



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

**Opponent Testimony on
House Bill 165
Claire Linkhart | API Ohio
May 11, 2021**

Chairman Merrin, Vice Chairman Riedel, Ranking Member Sobecki, and members of the Ohio House Ways and Means Committee: thank you for the opportunity to provide written opponent testimony on House Bill 165 (H.B. 165), 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). The API represents all segments of America's natural gas and oil industry, which supports more than ten million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our 600 members produce, process, and distribute the majority of the nation's energy, and participate in *API Energy Excellence*¹, which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. API was formed in 1919 as a standards-setting organization and has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

Before addressing the policy under H.B. 165, API Ohio would like to recognize and thank Representative McClain for reaching out to the association seeking our input on his legislation. API Ohio very much appreciates Representative McClain's approach to policy development and engaging the impacted industry.

As an association, the API is guided by a set of principles that are upheld by our member companies. One such principle is to promote free markets and free trade as the cornerstone of the natural gas and oil industry's efforts to compete and innovate to address current and future energy needs. This principle has guided API Ohio's engagement in energy policy debates and why we continue to oppose direct subsidies or preferential tax treatment for specific energy resources or products that have been proven to be marketable. Therefore, API Ohio is fundamentally opposed to H.B. 165 due to the preferential tax treatment it would offer for the retail sale of high-ethanol blend motor fuel.

API Ohio's position on H.B. 165 is validated by information taken directly from the Renewable Fuels Association, the "leading trade association for America's ethanol industry,"² which according to their website, promotes that "E15 sales have grown significantly, to more than 450 million gallons in 2019." In addition, the association highlights that, "The growth in E15 has been fueled by a more than 10% increase

¹ <https://www.api.org/oil-and-natural-gas/api-energy-excellence>

² <https://ethanolrfa.org/about/>

in retail stations offering E15. Today, E15 stations number near 2,000 and E15 sales now outpace E85 sales across the country. The U.S. Department of Agriculture has announced an aggressive infrastructure incentive program to encourage additional fuel marketers to adopt E15. As a result, the Renewable Fuels Association is extremely confident E15 sales will grow exponentially in the future.”³

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, H.B. 165 falls short of this objective by providing a specific tax incentive that is intended to promote 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 E15 or the use of ethanol in motor fuel. Ethanol blending into U.S. motor gasoline ramped up as a result of the 1990 Clean Air Act (RFG Fuel) and the Renewable Fuel Standard set forth in the Energy Independence and Security Act of 2007 and the favorable response from markets and consumers to increased ethanol use. The U.S. Environmental Protection Agency (EPA) administers the requirements with the Renewable Fuel Standard Program. In fact, API’s own membership includes some of our nation’s leading manufacturers, suppliers, and blenders of ethanol.

However, incentivizing E15 when the vehicle fleet and refueling infrastructure remain largely incompatible with the fuel is likely to lead to misuse. E15 cannot be used in model year 2000 or older light duty gasoline vehicles, medium and heavy-duty vehicles (of any year), boats, motorcycles, and non-road equipment. Vehicle manufacturers have cautioned that E15 use in 2001 and newer vehicles that were not specifically designed and warranted for E15 (as specified in Owners’ Manuals) could result in vehicle failures. And while most vehicle manufacturers are now producing E15 compatible vehicles, there remain new cars manufactured today that are not designed for E15 use.

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 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.

The USDA has accepted applications for a new biofuel infrastructure program⁴ 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 (HBIIIP)⁵ 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.”

³ <https://ethanolrfa.org/e15-and-higher-blends/>

⁴ “USDA is Seeking Applications for Grants to Increase Biodiesel and Ethanol Fuel Sales,” <https://www.rd.usda.gov/newsroom/news-release/usda-seeking-applications-grants-increase-biodiesel-and-ethanol-fuel-sales> (Accessed April 7, 2021)

⁵ USDA Higher Blends Infrastructure Incentive Program, <https://www.rd.usda.gov/hbiip>

API will continue to advocate for a tax code that supports a level playing field for all economic sectors along with policies that sustain and grow the billions of dollars in government revenue that we help generate. 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 across the energy value chain. We do not support tipping the scale in favor of one energy source over another, including sources produced by our own industry. Therefore, we are opposed to the fundamental principle of tax credits favoring higher-ethanol blend fuels as proposed in H.B. 165.

Thank you for allowing API Ohio the opportunity to present our opponent testimony on House Bill 165 and for the committee's consideration of our position on this legislation.