATIVE update



PETROLEUM MARKETERS AND CONVENIENCE STORES OF IOWA

May 8, 2018

SINE DIE

On the 118th day of session, the Iowa Legislature declared the 2018 Regular Session of the 87th General Assembly adjourned sine die at 5:25 p.m., Saturday, May 5, 2018. *“Sine die” is Latin meaning to adjourn session for an indefinite period of time.*

PMCI MEMBERS CELEBRATE NUMEROUS SUCCESSES

PMCI members have much to celebrate this year, given the challenging budget forecast that lawmakers started with. After putting \$144 million on the state’s credit card last year to balance the FY 2017 budget, it appeared that there would be a lot of budget cuts on the agenda in 2018... including cuts to the renewable fuel promotional income tax credits. In December, revenue estimates for FY 2018 were \$7.238 billion. That number improved as the session moved along. Ultimately, lawmakers approved a state general fund budget of nearly \$7.5 billion for the state’s fiscal year beginning July 1, 2018. About \$110 million of that will go back into the state’s reserve fund to pay off that “credit card”.

SUCCESSSES

- ✓ Lawmakers did not require c-stores to carry DRAM insurance.
- ✓ Lawmakers did not increase tobacco taxes.
- ✓ Lawmakers did not scoop monies from the Iowa UST Cleanup Fund.
- ✓ Lawmakers did not eliminate retailers’ renewable fuel income tax credits.
- ✓ Lawmakers did fund the renewable fuel infrastructure program with \$3 million toward grants.
- ✓ Lawmakers did fund IDALS fuel quality testing program with \$750,000.
- ✓ Lawmakers did end the geothermal tax credits effective 1/1/2019.
- ✓ Lawmakers did protect retailers from persons using scanning devices at card payment processors.
- ✓ Lawmakers did protect PMCI’s Health Trust and insureds through amendments PMCI proposed.
- ✓ Lawmakers did adopt corporate tax cuts and individual tax cuts

DRAM LIABILITY INSURANCE NOT FORCED ONTO C-STORES

[Senate File 2169](#) was signed into law by the Governor without any additional requirements placed on c-stores licensed to sell alcohol. The legislation was pursued by restaurants and bars seeking a limit on their liability for damages resulting from an intoxicated person if the licensee sold or served alcohol to the intoxicated person. There were numerous attempts to require c-stores to carry dram insurance which would have added additional insurance expense and exposure for retailers selling alcohol. Over the past six years, restaurants and bars have attempted to change the law by requiring c-stores to also carry dram insurance. C-stores were brought up in every subcommittee and every conversation about dram insurance, leading lawmakers to conclude c-stores should be more regulated. Amendments were filed to require c-stores to purchase dram insurance before being issued a Class C beer permit and also to prohibit c-stores from selling cold beer. PMCI opposed the amendments and threat to c-stores.

TOBACCO TAX INCREASE AVOIDED

There was interest in increasing tobacco taxes to generate more state revenue early on and various interest groups were pursuing the tax increase for health reasons. This legislation did not move forward this year.

There continues to be a strong push for this by a large number of health and wellness advocates. We believe this issue will likely be reintroduced next year and aggressively pushed. Retailers near the border will be hurt by lower tax rates in other states should another tax increase be adopted in the future. Iowa's tax is \$1.36/20-pack. Tobacco tax rates in the states bordering Iowa are as follows: MO – \$0.17; NE - \$0.64; KS - \$1.29; SD - \$1.53; IL - \$1.98; WI \$2.52 and MN \$3.614.

IOWA UST FUND REMAINS FUNDED

The Iowa Comprehensive Petroleum Underground Storage Tank Fund was not tapped into by lawmakers. The state's goal, communicated by Governor Branstad in 2015, is to terminate the program, the fund, the board and eliminate the liabilities. The program was created in 1989 to provide financial assistance for the cleanup of pre-existing petroleum releases in order to comply with federal environmental regulations, to create a financial responsibility mechanism to pay for future releases and to provide loan financing for UST locations. The UST Fund Board has been working on a plan to terminate the program and the legislature has affirmed that work by allowing the Board to responsibly continue to close claims and eliminate liabilities.

