

# SENATE, No. 4090

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED SEPTEMBER 10, 2019

**Sponsored by:**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Establishes “Alternative Fuel Vehicle Transportation Financing Commission” to examine manner in which alternative fuel vehicles may be taxed to contribute to cost of maintaining State transportation system.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 11/8/2019)

1   **AN ACT** establishing an “Alternative Fuel Vehicle Transportation  
2       Financing Commission” and amending P.L.2006, c.3.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

6  
7       1. (New section) a. There is created an “Alternative Fuel  
8       Vehicle Transportation Financing Commission” (commission) to  
9       consist of seven members as follows:

10       (1) the State Treasurer, ex officio, or the State Treasurer’s  
11       designee;

12       (2) the Commissioner of the Department of Transportation, ex  
13       officio, or the commissioner’s designee;

14       (3) the Chief Administrator of the New Jersey Motor Vehicle  
15       Commission, ex officio, or the chief administrator’s designee;

16       (4) one member of the public appointed by the President of the  
17       Senate;

18       (5) one member of the public appointed by the Speaker of the  
19       General Assembly; and

20       (6) two members of the public appointed by the Governor, with  
21       the advice and consent of the Senate.

22       b. The members of the public appointed to the commission  
23       shall have a professional background in transportation capital  
24       finance, transportation capital planning, or tax revenue collection.  
25       The commission shall organize and hold its initial organizational  
26       meeting as soon after the appointment of all of its public members  
27       as is practicable. Vacancies in the membership of the commission  
28       shall be filled in the same manner as the original appointments were  
29       made. Members of the commission shall serve without  
30       compensation, except that public members may be reimbursed for  
31       actual expenses incurred in the performance of their duties and  
32       within the limits of funds available to the commission. The  
33       commission may meet and hold hearings open to the public at a  
34       place or places it designates within the State.

35       c. The State Treasurer shall serve as chair of the commission.  
36       A recommendation of the commission shall be approved upon  
37       receiving a majority vote of the full membership of the commission.  
38       All designees of ex officio members of the commission may  
39       lawfully vote and otherwise act on behalf of the members for whom  
40       they constitute the designee.

41       d. The Department of the Treasury shall provide staff support  
42       to the commission, including the appointment of a secretary by the  
43       chair of the commission. Additionally, the commission shall be  
44       entitled to call to its assistance and avail itself of the services of  
45       employees of any State, county, or municipal department, board,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

      Matter underlined thus is new matter.

1 bureau, commission, or agency as the commission may require and  
2 as may be available to the commission for its purposes.

3  
4 2. (New section) It shall be the duty of the commission to study  
5 and make findings and recommendations concerning the taxation of  
6 motor vehicles that are powered by a fuel source that is not subject  
7 to the motor fuels tax pursuant to P.L.2010, c.22 (C.54:39-101 et  
8 seq.) or the petroleum products gross receipts tax pursuant to  
9 P.L.1990, c.42 (C.54:15B-1 et seq.), including, but not limited to,  
10 electric vehicles and hydrogen fuel cell vehicles. The report shall  
11 include recommendations to the Legislature for a system of taxation  
12 that mandates that all vehicles operating on the highways of this  
13 State contribute equitably to the cost of maintaining the State  
14 transportation system.

15  
16 3. (New section) The commission shall issue a report of its  
17 findings and recommendations, pursuant to section 2 of this act, to  
18 the Governor and, pursuant to section 2 of P.L.1991, c.164  
19 (C.52:14-19.1), to the Legislature within 180 days after the initial  
20 meeting of the commission. The report shall include the  
21 commission's recommendations for legislation that may be  
22 considered for adoption by the Legislature.

23  
24 4. Section 6 of P.L.2006, c.3 (C.27:1B-22.2) is amended to  
25 read as follows:

26 6. There is hereby created in the Executive Branch of the State  
27 Government, a body corporate and politic, with corporate  
28 succession, to be known as the Transportation Policy Review  
29 Board. For the purpose of complying with the provisions of Article  
30 V, Section IV, paragraph 1 of the New Jersey Constitution, the  
31 board is hereby allocated within the Department of Transportation,  
32 but, notwithstanding that allocation, the board shall be independent  
33 of any supervision or control by the department or by any body or  
34 officer thereof. The board is hereby constituted as an  
35 instrumentality of the State exercising public and essential  
36 governmental functions, and the exercise by the board of the powers  
37 conferred by this act shall be deemed and held to be an essential  
38 governmental function of the State.

