

UTILITY REPLACEMENT TAX TASK FORCE MEETING

MINUTES August 21, 2014

The Utility Replacement Tax Task Force met at 11:00 a.m. on August 21, 2014 in Room 7 on the A Level of the Hoover state office building, Des Moines, Iowa. The meeting concluded at 12:00 p.m. A quorum was present.

COURTNEY KAY-DECKER (CKD): Thank you for all coming today to our meeting of the Utility Replacement Tax Task Force. I'm Courtney Kay-Decker, Director of Revenue and I have with me Dave Roederer, Director of the Department of Management and co-chair and we are going to go around start off with by introducing everyone on who's here. If you state your name for the record and who you represent that would be great. There will be a signup sheet coming around. Just so we have a good record of the meeting, because we have a lot of stuff to discuss. We are recording it and we have our transcriptionist here as well to take minutes for us.

Victoria Daniels, Iowa Department of Revenue, Legislative Liaison

Donn Stanley, Iowa Attorney General's Office.

JJ Severson, Attorney with the Department of Revenue

Roland Simmons, Department of Revenue - Property Tax Section

Julie Roisen, Department of Revenue - Property Tax

Alan Kemp, Executive Director of the Iowa League of Cities

Carrie Johnson, Department of Management, Local Government

Julie Smith, Iowa Association of Municipal Utilities

Tim Coonan, Iowa Association of Electric Cooperatives

Bill Peterson, Iowa State Association of Counties

Steve Evans, MidAmerican Energy representing Investor-owned Utilities

Christina Downing, Iowa Department of Revenue

Jon Wolfe, Assisting the Director of the Iowa Department of Revenue

Monte Shaw, Iowa Renewable Fuels Association

Erin Mullenix, Iowa League of Cities

Ray Chiquette, representing the EGP

J.D. Davis, MidAmerican Energy

Terry Harrmann, Alliant Energy

Mark Douglas, Iowa Utility Association

Dick Stradley, The Stradley Group
Bill Hanigan, Davis Brown Law Firm
Walter Wendland, Homeland Energy Solutions
Tom Stanberry, Davis Brown Law Firm
Brian Cahill, Southwest Iowa Renewable Energy
Gary Grotjohn, Little Sioux Corn Processors
Jace Mikels, Senate Democratic Caucus Staff
Brent Mackie, Iowa Renewable Fuels Association
Bob Malloy, Representing Corn LP
Matt Caswell, AGP
Mike Rubino (phone), John Deere

CKD: So then our next item on the Agenda is approval of the minutes from our March 12th meeting. Any Task Force members have questions or comments with regard to those minutes. Hopefully you had an opportunity to review them. And your emails from earlier this week. I would take a Motion to Approve the Minutes. I'll Move-Tim Coonan; 2nd-Bill Peterson-; All in favor- Aye? (Aye) Anyone oppose?-None

CKD: All right let's move onto the business of the day. Mr. Wendland, you have a presentation for us. My hope is that perhaps you take 15 minutes or so for your presentation and then if there's any questions or comments.

WALTER WENDLAND (WW), President and CEO of Homeland Energy Solutions, an Ethanol Plant located in Northeast Iowa. We are a large stakeholder in the Iowa Replacement Tax and I would like to address the tax inequities of this tax. Those inequities can affect the jobs of our employees. The markets for our area farmers and our local shareholders. And we would like to see some attention paid to correcting the tax that has become inequitable to the ethanol industry. And I want to make it clear that we are only talking about the replacement tax for natural gas. And no impact on electricity or water. The thing is I was also founder and CEO for Golden Grain Energy in Mason City since 2002, so I actually have been able to be on both sides of this issue. We negotiated an agreement with Alliant Energy and to provide gas services to that facility and we have paid no replacement tax since the plant started up in 2004. In 2008 when my services were shared with Homeland Energy Solutions, I became acquainted with that facility and at that time they did not have any utility that was willing to bring natural gas service to their facility and so a lot of people would like to say that we chose to bypass. They had no choice but to put in the line all by themselves. And we located it in an area that where we

