Ohio House Ways and Means Committee
The Honorable Derek Merrin, Chairman

Written testimony in opposition of House Bill 400
Chris Zeigler, Executive Director | American Petroleum Institute-Ohio (API Ohio)
June 3rd, 2020

Chairman Merrin, Vice Chairman LaRe, Ranking Member Rogers, and members of the Ohio House Ways and Means Committee: thank you for the opportunity to provide written testimony on House Bill 400 (HB 400), a bill to provide nonrefundable income tax credits for the retail sale of higher-ethanol blend fuels.

The American Petroleum Institute-Ohio (API Ohio) is a state affiliate office of the American Petroleum Institute (API). API represents all segments of America's oil and natural gas industry. Its more than 600 members produce, process, and distribute most of the nation's energy. The industry supports 10.9 million U.S. jobs. API was formed in 1919 as a standards-setting organization, and in its first 100 years, API has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

Over the last several months, the U.S. natural gas and oil industry has been ravaged by a dramatic shift in global energy markets that has had significant impacts on the broader U.S. economy. In the downstream sector of the industry, refiners have been reeling from COVID-19 pandemic-driven demand shock and a growing surplus of refined product.

In May, and "for the second consecutive month, U.S. petroleum market data weakened to historic proportions, breaking records for the month."[1] Industrywide, the data has been bleak: U.S. petroleum demand decreased by 26.7% (5.2 million barrels per day) between March and April – the largest on record; gasoline deliveries' had the largest monthly decrease ever recorded; refinery throughput was the lowest since 1991, with capacity utilization at a record low; and total inventories increased year-on-year for the 18th consecutive month.

Yet, even in the face of the historic negative impacts of the pandemic on domestic fuel supply networks, U.S. refiners have been responding properly to the sudden demand declines in transportation fuel and the ever-changing global market conditions. What is not needed at this

[1] https://www.api.org/~/media/Files/News/2020/05/Monthly_Statistical_Report_April_2020.pdf

time is more government intervention to prop-up one sector of the transportation fuel marketplace at the expense of another.

Government mandates, tax incentives and subsidies can harm businesses and consumers by unfairly disrupting market decisions. Consumer-friendly transportation fuel policies require a free-market approach to ensure a level-playing field for refiners, marketers as well as Ohio consumers. Unfortunately, HB 400 falls short of this objective by providing a tax incentive for the retail sale of higher-ethanol blend fuels instead of letting the free-market guide purchase and sale decisions.

To be clear, the petroleum industry is not opposed to the use of ethanol in motor fuel. Most ethanol blending into U.S. motor gasoline is to meet the requirements of the 1990 Clean Air Act (RFG Fuel) and the Renewable Fuel Standard set forth in the Energy Independence and Security Act of 2007. The U.S. Environmental Protection Agency (EPA) administers the requirements with the Renewable Fuel Standard Program.

However, incentivizing E15 as a motor fuel – a blend containing 50 percent more ethanol than the E10 gasoline – will only exacerbate the problems that are the result of a broken Renewable Fuel Standard (RFS).

The outdated RFS mandate that was established over a decade ago assumed an increasing reliance on crude oil imports from foreign nations and a rapid increase in production of advanced and cellulosic biofuels, and projected ever-increasing gasoline demand.

All those assumptions were wrong. Thanks to the U.S. energy renaissance, a result of the development of America's unconventional shale resources, we are now the world's leading producer of oil [and natural gas]. We have transitioned from a net importer of refined petroleum products to a net exporter. The RFS is outdated and broken and is resulting in market distortions that ultimately harm consumers.

Artificially pushing E15 gasoline into the marketplace through tax incentives is bad for consumers. Despite claims to the contrary, most vehicles on American roads today were not designed to run on E15. Vehicle testing demonstrates that engine and fuel system damage may result from using E15 in some 2001 and newer vehicles.

Additionally, federal subsidies have already been granted for E15 infrastructure build-out with a new program coming soon from the USDA. In fact, in 2015/2016 Ohio was granted $3.38 million[2] through the Biofuels Infrastructure Partnership funded by the U.S. Department of Agriculture to install E15 equipment. E15 marketers had an opportunity to avail themselves of these existing incentives and should not be given another payout through personal income tax incentives.

---

[2] Ohio was granted $3.4MM to install 41 stations, 148 proposed pumps and 4 proposed tanks. https://www.fsa.usda.gov/programs-and-services/energy-programs/bip/index

The USDA has begun accepting applications for a new biofuel infrastructure program that will provide up to $100 million for infrastructure improvements to facilitate the increased sales of higher biofuel blends. The USDA's Higher Blends Infrastructure Incentive Program (HBIIP)[3] is intended "…to increase significantly the sales and use of higher blends of ethanol and biodiesel by expanding the infrastructure for renewable fuels derived from U.S. agricultural products."

API supports an all-of-the-above approach to energy policy, believing that the United States needs all sources of commercially viable energy, including renewable resources. And, our organization stands by a free-market approach for adopting energy policies, promoting a level-playing field across the energy value chain. We do not support tipping the scale in favor of one energy source over another, including ourselves. Therefore, we are opposed to the fundamental principle of tax credits favoring higher-ethanol blend fuels as proposed in this bill. This, in addition to incompatibility concerns with vehicles and existing incentives for higher biofuel distribution infrastructure, is what has formed our position today.

Thank you for allowing API Ohio the opportunity to present our testimony on House Bill 400 and for the committee's consideration of our position on this legislation.

[3] https://www.rd.usda.gov/programs-services/higher-blends-infrastructure-incentive-program