Testimony of the

Associated Pennsylvania Constructors (APC)

PA House Transportation Committee on House Bill 1597

"Alternative Fuels Fairness"

Jason W. Wagner
Director of Policy and Government Relations

Monday, May 23, 2016

Mr. Chairman, members of the committee, I am Jason Wagner, director of policy and government relations for Associated Pennsylvania Constructors. APC is a statewide trade association consisting of more than 400 members, including contractors, consulting engineers, material suppliers, manufacturers and others with an interest in Pennsylvania's road and bridge construction industry. We appreciate the opportunity to express our membership's point of view on HB 1597.

Many committee members are familiar with an organization called the American Road & Transportation Builders Association, or ARTBA. It's a national trade association headquartered in Washington. There is a new report from ARTBA's Transportation Investment Advocacy Center™ that examines how different states tax alternative-fuel and electric vehicles. We believe the committee will find the report helpful.

The report notes that as the use of alternative-fuel and electric cars and trucks continues to grow as a share of the U.S. fleet, state governments are relying on a mixture of user fees and taxes to ensure these drivers are contributing their fair share to highway and bridge construction and maintenance programs.

The number of alternative-fuel cars and light trucks is expected to grow from 21.5 million vehicles in 2016—accounting for 9 percent of the U.S. vehicle stock—to 29.3 million vehicles in 2021, or about 12 percent of the entire fleet, according to data from the U.S. Energy Information Administration. Alternative-fuel vehicles include electric cars and trucks, hybrids, and vehicles that run on propane, fuel cells and natural gas.

The report acknowledges that a key challenge for state governments is that these vehicles still cause wear and tear on roads and bridges, but are not paying as much in motor fuel related taxes because they use significantly less gas and diesel fuel. Alternative-fuel cars average anywhere from 50 miles per gallon for an electric-gasoline hybrid to as much as 132 miles per gallon for an electric vehicle. This compares with an average of 26 miles per gallon for the entire stock of U.S. cars.

ARTBA's report provides information on some of the strategies states are using to address the issue of alternative-fuel vehicles. Its main findings are as follows:

- 45 states levy a cents-per-gallon excise tax on the purchase of alternative fuels;
- 10 states require electric vehicle owners to pay a fee;
- 13 states provide the option for alternative fuel vehicle owners to pay a fee rather than an excise tax;
- 6 states require alternative fuel dealers to obtain a special fuel license or pay a fee; and
- 2 states apply only the state general sales and use tax to alternative fuels.

In Pennsylvania, alternative fuels currently include compressed natural gas (CNG), liquefied natural gas (LNG), propane, electricity, hydrogen and other gasoline-alcohol blends. Since 1997, the Vehicle Code has placed the point of taxation for alternative fuels at the "dealer-user" level.

The definition for "dealer-user" is "any person who delivers or places alternative fuels into the fuel supply tank or other device of a vehicle for use on the public highways."

Over time, the statute has become increasingly less effective in administering the taxes on these fuels. It can currently be interpreted that anyone in this Commonwealth owning an alternative fuels vehicle needs to be licensed and report tax, rather than simply pay tax to a registered distributor as provided in the revisions contained in House Bill 1597.

The bill as proposed would modernize outdated laws and simplify compliance by adopting industry standards for collecting revenue on alternative fuels and clarify the point of taxation by bringing it in line with conventional fuels, such as gasoline and diesel. As the use of alternative fuels grows, it is critical to bring our laws and administrative policies in line with the times to ensure fairness, simplify compliance and enhance revenue for our transportation infrastructure.

As this committee is certainly aware, Act 89 increased revenue for highway, transit and intermodal projects, but it did not address the entire $3.5 billion annual funding gap identified in 2010 by the Transportation Advisory Commission. Additionally, the FAST Act enacted by Congress in 2015 simply treads water and does not significantly increase federal transportation funding.

Moreover, a growing amount of revenue is being redirected annually from the Motor License Fund to the State Police budget. The diverted amount has increased by an average of 6 percent per year since 2006. It is $755 million in the current fiscal year, and it is proposed to be $814 million in the next fiscal year. It's nearly two-thirds of the entire State Police budget.

To express those sums in terms that everyone can understand, $755 million represents the equivalent of 12 cents per gallon in the price of gasoline, and $814 million adds another penny, to 13 cents per gallon. That's more than one-fifth of the approximately 55 cents levied per gallon.

At the rate at which the diverted amount is growing, it will surpass $1 billion per year within the next 5 years, and more than $1.5 billion within 12 years. Act 89 promised a "Decade of Investment" that would bring the state's transportation system up to acceptable standards. This "Decade of Investment" is in jeopardy.

It is most important to note that HB 1597 does not impose a new tax but rather will help reform and streamline the collection of an existing levy that was first created in 1997 by the General Assembly to ensure fair and equitable taxation and enforcement across all fuel types.

Mr. Chairman, again we thank you for the opportunity to share our views on this matter. I will be happy to answer any questions.

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House Transportation Committee Informational Meeting on HB 1057
Dan Hassell and Jack Frehafer
Department of Revenue
Monday, May 23, 2016

Chairman Taylor, Chairman Keller, and members of the Committee, my name is Dan Hassell, the Deputy Secretary for Tax Policy of the Department of Revenue. With me today is Jack Frehafer, who is with our Office of Chief Counsel. Jack is the Department's legal expert on Pennsylvania fuel taxes. Thank you for giving us the opportunity to discuss the Department's comments on HB 1057.

I would like to start by providing a little historical perspective. Almost 20 years ago Act 3 of 1997 made major changes in the taxation of motor fuels in Pennsylvania, and fixed a number of problems for taxpayers and the Department. Briefly, Act 3:

- Moved the point of taxation for diesel fuel from the user level up to the distributor level, making compliance much easier for the industry;
- Recognized the recently-implemented federal dyed diesel fuel program, improving our enforcement methods;
- Brought Pennsylvania into compliance with the International Fuel Tax Agreement, reducing the reporting burden on the trucking industry; and
- Introduced some basic provisions regarding the taxation of alternative fuels, which were then only just being recognized for their potential use in both passenger and commercial vehicles.

Act 3's diesel fuel and IFTA enhancements were very successful in improving fairness and compliance with the tax law. As you know, there has been rapid growth and innovation in the availability and use of alternative fuels for vehicles, but the tax law has not kept pace.

The first area relates to plug-in electric vehicles, which is an issue this committee has grappled with in the past. Current law requires electric vehicle owners to file monthly reports with the Revenue Department calculating and paying fuel tax on the amount of electricity their vehicle consumes. However, in the absence of some mechanism for tax reporting, owners of those vehicles are able to use the public highways without contributing to the cost of road maintenance.

HB 1057 imposes a road-use registration fee on electric vehicles in exchange for exempting them from the payment of road use taxes on the electricity actually consumed by the vehicles. As provided in the bill, PennDOT would administer the fee as part of the annual vehicle registration.

As proposed, the fee will be calculated and published by the Department on a gasoline-gallon equivalent basis, which is the same formula currently used for the taxation of all alternative fuels. The fee will be based on the energy used annually by an average electric vehicle. Given current prices, we expect the fee would be approximately $73 for 2017.

Secondly, the bill moves the point of taxation for alternative fuels up to the distributor level, so that it is similar to how gasoline and diesel fuel are currently taxed. However, this bill also