had an REC that doesn't participate in any natural gas, so we didn't get the same relationship that we had with Alliant that can provide electricity and natural gas and be able to use that natural gas as an economic incentive. We paid full price to put the pipeline, plus then we paid approximately \$250,000-\$300,000 a year in replacement tax on top of the 4 million dollars we had to pay to put the pipeline in, so we think that we are not being unreasonable when we ask that...It's our understanding according to the minutes of the letter that was sent to [Senator] Amanda Ragan that when this bill was originally presented as an alternative to deregulation and being able to keep it fair for in-state and out-of-state companies due to deregulation that the intent of the law was keep it revenue neutral to let the property tax burden would be on those assets. And that seems to not be the way that this has gone lately and we think that we have ways that we could fix the inequities, but we would be also open to the committee's suggestion on how these inequities may be approached. So the ethanol industry has its ups and downs and these inequities, this tax can change from year to year where for the utilities it's more stable. So if we could pay a property tax rate, then there would be a more stable type of income for the utilities and for the ethanol plant as well, so I think that like I say that I am thankful that I can be represented on the committee. Our ethanol industry--we have about 16 plants out of the 43 plants in Iowa that pay a replacement tax and that's caused great disparity and the equities of the tax equities in each of these plants, so when you have about half of them that pay and half of them that don't, it puts us at a competitive disadvantage to a lot of the other industries in the ethanol business. And that's why we are kind of here to address and talk about. So are there any questions? I don't have a whole lot of comments other than...I think everybody's aware of the situation that has happened in the ethanol industry. We basically was developed after this tax was put into place and seemed to be the only taxpayers for this replacement tax, but the heart of the problem seems to be that the bill was designed to be revenue neutral with property tax and that neutrality doesn't seem to exist anymore. We need to try to figure out a fix.

CKD: Do you have any data on that you could share with us?

WW: We are willing to do...if the committee's willing to do to listen to our arguments we are willing to get assessors to assess the pipelines that were put in by the fifteen rate payers and be able to have...

CKD: Have they already been assessed in some way?

WW: Not to my knowledge. I called Chickasaw County Tax Assessor on the way down here today and they have no record of any assessment. And that's what I thought if I could see what the pipeline was assessed at then we

could have that comparison and you can see that the in-neutrality that has been created. It was supposed to exist in legislation.

ROLAND SIMMONS (RS): The pipeline that's associated with replacement tax would be based on the cost of the pipeline installed, so the local assessor wouldn't have an assessed value on it because that pipeline would be a part of the replacement tax. And that's the value that you are paying 3 cents per \$1,000 on; that pipe that you install.

WW: The pipeline to go to Homeland cost four million dollars.

RS: And your property taxes associated with that pipeline were 3 cents per \$1,000.

WW: So we are paying property tax and replacement tax?

RS: For the pipeline that's associated with that, yes you are paying 3 cents per \$1,000 of property tax.

RS: That's if everyone else bypassed.

WW: The rate that we pay is considerably higher than the rate the utilities pay with their bypass situation also. And there's inequity in that as well.

CKD: Do you have documentation to that effect? We like numbers.

WW: Mmm hmm...

CKD: Does anyone have any documentation on that?

WW: The inequities between what the ethanol plants pay versus the utility plants for natural gas.

BILL HANIGAN (BH): The utility customers.... There's an expert witness report that's in the litigation, so again we can provide that. Which defines how the amount of replacement tax paid by the customers of the not bypassed pipelines. And that would be customers of all the RECs, so yes.

CKD: And I think that it's worthwhile, thank you for raising that, to note for purposes of the Task Force and for the record that the State is in litigation with respect to this precise issue. Or this is one of many issues, but the discussion of certain constitutionality issues, and Donn can certainly explain better, is the subject of litigation at the moment. So that makes certain discussions more difficult, at least with the Department of Revenue, because we're a party to that lawsuit, so I think information gathering is very helpful, and the more information that you can share with this Task Force is helpful, but at least from my perspective, I'm not interested in having a discussion of something that's being currently litigated in court and is before the Iowa Supreme Court in a briefing stage at this point. So I guess that is all I want to make sure that everyone in the room was aware that that was going on. Yes Bill?