RENEWABLE FUEL TAX CREDITS TO BE STUDIED

Legislation introduced last year would have eliminated renewable fuel income tax credits received by retailers meeting biofuel sales objectives or it would have dramatically altered the effectiveness of the credits by eliminating the refundability of the credits. Lawmakers discussed the credits for months and ultimately determined that a more thoughtful approach and study of the credits should occur before taking action. [Senate File 2417](#) includes a section authorizing a study committee to evaluate tax credits available under Iowa law, including Iowa's utilization of tax credits as a tool for promoting and supporting economic growth and development. The study committee shall also consider new or different tax credits or incentive programs, or tax rate or structure changes, that will foster economic growth and improve Iowa's overall tax and economic development climate. The committee shall meet during the 2019 legislative interim to make recommendations for consideration during the 2020 legislative session in a report submitted to the general assembly.

RENEWABLE FUELS INFRASTRUCTURE PROGRAM

[Senate File 2414](#) provided for \$3 million to be appropriated from the Rebuild Iowa Infrastructure Fund (RIIF) to continue funding the Renewable Fuels Infrastructure Program (RFIP) used for cost-share grant awards to help retailers with the costs of installing equipment compatible with renewable fuels.

FUEL QUALITY TESTING

[House File 2491](#) provided continued funding for the Iowa Department of Agriculture and Land Stewardship (IDALS) through a \$500,000 appropriation for the purpose of auditing motor fuel including biofuel processing and production plants, for screening and testing motor fuel, including renewable fuel, and for the inspection of motor fuel sold by dealers including retail dealers who sell and dispense motor fuel from motor fuel pumps. This \$500,000 is in addition to the \$250,000 the department receives for fuel quality inspections. (IDALS receives \$250,000 annually from the UST Fund for the sole and exclusive purpose of inspecting fuel quality at pipeline terminals and renewable fuel production facilities. This is a statutory allocation [Iowa Code 455G.3\(7\)\(a\)-\(b\)](#)

PROPANE APPLAUDS ELIMINATION OF GEOTHERMAL CREDITS

[Senate File 2417](#) includes an end to the tax credit for qualified geothermal heat pump property installations occurring on or after January 1, 2019. The tax credit was equal to 20% of the federal residential energy efficient property tax credit allowed for geothermal heat pumps for residential property and it could be carried forward for ten years or until depleted. This was an important competitive issue for PMCI's propane marketers. In the final day of session, both the House and Senate floor managers of

their respective tax reform bills “double-barreled” their strike and replace amendments so that all other amendments would be ruled out of order. It is a masterful move to ensure that the version presented by the floor manager is controlled without changes. Each amendment was identical and replaced all 150 pages of the original legislation up for consideration.

PENALTIES INCREASED FOR SKIMMING DEVICE CRIMES

[House File 2199](#) was signed into law by the Governor and modifies the penalties and offenses a person is subject to if possessing or directly or indirectly using a scanning device to capture payment card information. Class D felony punishable by no more than five years in prison and no more than \$7,500 in fines is result of this legislation. If possessing the device, the crime is considered aggravated misdemeanor punishable by no more than two years in prison and no more than \$6,250 in fines. This continues to be a threat to consumers and retailers. PMCI is working with a security consultant to develop training opportunities for retail employees to identify these devices.

PMCI’s HEALTH TRUST PROTECTED

Lawmakers adopted the so-called Farm Bureau/Wellmark health benefit legislation to avoid the federal Affordable Care Act health plan requirements and allow employers to band together to buy health insurance for their workers through “association health plans” called Multiple Employer Welfare Arrangements (MEWAs) via [Senate File 2349](#). The legislation allows companies an exemption from virtually all regulations, yet the PMCI Trust and existing insurance companies remain heavily regulated. The PMCI Trust, as a MEWA, must also maintain a surplus of cash well above the incurred but not reported claims.

Currently in Iowa, there are three MEWA’s registered with the state: PMCI Trust, Iowa Bankers Benefit Plan and the Cooperative Welfare Benefits Plan. All three of these are self-funded and therefore exempt from Iowa’s insurance premium tax, making the Trust an attractive insurance provider for PMCI’s members. In 1997, the legislature tightened up requirements on MEWA’s after some encountered financial problems and left policyholders with claims unpaid and without insurance. The new regulations made it virtually impossible to organize a new MEWA under Iowa law, for good reason. With the passage of SF 2349, groups will again be permitted to organize as MEWAs.

