



FINAL REPORT

Fuel Distribution Percentage Formula Review Committee

November 19, 2019

MEMBERS

Senator Tim L. Kapucian, Co-chairperson
Senator Waylon Brown
Senator Todd E. Taylor

Representative David E. Maxwell, Co-chairperson
Representative Dennis M. Cohoon
Representative Phil Thompson

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Fuel Distribution Percentage Formula Review Committee

I. Background — Committee Proceedings

The Fuel Distribution Percentage Formula Review Committee was established as a permanent statutory committee pursuant to Iowa Code section 452A.3(1)(c). The committee is composed of six members of the General Assembly, including three members from each chamber. The committee is required to conduct a review of the fuel distribution percentage formulas and submit a status report to the General Assembly no later than January 1, 2020, with additional reports due every sixth year thereafter. The committee was authorized by the Legislative Council to hold one meeting.

II. September 20, 2019, Meeting

The meeting was called to order at 10:01 a.m. in Room 103 of the State Capitol. The committee elected Senator Kapucian and Representative Maxwell permanent Co-chairpersons and adopted procedural rules. The Co-chairpersons made opening remarks.

Presentation — Iowa Department of Transportation. Mr. Mark Lowe, Director, Iowa Department of Transportation (DOT), and Mr. Shawn Majors, Program Management Bureau, DOT, provided an overview of the variable tax rates for ethanol and biodiesel. Historically, as more consumers shifted to using ethanol-blended gasoline, there was a corresponding reduction in Road Use Tax Fund (RUTF) revenue. In response, the General Assembly established the ethanol variable tax rate in 2002 to incentivize increased use of ethanol-blended gasoline while preventing further RUTF revenue losses. The ethanol variable tax rate became effective on July 1, 2002, and the rate is adjusted annually on July 1 based on the previous calendar year's ethanol distribution percentage. The ethanol distribution percentage is the amount of ethanol-blended gasoline distributed in Iowa as a percentage of the total amount of gasoline and ethanol-blended gasoline that is distributed in Iowa. The ethanol variable tax rate will currently sunset on June 30, 2020, at which point the fuel tax rate will be 30 cents per gallon for all gasoline types used in motor vehicles.

As part of the 2015 fuel tax legislation, the General Assembly established a biodiesel variable tax rate to incentivize the use of biodiesel at blends of 11 percent or greater (B-11+) and to reduce the impact on RUTF revenue as usage of B-11+ increased. The biodiesel variable tax rate became effective on July 1, 2015, and the rate is adjusted annually on July 1 based on the previous calendar year's biodiesel distribution percentage. The biodiesel variable tax rate will currently sunset on June 30, 2020, at which point the fuel tax rate will be 32.5 cents per gallon for all diesel fuel used in motor vehicles.

Mr. Majors discussed legislative efforts in 2019, specifically mentioning legislation that was considered to adjust the ethanol variable tax rate to be based on E-15 and greater blends. Mr. Majors reviewed the impact of the ethanol and biodiesel variable tax rates over the previous six fiscal years, noting that over that period the variable tax rates reduced RUTF revenue by approximately \$95 million.

Mr. Majors summarized significant fuel price changes. In 2013, the Magellan pipeline stopped providing 87-octane gasoline and shifted to providing 84-octane gasoline and 91-octane gasoline. This resulted in a new standard fuel, 87-octane ethanol-blended gasoline, which increased ethanol-blended gasoline use and increased the price spread between gasoline and ethanol-blended gasoline. Mr. Majors then discussed advances in technology, specifically in regard to E-15 gasoline. In May 2019, the Environmental Protection Agency removed the regulatory barrier for the use of E-15 blends during the summer season. E-15 can be used in any 2001 or newer vehicle. However, the challenge with E-15 gasoline distribution is that stations generally do not have compatible tank and pump infrastructure. He noted that only a fraction of companies operating stations in Iowa are constructing stations compatible with E-15 because the cost to upgrade existing sites is burdensome, especially in rural areas.