BILL PETERSEN (BP): May I ask a question?

CKD: Absolutely.

BP: Okay, the replacement tax system process eliminated the property tax system, that works traditionally for other types of property, for utilities and associated things related to electricity and natural gas. So are you saying that your enterprise was paying both a replacement tax and a property tax? Because the utilities would only pay a replacement tax, which replaces the property taxes that they would have paid under the old system where either the Department of Revenue or the county assessor or city assessor, so applicable, would have gone out and put an assessment value on that property, against which a tax rate determined by the local taxing entity, would have been applied towards that value. So I guess my question is, are you saying that you are paying both a traditional property tax and a replacement tax or are you paying one or the other?

WW: We are paying some kind of property tax according to this year's statement.

RS: The statewide property tax amount, which is part of this whole overall replacement tax system.

CKD: But that's not the same as the local property tax and I think Bill's question is are you paying a local property tax on top of the replacement tax and all of its components?

WW: We are paying a type of property tax and we are paying a replacement tax, but not a local property tax.

CKD: Can you tell me, though, that none of the counties have an assessment for you? So you are not paying the local property tax. And whatever property tax is being paid is a component of the replacement tax. Is that accurate?

WW: Yes.

CKD: Okay.

WW: The other point is that you made the comment that this replaced property tax for natural gas and it did not. There was a grandfather clause that kept many of...the majority of the users paying a property tax on their assets. Only new customers, which was primarily only the ethanol industry, since this went into effect they have been caught in this taxpayer inequity or in-neutrality. And it wasn't intended to be that way; the bill does not intend that there is an in-neutrality going forward with that bill.

CKD: Can someone who was here originally on the Tax Task Force explain what the neutrality standard is?

BP: Well Steve Evans could probably do that better than I could, but from a tax collector's standpoint what neutrality meant was that at the time the replacement tax system was adopted that we tried to have an equivalent amount of revenue over an average of several years be the benchmark. It didn't mean...to me, it didn't mean that that was the point we were going to be stuck at going forward and I think that the statistics would show that the... there has been growth in the replacement tax over the years within specific windows that are calculated, but Steve is really the expert on this. The details...he could probably give you a better explanation of that.

STEVE EVANS (SE): I don't know, Bill...I think that you have summarized it quite well. The counties, cities and schools were used to receiving funds at a certain level from these large taxpayers and the legislation was designed to make sure those funds are still coming in and probably with some small growth over time and that's what you witnessed whether you were a city or school or county--you received increased taxes, not markedly so, but the energy use hasn't really grown in anything more than 1-3 percent a year and that's pretty much as predicted. You're getting more money than you used to be and you should be, but it was an intent, as much as

possible mathematically, to preserve the revenues for the local governments and schools. And it seems to have done some good.

CKD: Now are you talking about the same type of neutrality or do you have some...

WW: Since the bill was called a replacement tax to property tax, you know, the assumption would be that that neutrality would always exist between the property tax and the tax you are trying to raise in the surtax/surcharge.

SE: Well, I think you're misunderstanding the term "replacement," in my view. Because to me, "replacement" meant that we replaced the traditional assessment system that generally applies to tax...things that our property tax is applied to, which is assessed valuation and taxable valuation; we replaced it with a system that tax based upon different components; what, transmission, distribution, and generation? Those are the key factors in the system that replaced the old traditional property tax system. So I guess my question is: are you asking to go back and be taxed under the old assessment model? Is that what...I'm not clear what you are asking...

WW: Legislation that we proposed in the last session did exactly that. We want to pay either...you know, this was brought into place because of the anticipated deregulation of utilities in the state of Iowa. How many people sitting around the room think that we're going to see deregulation of utilities in Iowa? Raise your hands.