One of the last bills passed this session was [House File 2502](#). It contains much-needed language that will protect the PMCI Trust as a MEWA and possibly protect Iowans from falling victim to groups organizing for the sole purpose of offering health plans. The language also gives the PMCI Trust the option elect to reorganize as an association health plan if that would prove beneficial to insureds. We will be reaching out to the Governor to ask her support of this language.

Once the Governor signs legislation into law, the rulemaking process begins to implement the law. In this case, the Iowa Insurance Division will likely submit draft rules to the legislature’s Administrative Rules Review Committee for formal public comment once SF 2349 becomes effective on July 1, 2018. Rule-making related to Iowa Code section 513D.1, which relates to possible future changes by the U.S. Department of Labor (DOL) will be considered following final rulemaking changes by DOL.

TAX REFORM

We reported a deal on tax reform was cut two weeks ago; however, the details took some time to work out. [Senate File 2417](#) is the 150-page tax reform result of negotiations. It includes corporate income tax changes. It couples with some federal law tax changes but it does not couple with bonus depreciation. In 2021, the ability to deduct federal income taxes paid is completely eliminated, the alternative minimum tax is eliminated and the rates are reduced as follows:

- The first \$100,000 is taxed at 5.5%
- The next \$150,000 is taxed at 9.0%
- Income above \$250,000 is taxed at 9.8%

There were several other programs financed through tax credits that changed.

Changes for individual income tax include some coupling with federal tax law for tax year 2018. The rates go down some for 2019 and beyond. The top tax rate is lowered slightly but all the brackets were kept in place. In 2023, the individual income tax code changes more substantially if the general fund meets its targets.

The Section 179 cap for expensing increased from \$25,000 to \$70,000 and investment limits from \$200,000 to \$280,000. Shareholders and partners can now depreciate expensing received from pass-through that exceeds the Iowa cap. Each year, the limits for these continue to increase. In 2020, Iowa will fully couple with the federal tax law on section 179, which is \$1 million and \$2.5 million. Like-kind exchanges (1031) are repealed for all but real property.

There is a new deduction for the federal qualified business income (QBI) beginning in tax year 2019.

- TY 2019 and TY 2020 — Allow 25% of the federal QBI deduction from Iowa taxable income
- TY 2021 — Allow 50% of the federal qualified business income deduction from Iowa taxable income
- TY 2022 — Allow 75% of the federal qualified business income deduction from Iowa taxable income
- TY 2023 - Allow 100% of the federal qualified business income deduction from Iowa taxable income. Because the starting point would be federal taxable income. (If triggered, but not likely)

Finally, the bill reformed Iowa sales and use tax law, focusing primarily on digital goods, ride sharing, subscriptions, online sales, narrow definition of manufacturing and online travel company websites.

View the enrolled bill [Senate File 2417](#). You can find the Legislative Services Agency (LSA) [fiscal analysis here](#).

FRIDAY, MAY 11 LEGISLATIVE WRAP-UP CALL

Please join us Friday at 8:00 a.m. as Dawn Carlson, PMCI President/CEO and Kellie Paschke/Troy Skinner, PMCI Lobbyists, update us on the legislative highlights of this session. [RSVP](#) to receive connection details.

ELECTIONS THIS FALL – INVEST IN THE PMCI PAC

PAC Contributions are an investment in your business. One of the important ways that we can help you invest in your business is to support candidates willing to hear your voice, understand your business and ask how their decisions might impact you. PMCI is hosting a fun social event to raise PAC monies. SUMMERFEST will be held July 26-27 at Prairie Meadows Resort & Casino. Enjoy an evening of dinner and drinks, Live Horse Racing, and Casino Night. The following day choose from championship golf at The Legacy Golf Club featuring a shotgun start at 9am complete with pin prizes, food and drinks or spend a day at day at Adventureland, enjoying rides, games, and waterpark. Day Passes Available to PMCI members. If you cannot personally attend, there are sponsorship opportunities to support the PAC. This is a great opportunity to network and have fun in a relaxed setting. Plus - all proceeds go to PMCI's Industry Leading Advocacy Efforts through the PMCI PAC which helps drive success for all members!