39 The board shall be comprised of nine public members with  
40 experience in transportation finance and policy. The Governor shall  
41 appoint three of the members with the advice and consent of the  
42 Senate, two of whom shall be experts that perform academic  
43 research in the areas of transportation and public transportation  
44 policy, planning, or engineering, and one of whom shall be an  
45 expert in the area of transportation capital finance. The remaining  
46 members shall be appointed by the Governor as follows: two upon  
47 the recommendation of the President of the Senate, one upon the  
48 recommendation of the Minority Leader of the Senate, two upon the

1 recommendation of the Speaker of the General Assembly, and one  
2 upon the recommendation of the Minority Leader of the General  
3 Assembly. Each member shall have a professional background in  
4 passenger rail service, freight rail management, transportation  
5 capital planning, transportation and public transportation capital  
6 construction, federal transportation policy, State transportation  
7 policy, or transportation capital finance. Each member shall serve  
8 for a four-year term and shall serve until the member's successor is  
9 appointed and qualified; provided, however, that in order to achieve  
10 non-concurrent terms, of the members first appointed pursuant to  
11 this section, two members appointed by the Governor shall serve for  
12 four years; while the three members appointed upon the  
13 recommendations of the President of the Senate and the Minority  
14 Leader of the Senate and the three members appointed upon the  
15 recommendations of the Speaker of the General Assembly and the  
16 Minority Leader of the General Assembly shall serve for three years  
17 each, and the remaining member appointed by the Governor shall  
18 serve for two years; and further provided that any member serving  
19 on the effective date of P.L.2016, c.56 (C.27:1B-22.5 et al.) shall  
20 serve until the expiration of that member's term, notwithstanding  
21 the criteria for appointment established pursuant to P.L.2016, c.56  
22 (C.27:1B-22.5 et al.). The Transportation Policy Review Board  
23 shall be deemed to be constituted immediately upon appointment  
24 and qualification in the manner provided in this section of at least  
25 five members.

26 The purpose of the board is to assure fiscal discipline through  
27 evaluating the financing of transportation; independently analyzing  
28 and reporting on the cost effectiveness of spending in the  
29 transportation capital program; conducting and commissioning  
30 research on best practices in the areas of transportation and public  
31 transportation construction, planning, finance, and engineering;  
32 providing policy recommendations to the Legislature on the best  
33 ways to organize the capital program and appropriate capital  
34 program funds; and preparing an annual State of Condition of  
35 Transportation Financing certification.

36 The board shall annually appear before the Senate Budget and  
37 Appropriations Committee, or its successor, and the Assembly  
38 Budget Committee, or its successor, and provide independent  
39 analysis of the transportation capital program, provide comments on  
40 the cost effectiveness of the program, evaluate the condition of the  
41 State transportation system, and identify needed infrastructure  
42 investments. The board shall annually appear before the Senate  
43 Transportation Committee, or its successor, and the Assembly  
44 Transportation and Independent Authorities Committee, or its  
45 successor, and report on best practices and cost savings in areas  
46 related to transportation and public transportation construction,  
47 planning, finance, infrastructure, and governance. The board shall  
48 also make itself available to the aforementioned budget and

1 transportation committees to conduct research and provide  
2 recommendations on policy issues that those committees request of  
3 the board. The board shall issue an annual report on or before June  
4 1 of each year which summarizes the work of the board for the prior  
5 year, evaluates the reports issued by the department pursuant to  
6 section 22 of P.L.1984, c.73 (C.27:1B-22), and provides  
7 independent recommendations for administering the annual capital  
8 program.

9 The board shall be provided with a budget each year to be funded  
10 through the capital program, and the budget shall be sufficient to  
11 allow the board to commission independent research from academic  
12 and other experts in the area of research to be conducted, to avail  
13 itself of any professional or consultant services necessary to  
14 perform its functions, and to complete the reports and certifications  
15 required pursuant to this section.

16 The board may call to its assistance and avail itself of the  
17 services of the employees of any State, county, or municipal  
18 department, board, bureau, task force, or agency as it may require  
19 and as may be available to it for its purposes, and to employ  
20 stenographic and clerical assistance and incur traveling and other  
21 miscellaneous expenses necessary to perform its duties, within the  
22 limits of funds appropriated or otherwise made available to it for its  
23 purposes.

24 **【The board shall submit reports to the Governor, and to the**  
25 **Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1)**  
26 **no later than April 1, 2017 concerning the taxation of motor**  
27 **vehicles that are powered by a fuel source that is not subject to the**  
28 **motor fuels tax pursuant to P.L.2010, c.22 (C.54:39-101 et seq.) or**  
29 **the petroleum products gross receipts tax pursuant to P.L.1990, c.42**  
30 **(C.54:15B-1 et seq.), including, but not limited to electric vehicles**  
31 **and hydrogen fuel cell vehicles. The report required pursuant to**  
32 **this subsection shall include recommendations to the Legislature for**  
33 **a new system of taxation that mandates that all vehicles operating**  
34 **on the highways of this State contribute equitably to the cost of**  
35 **maintaining the State transportation system.】**

36 The State of Condition of Transportation Financing certification  
37 shall ensure that the financing and expenditures of the New Jersey  
38 Transportation Trust Fund Authority (the "authority") adhere to  
39 certain standards. The standards are:

40 a. The bonding limitation as provided in subsection i. of  
41 section 9 of P.L.1984, c.73 (C.27:1B-9) **【.】**;

42 b. For the fiscal year commencing July 1, 2007, the amount  
43 expended from the revenues and other funds of the authority for  
44 permitted maintenance shall not exceed the amount expended for  
45 permitted maintenance in the fiscal year commencing July 1, 2006  
46 **【.】**; and

47 c. The total amount authorized to be appropriated from the  
48 revenues and other funds of the authority for project costs

1 commencing with the fiscal year beginning July 1, 2007 through the  
2 fiscal year beginning July 1, 2015 shall not exceed \$1,600,000,000  
3 annually, and for the fiscal year beginning on July 1, 2016 through  
4 the fiscal year beginning on July 1, 2023 shall not exceed an  
5 aggregate \$16,000,000,000 over that eight-year period.