SE: Well, yeah, right it was one of the factors that....I think there were two factors. First of all, if you took a look at the tax revenues generated under the old approach with utilities, which I recall involved stock prices and debt and other things, it was a widely fluctuating system that was, you know, complained about both by the utilities and by the local governments because it did not provide a consistent system of taxation. So that was one aspect of it. Secondly, I think there were a whole series of litigation pieces between the Department of Revenue and probably local assessors and utility companies over what the taxes should be and would be, which was problematic, because I think there were times that we had multiple rebates that we have to get based upon the outcome of court decisions, but there was also an intent to, I think, you know, put Iowa utilities in a position to be competitive if there was general deregulation across the nation. And obviously that didn't turn out, but it was based upon the experience and observations, it has been a successful replacement tax from several...it addresses several of those problems in the system. I can't really address what your challenges are in the ethanol

industry, but I guess I'm unclear as to actually what tax impacts...because I don't really have any numbers or statistics in front of me, what the tax impacts are that seem inequitable to you?

WW: Well the fact that if we paid property taxes on the assessed value of our pipe, it would probably be somewhere between \$25,000 to \$50,000 per year. Instead of the \$250,000-\$300,000 we pay now. That's a huge inequity. Of what the intent of the replacement tax was supposed to be. And maybe I indicated if there's anybody here that thinks this would be in place today if deregulation wasn't contemplated I'd like to hear it. So we truly, I think, everybody understands the fact that this was an unintended consequence of a bill that was brought out about through the intent to deregulate the utility business that never happened and probably never will. And needs to be...we need to figure out a fix from the natural gas standpoint. Not from the utility standpoint. This is...seems to be only us that have been impacted by this and the way that we have been impacted. You'll put this at a competitive disadvantage to the rest of the industry. We are willing to work with the replacement tax whatever...

CKD: Could you provide some data as to why it provides the disadvantage?

WW: Golden Grain pays 0 cents replacement tax in Mason City and Homeland pays \$250,000.

SE: Could I point something out? The provider of that gas to Golden Grain, Alliant Energy, pays the full boat load of replacement tax. Every therm delivered in this state to an ultimate customer is taxed under this 437A section of the law and in the case of it's a local distribution company like Alliant providing to the other ethanol plant, Alliant is paying that tax and maybe it's a penny a therm, I don't know what it is, but it's something in that range. They're writing checks to the counties and everything because of that tax in the full amount. Now there's another piece of that and that's the regulatory setup. Whether that is included in full or the tariffs that are charged ultimately to the recipient of that gas; that's a matter not part of this code section; it's not a matter of the Task Force, but there is a tax paid regardless of who the party is. If there is a therm delivered within a competitive service area in the state of Iowa-- and they blanket Iowa-- then anybody delivering a therm of gas is required to pay the tax. If there is a party that's for other reasons not paying that tax, then the recipient, which must be the case of your other ethanol facility, pays the tax. But it doesn't matter who you are, if you're in that competitive service area there is a price of a penny a therm or whatever the decimals that you guys publish are, then that's exactly the tax that's going to be paid by anybody and everybody who's delivering a therm in that competitive service area. The difference I think... so there's not 0 tax in one place; there is a full tax, but it's not

necessarily a check written by the ethanol facility; it's check written by the local distribution company that brought that gas to that ethanol facility. The same tax is paid. And then you get into the matters of regulatory rate design and other things, which are beyond this group. I just wanted to clarify: if there's a therm in Iowa delivered, it's taxed.

CKD: Would you like to respond to that?

WW: I do not want to get down into the weeds about it to be honest with you. I never bothered...

CKD: What is get into the weeds?

WW: I have never found where replacement tax is being paid in Cerro Gordo County by Alliant Energy, so if I can find that, that would be helpful. And I say alls (sic) we are interested in doing is bringing the tax back to tax neutrality like it was designed to be and... or eliminate replacement tax. I know our industry and we want to work together with the legislative fix. I mean it's not something that this committee can fix or we can fix. But we need to work together to come up with a solution that's equitable and get this tax back to tax neutrality. Like it was intended to be in the first place. I do...I mean there was a concern about the legal aspect, so I need to kind of clarify that, you know, Homeland Energy is seeking a prospective legislative relief and I spoke at the Ways and Means Committee at the legislative session this spring about that relief. You know the refund case that's involving Little Sioux Corn Processors is about the refund historically paid, so there has been, you know, a big difference between what we are talking about now and the case that is about the historic taxes that are paid. So in my opinion I think that's to help understand that we can't have this conversation.