Presentation — Iowa Department of Revenue. Mr. Tim Reilly, Policy Director for Sales and Excise Tax, Iowa Department of Revenue (DOR), and Mr. Scott Fitzgerald, Statistical Research Analyst, DOR, presented on the taxation of renewable diesel and the method for determining the fuel distribution percentages. Mr. Reilly stated that a new type of fuel is being used in different parts of the country, which is termed “renewable diesel.” Renewable diesel meets the American Society for Testing and Materials’ standard for petroleum diesel but does not have the same fuel tax rate as biodiesel even though it is made from the same feedstocks. If someone delivered renewable diesel in Iowa, it would be reported and taxed as regular petroleum diesel at the higher fuel tax rate rather than the rate for biodiesel. Today, there is no way to identify and report renewable diesel differently from petroleum diesel.

Mr. Fitzgerald summarized the current issues with the method for determining the fuel distribution percentages. The distribution percentage is based on gallons distributed in a calendar year as calculated using the DOR monthly fuel delivery reports. The reports are based on the gross number of gallons of fuel delivered by licensed suppliers, blenders, and importers. These reports showed a significant decrease in ethanol use starting in June 2015. The decrease was caused by the method of reporting rather than a change in consumer use of ethanol. The difference in data from the monthly delivery reports compared to actual consumer use results in inaccurate calculation of the distribution percentage and loss of revenue to the RUTF. An alternative source of information available is the Retailers Fuel Gallons Annual Report, which is also compiled by the DOR. The annual retailers reports consistently show higher ethanol and biodiesel distribution percentages, which Mr. Fitzgerald stated were a more accurate reflection. He noted that the impact of using the less accurate reports has been a loss of RUTF revenue of approximately \$42 million from FY 2014 to FY 2019.

Public Comment. The committee received public comment from Ms. Dawn Carlson, President & CEO, Fuellowa; Mr. Nathan Hohnstein, Policy Director, Iowa Renewable Fuels Association; and Mr. Monte Shaw, Executive Director, Iowa Renewable Fuels Association. In addition, the committee received public comment through submissions in writing from the Iowa Biodiesel Board and a collection of biofuels producers and industry partners.

Committee Discussion. The committee stated that it is critical to base the distribution percentage on the most accurate reports in order to protect RUTF revenue. The committee also noted that the sunset date for the ethanol and biodiesel variable tax rates is approaching and discussed extending the sunset dates. Committee members opined that the present time is not the appropriate time to allow the variable tax rates to be repealed. The committee noted that the annual retailers report shows an increase in ethanol and biodiesel use and that the reporting requirements need to be updated. Committee members further mentioned that it is important to take the information gathered from the meeting and share it with the other members of the General Assembly.

The committee discussed Senate File 628 from the 2019 Legislative Session. The bill amends the variable tax rate for ethanol to apply to E-15 rather than E-10, alters the ranges for the distribution percentages, strikes the alternative E-85 gasoline excise tax, extends the sunset dates for the ethanol and biodiesel variable tax rates to 2026, and adds a requirement that the annual retailers report be used to determine the distribution percentages.

III. Committee Recommendation

Senator Brown made a motion to forward the committee’s final report to the General Assembly for further consideration, which was seconded by Representative Thompson. The motion carried unanimously.



IV. Materials Filed with the Legislative Services Agency

The following materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the “Committee Documents” link on the committee’s Internet Site: legis.iowa.gov/committees/meetings/documents?committee=33680&ga=ALL

1. Final Report
2. Meeting Briefing
3. Committee Rules
4. Presentation: Iowa Department of Transportation and Iowa Department of Revenue
5. Public Comment: Iowa Biodiesel Board
6. Public Comment: Biofuel producers and industry partners
7. Fuel Excise Tax Rates by Distribution Percentage Reference