6 Commencing with the fiscal year beginning July 1, 2007, the  
7 board shall submit to the Governor, the Legislature, and the  
8 commissioner on an annual basis the State of Condition of  
9 Transportation Financing certification as to the requirements of  
10 certification standard a. referencing therein a certification with  
11 regard to certification standards b. and c. to the extent feasible,  
12 given the other provisions of this section. The certifications shall  
13 be based on the board's review of the State's fiscal year final  
14 expenditures from the preceding fiscal year, including bonding and  
15 expenditures from the annual independent audit of the authority,  
16 and the amount of authority funds programmed for permitted  
17 maintenance. If the capital program and its financing are found to  
18 be in compliance, the first annual certification required by this  
19 paragraph shall be submitted by February 1, 2008, after the  
20 certification is concurred with by the members of the authority, and  
21 by February 1 of each year thereafter. The board shall advise the  
22 commissioner and the authority on February 1, 2008 and on each  
23 succeeding February 1, if the board finds that the authority is not in  
24 compliance with the bonding requirements as provided in  
25 certification standard a. of the section, and that a corrective action  
26 plan is needed. The authority shall submit a corrective action plan  
27 that would reduce its future bond sales to offset the amount of  
28 excess bonding or to reduce future debt service payments, or both,  
29 as the case may be. Upon approval of the corrective action plan by  
30 the board, the certification shall be issued with certain conditions.  
31 The Annual Transportation Capital Program submitted to the  
32 Legislature for the forthcoming year shall be in compliance with the  
33 provisions of the corrective action plan. If the board does not  
34 approve the corrective action plan, the authority shall submit a  
35 financial plan showing bonding only for existing projects, noting  
36 that no bonds shall be issued for new projects shown in the  
37 department's Annual Transportation Capital Program. The board  
38 shall advise the commissioner on February 1, 2008 and on each  
39 succeeding February 1, if the board finds that the Department of  
40 Transportation has exceeded the limitation for the amount of  
41 authority funds spent on permitted maintenance pursuant to  
42 certification standard b. of this section, or for the amount authorized  
43 to be appropriated for project costs pursuant to certification  
44 standard c. of this section and that a corrective action plan is  
45 needed. The department shall submit a corrective action plan that  
46 would offset the excess amount spent, or the excess amount  
47 appropriated, in the prior year with less funding for permitted  
48 maintenance or for projects, as the case may be, in the proposed

capital budget request. Upon approval of the corrective action plan by the board, a certification as to these matters shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program. (cf: P.L.2016, c.56, s.7)

5. This act shall take effect immediately and sections 1 through 3 shall expire on the first day following the submission by the commission of its report to the Governor and the Legislature pursuant to section 3 of this act.

#### STATEMENT

This bill establishes an "Alternative Fuel Vehicle Transportation Financing Commission" (commission) to consist of seven members as follows:

1) the State Treasurer, ex officio, or the State Treasurer's designee;

2) the Commissioner of the Department of Transportation, ex officio, or the commissioner's designee;

3) the Chief Administrator of the New Jersey Motor Vehicle Commission, ex officio, or the chief administrator's designee;

4) one member of the public appointed by the President of the Senate;

5) one member of the public appointed by the Speaker of the General Assembly; and

6) two members of the public appointed by the Governor, with the advice and consent of the Senate.

The public members of the commission are to have a professional background in transportation capital finance, transportation capital planning, or tax revenue collection. The State Treasurer is to serve as chair of the commission.

The commission is to study and make findings and recommendations concerning the taxation of motor vehicles that are powered by a fuel source that is not subject to the motor fuels tax or the petroleum products gross receipts tax, including, but not limited to, electric vehicles and hydrogen fuel cell vehicles. The report is to include recommendations to the Legislature for a system of taxation that mandates that all vehicles operating on the highways of this State contribute to the cost of maintaining the State transportation system.

1       The commission is to issue a report of its findings and  
2 recommendations to the Governor and the Legislature within 180  
3 days after the initial meeting of the commission. The report is to  
4 include the commission's recommendations for legislation that may  
5 be considered for adoption by the Legislature.

6       The bill amends current law to transfer the responsibility for the  
7 aforementioned study and report from the Transportation Policy  
8 Review Board to the commission.