CKD: Does anyone else have any questions? Or yes go ahead...

MONTE SHAW (MS): Are we allowed to ask questions?

CKD: Absolutely, we're free-for-all here.

MS: All right well thank you.

CKD: And state your name for the record again so when there is something...

MS: Monte Shaw. Steve brought up a couple of interesting points and [unintelligible]. Since you are the experts, I guess I will direct it to you. Whoever knows the answer. It says every therm is taxed, but we know that the bill was initially enacted, any existing bypass customers at that time would receive an exemption...were “grandfathered” out of the system, so they’re not paying the tax on those therms? Or am I misunderstanding?

BP: No, that’s correct; there is grandfather clause. If there was a bypass customer, I think there were only 4 or 5. There were a handful in place on 12/31/1998. They were locally assessed; they remain locally assessed, so thank you that is a clarification of that...

MS: Another thing that I have been interested in, that I haven’t been able to dig into, that you said that a local service provider pays the tax and if there are bypass customers, a new one, they pay the tax. So every therm is taxed, but then you said however, it may not go to a tariff, that goes to a specific end-user like for example Golden Grain. And you mentioned that the regulatory rate structure goes is beyond this legislation and this committee. Okay I don’t know, but as you are in the industry then it’s certainly not beyond some legislation and some oversight by the state because somebody is regulating the tariffs and where would we look into that? Because it’s pretty interesting to me that Homeland has to pay this full rate of this replacement tax and Mason City’s ethanol plant may not necessarily. Now someone might be paying it, but it may not be the ethanol plant. I would like to dig. It seems to me that that right there raises some inequity questions.

BP: I might add that in the initial development of the legislation, and if you look at this, there was a provision. The Utilities Board and maybe customers were very much involved in trying to understand that and making sure the tax did not disturb ratemaking. And so when I say it may or may not...maybe the full therm is passed on and maybe it’s something else, I don’t know. That is part of the regulatory read out and that was fully considered. The Utilities Board weighed in heavily when this legislation was enacted and they actually had another task force which was set up to make sure there were not inequities or disturbances, I guess, whatever the legislative language is that addresses that with respect to regulation and so that remains in the purview of the Utilities Board. They weighed in on drafting the language heavily that exists today and they get represented here on this Task Force, as well, through large customers and other participants. That other Task Force I think had one or two meetings and it was determined it was not necessary at this time.

CKD: Any other questions from the crowd? Julie, looks like you have a question?

JULIE SMITH (JS): No.

DONN STANLEY (DS): At the last meeting we talked about the fact that the case from Little Sioux Corn Processors, with the Department of Revenue, challenging the replacement tax on a number of constitutional issues had just...there had just been a judicial review decision by the District Court and, as was expected, that decision was appealed to the Supreme Court. Little Sioux has submitted their first brief and the Department's response brief is due on Tuesday and then there'll be a reply brief filed in September. And then the Supreme Court will decide whether to retain the case or assign it to the Court of Appeals and probably set it for Oral Argument. And it's unclear whether there would be a Supreme Court Argument in this term, which was just starting in September and will end in April, it could get pushed to the next term based on how long other appeals will take. So after that we're probably looking at least 6 months from the Oral Argument until we get a decision. That's our expectation. Bill's [Hanigan] on the case so if he certainly has a different take on it, but rather than discuss, you know, any of...you know, it's kind of policy in our office, we don't discuss the merits of litigation outside the pleadings. We are happy to make any of the public filings and public decisions that have been issued at the Administrative level and the District Court level...we are happy to make anything available to the committee and anyone else who would like to see in terms of characterizing any of the arguments, we prefer just to let the pleadings speak for themselves. But I wanted to just provide an update of the timing of it as we did at the last Replacement Tax Task Force meeting.

CKD: Umm...

WW: I have one more comment about the inequities. You know there is an ethanol plant in Iowa that was built after this went into place that pays 0 replacement tax as well. So because of a loophole that's in the law. And I think there's a lot of...

CKD: Which one is that?

WW: It's the Poet plant. Evidently.....

CKD: Okay, do you have any data on that?

WW: I'm sure it's in the case. And it's....

DS: It's in that area...is that the one in the Emmetsburg Municipal District?

BH: Right, it's a bypass customer in the Municipal District.

WW: Pays no tax

RS: And it's a 0 service area though. There's 52 natural gas service areas in the State of Iowa. Just so happens that one happens to be a 0 service area rate, because they never had a property tax when we started the replacement tax system.

WW: So each district is to negotiate what their rate is?

RS: No, it was all based on the property taxes that were paid back in '98. There was a five-year average done to calculate what type of rate would be used. And it just so happens, Emmetsburg didn't have a property tax at that time, so no rate was developed. So they're in a "zero" service area.

WW: Sounds like a pretty sweet deal compared to what I pay.

JS: Well if you go back, one of the goals of the initial legislation was to bring in all of the different utilities and recognize that there are different ways that you can get the community to impose the tax. So municipal utilities in Emmetsburg didn't pay the tax, because it was a city utility to begin with, so it's a reflection of what historically was happening and it was an intent to bring all of the utilities together and impose one tax...you may not think it sounds logical, but it was logical to do it that way. Because it actually replaced what was there in the first place. So...

WW: Sounds like an inequity to me.

JS: Well...

SE: It replaced whatever rates were out there. They got a good deal--what can I say, but there was no intent to increase taxes by that legislation; it was to replace prior tax levels and they happened to be at 0.

WW: That was exactly the comment that I wanted to hear. There was no intent in the law to increase revenue.

SE: There was no intent to increase taxes on the existing taxpayers in the State of Iowa.

WW: So let's be unfair with new businesses coming into the State.

SE: We will put them under the same tax regime that all the other existing taxpayers have...

WW: We are not all under that same tax regime. They all got grandfathered in.

CKD: Do you have data to reflect that?

WW: It's all in that legal document.

CKD: Well right now we are talking about the litigation.

JS: We are talking about the heart of the litigation.

CKD: I think we should put off this conversation.

WW: I have no problem, I just think that this committee should look at the in-neutrality that was originally intended by the law and work together and come up with a solution to fix the situation and do the job that this committee was intended to do and that was to monitor that neutrality and keep it neutral to property taxes.

CKD: I just want to make a little point that, being the people who provide fiscal estimates to the legislature, the Department of Revenue provides our analysis and then LSA uses the tax information that we provide from our confidential tax records to help inform their decisions on what their inquiries are. A fiscal estimate and revenue neutrality is as of a moment in time. Revenue neutrality does not exist into perpetuity. It's as of the date the bill was passed, because we cannot have neutrality in the world and have that work mathematically into infinity.

So to me, and maybe yours is a different understanding from the others, but when I think of revenue neutrality, it is as of a moment of time, so...

WW: It just seems unusual that they call a bill a “replacement tax” and then completely disconnect from that.

CKD: It’s replacing a system; it’s not replacing a dollar amount.

RYAN CAHILL (RC): I guess on the data...this is more of a question and I don’t know the answer, but the utilities that charge for the therms of natural gas...is that a line item that this committee has, to see how much revenue is collected during the year versus the prior property taxes that were there?

CKD: In 1998?

RC: No, as of today. Because I have heard that it reads that the ones that aren’t on bypass...

CKD: We can tell you the ones that were in ‘98, because that’s the most accurate.

RC: No, I am asking today--do the utilities take that money and then pay it to local property tax. As their...

CKD: The replacement tax is paid to the local government.

RC: So is that number available per therm or an aggregate number?

CKD: Is it available per therm or just in an aggregate number?

RS: An aggregate number, because some of that stuff might be used, you know...

CKD: Confidential taxpayer information?

RS: Right.

SE: I might add to that. I'm sensing Mr. Cahill maybe one of the points of your concerns is that...is this matching up with what the old property taxes were. And that was very much a charge for a period of three years. The Legislature enacted kind of a testing evaluation period to see if it worked. Is it lining up or, I don't know, watching out for local governments and schools. Money was still coming in and for a period of three years, there was a mechanism that was kind of complicated and [the Departments of] Management and Revenue had to run this thing where the replacement tax was determined based on the terms and then there was what they called the "general property tax equivalent" computation to see "well, how is this matching up with what the property tax may have been?" With some assumptions, but how would it have been. So for a period of three years there was actually a "true-up." If the replacement tax came in at ninety-five bucks and the equivalent was one hundred dollars, then that extra five dollars kicked in. On the other hand, if replacement tax came in at one hundred-five dollars and the expected property tax equivalent was one hundred dollars, then it went back down to the one hundred dollars. So for a period of three years we had frequent meetings. [We had] extensive data to evaluate "was the thing working or not?" and the records would show both in the minutes from this organization, as well as the old data that we looked at, that they actually did. They came within 1 or 2 percent of what the expectations were, high or low, and so it was maintaining that tax revenue neutrality. I think that was your question. Is it producing the kind of tax that...

MS: ...in the alternative...and that was probably done before there was collection of new tax on ethanol plants.

SE: This would have probably been tax year '99-2000 or 2001.

MS: So there wouldn't have been ...

SE: It was to meet...the question was, "is the system doing what it was intended to do" as a replacement system. Here is a brand new way of getting the taxes from the folks and getting them to the right people in the state. Is it doing that? And it did; it showed. This Task Force met frequently to evaluate that. [The Departments of] Revenue and Management worked those things all the time. Did it pull in the revenues that they were expecting to get? And it did; it basically said we are now comfortable this system works and the legislatively-enacted three-year test period sunsetted and it served its purpose. This system continues to work. As Bill noted earlier, the taxes are a lot more predictable and they have grown over time as one would expect.

WW: So with the onset of a huge biofuels industry that helped the whole state...you don't think that it's pertinent to revisit that to see how close you are now since that clearly was the intent of the law, to see how to put that relationship...

CKD: Why don't we wait until the litigation is done?

SE: We're in the weeds here, but there is another piece of the legislation that basically said concerns by those seeking revenues...what if somebody new shows up, what if somebody leaves, we still want fairly predictable revenues. We still want the money to run schools and cities and so on and counties. And so there is a mechanism that works today. If you have big spikes or valleys there is kind of a threshold where the rate gets reset to ensure fairly constant mathematical growth in the tax revenues. So yes, there was some anticipation of very large new additions or departures of receivers of natural gas. That was factored into the mathematics which continue to exist today and [the Departments of] Revenue and Management re-tweak the rates to make sure that that mitigates those swings. So yes, there was anticipation of major growth or major departure of taxpayers—both—and it functions today in the math that's setting the rate per therm.

CKD: Anyone else have a question?

MS: I would like to make a couple of comments.

CKD: And we are starting to run out of time.

MS: I'll be brief...couple of things; you might know this from a county level. Emmetsburg has a county property tax. Okay, so if Poet builds a plant under the old system, it would have in fact paid taxes, because it would have been taxed on the real property of the bypass pipe. In the new system, because it was then tied to the rate in the municipality, which was 0, because that was a different type of tax, it doesn't get it. So there are some things that are under litigation; a couple of things. There are facts in the litigation which are separate; they were used in the litigation, but they are facts. So we provide a lot of those facts to you guys, so there is nothing to do with the litigation and constitutional questions that were raised. In terms of how the system's running, I don't think anyone here...it sounds like it almost became a debate over the efficacy of the replacement tax. Speaking on behalf of Iowa Renewable Fuels Association, my board has not directed me to question the efficacy of using the replacement tax systems versus the old system. But they have raised questions and I'll get some, I think,

some fairly definitive direction at our next board meeting, September 4th, if I'm reading the tea leaves right, that while this may be, you know, achieving the goals at that 50,000-foot level, when you get down closer and look at the bypass customer and the rate that they are paying in lieu of the old property tax for these pipes, a lot of whom we were forced to build, then we are seeing some inequities. That's not a constitutional question. That is...

CKD: You know what, I hate to interrupt you. We are running out of time and I have to be somewhere. You segued so nicely into our next topic which is the request we received from the Legislature. Hopefully you all saw this in the information that we sent out with the minutes. There are a number of questions that were posed to us as the Task Force, some of which we can respond to as a group as we work through the information that we have, at the Department of Revenue in supporting the Task Force, some of which we'll need help from Cari and Dave from the Department of Management. The thing that I think, where Monte is right on point is that one of the questions posed is asking us to consult with DOM, Revenue, Utilities Division, taxpayers subject to the tax, representatives of local government, etc., etc. and others impacted by the tax. So what I would propose for the Task Force's consideration is that we form some sort of subcommittee or working group that allows us to invite those folks to some meeting that doesn't become unwieldy to start talking about these issues and perhaps have folks submit to us their written comments so that we all have time to digest them. It's very hard to be talking in these high-level concepts and then jumping down into the weeds and understand in the level of detail that we all need to understand to make sure that this is a living, breathing, law that has evolved as it needs to evolve for the times. So I would be interested in feedback from the task force as to whether that's something that you would be interested in doing. I do note that we have a deadline of replying to this correspondence by December 15th of this year. So do you all want to do that in a subcommittee format or do you want to all participate? Thoughts?

DAVE ROEDERER (DR): Subcommittee.

CKD: Thank you, Dave. And how best do you want to select yourselves for the committee? Do you want Dave and me to appoint you? Or would you like to volunteer? I would say we probably need...

DR: Is anybody on the Task Force that is not here?

CKD: Mike Rubino is on the phone, so I think we should make him be on the committee...

MIKE TROMBINO (MT): I heard that.

BP: I would be happy to serve on the committee.

CKD: Thank you, Bill.

SE: I can, as well.

DR: I think Cari will serve on, as well.

CARRIE JOHNSON (CJ): I will.

CKD: Excellent.

DR: Is that what you wanted, Cari?

CJ: Absolutely.

CKD: That's why you came!

JS: I would like to be on it, as well, since we seem to be the subject of much of this discussion. Some of it, anyway.

TIM COONAN (TC): All right, then now I have to be on it.

CKD: Alan, do you not want to participate?

ALAN KEMP (AK): I am happy to be on it, if everyone else is in.

CKD: I guess I would ask the rest of you who are in the room, if you have information that you would like to provide to us in writing, please do that. And I think perhaps we'll want to set some timelines for submission of

data and if you wouldn't mind giving me a few minutes to think about what those timelines should be and we will share with you. We do have all of your email addresses, I hope. Did we ask for that in our list? We will pass the list around one more time, so we can get your email addresses on so we can make sure to communicate with you, and depending on the volume of comments, that will probably dictate when we need to have the next meeting and we will of course notice that, all of those sorts of things as we normally do. And depending upon the written comments, we may ask for additional testimony to come and speak to us and further clarify the written document.

TC: Can I say something real quick?

CKD: Yes.

TC: [The RECs] are in an interesting position; we serve the bulk of the ethanol industry and yet we have no natural gas, so they are very important customers/members of ours. The local REC that serves Walt's plant is supportive of any change that helps their business, but my Association does not have a position, but we are interested in finding the bottom of this and if there is other information that keeps being alluded to. I think Monte had a great suggestion that there is no reason that information can't be recreated outside of the paradigm of litigation.

DS: I totally agree with what Monte said and also, like I said, we can give all the public filings on both sides of litigation that, not surprisingly, include fact sections in the brief, so any, I'm not saying that any, even the arguments that are made I'm just saying what the AG's office will provide are all of the public filings because this is...any proposed legislation isn't for us to take a position on anyway. We just have to...we're charged with defending the laws and that's what we are doing.

TC: I think there would be value in respecting that, respecting a role instead of hitting that brick wall every time it comes up. I think there would be value in recreating, even though it's recreating work that's out there, making that part of the record then we can discuss it. And so I think that's a good suggestion so that's all I have. So thank you for keeping us right on track.

CKD: Anyone else want to make a comment here in the last five minutes?

JW (JON WOLFE): I'm sending a list around. If you would like to put your email address on this if you want to be contacted about submissions of comments and data for this discussion. We can get in touch with you.

CKD: Anyone else? I would take a motion to adjourn?

AP: So moved.

TC: Second.

CKD: All in favor? Everyone said "Aye;" We are adjourned. Thank you so much for coming.