

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 624**

4 (By Senators Browning, Unger, McCabe, Williams, Klempa and  
5 Stollings)

6 \_\_\_\_\_  
7 [Originating in Committee on Economic Development;  
8 reported February 22, 2012.]  
9 \_\_\_\_\_

10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §11-6D-10; and  
12 to amend said code by adding thereto a new section,  
13 designated §11-14C-5a, all relating generally to use of  
14 alternative-fuel motor vehicles; permitting transfer of  
15 tax credits for purchase of alternative-fuel vehicles,  
16 conversion to an alternative-fuel vehicle or construction  
17 of alternative-fuel vehicle infrastructure; providing  
18 method of collection of motor fuel excise taxes when liquified  
19 natural gas or compressed natural gas are used as motor fuel;  
20 and specifying expiration date.

21 *Be it enacted by the Legislature of West Virginia:*

22 That the Code of West Virginia, 1931, as amended, be amended  
23 by adding thereto a new section, designated §11-6D-10; and that  
24 said code be amended by adding thereto a new section, designated  
25 §11-14C-5a, all to read as follows:

1 **ARTICLE 6D. ALTERNATIVE-FUEL MOTOR VEHICLES TAX CREDIT.**

2 **§11-6D-10. Transfer or sale of credit.**

3 (a) Any entity, including a governmental entity, that would be  
4 eligible for a tax credit issued in accordance with this article  
5 for an alternative fuel motor vehicle that operates using  
6 compressed natural gas, liquified natural gas or electricity or any  
7 qualifying alternative fuel vehicle refueling infrastructure, if  
8 that entity fit within the definition of "taxpayer" as that term is  
9 defined in section two of this article, may transfer the right to  
10 that tax credit to any taxpayer, subject to the following  
11 conditions:

12 (1) A single transfer or sale may involve one or more  
13 transferees, assignees or purchasers. A transfer or sale of the  
14 credits may involve multiple transfers to one or more transferees,  
15 assignees or purchasers.

16 (2) Transferors and sellers shall apply to the tax department  
17 for approval of any transfer, sale or assignment of the tax credit.  
18 Any amount of the tax credit that has been transferred or assigned  
19 is subject to the same limitations and conditions that apply to  
20 transferor's or seller's entitlement, use and application of the  
21 credit. The application for sale, transfer or assignment of the  
22 credit shall include the transferor's tax credit balance prior to  
23 transfer, if any, the name of the seller, the transferor's  
24 remaining tax credit balance after transfer, if any, all tax  
25 identification numbers for both transferor, if any, and transferee,  
26 the date of transfer, the amount transferred and any other

1 information required by the Tax Commissioner. The Tax Commissioner  
2 shall either approve or disapprove the application for sale,  
3 transfer or assignment of the tax credit within thirty days of  
4 receipt of the application. In the event the Tax Commissioner  
5 denies the application for sale, transfer or assignment of the tax  
6 credit, the Tax Commissioner shall provide the reason for such  
7 denial.

8 (3) The Tax Commissioner may not approve the transfer or  
9 assignment of a tax credit to a taxpayer if the seller or  
10 transferor has an outstanding tax obligation with the state of West  
11 Virginia.

12 (b) The transferee, assignee or purchaser shall apply the tax  
13 credits as required by this article and is subject to all  
14 conditions and limitations of this article.

15 (c) For purposes of this section, any proceeds received by the  
16 transferor for its assignment or sale of the tax credits allowed  
17 pursuant to this section are exempt from the West Virginia  
18 consumers sales and service tax and use tax and from the  
19 corporation net income tax and personal income tax.

20 **ARTICLE 14C. MOTOR FUEL EXCISE TAX.**

21 **§11-14C-5a. Collection of motor fuel excises taxes when compressed**  
22 **natural gas or liquified natural gas used as motor fuel;**  
23 **expiration date.**

24 (a) Beginning July 1, 2012, in lieu of the motor fuels excise  
25 taxes levied by section five of this article, there is hereby

1 levied a flat tax of 100 dollars per year on liquified natural gas  
2 (LNG) and compressed natural gas (CNG) used as motor fuel in each  
3 passenger automobile or motorcycle, and in each pickup truck or van  
4 not exceeding one (1) ton in capacity, using liquefied natural gas  
5 (LNG) or compressed natural gas (CNG) as motor fuel, except that no  
6 tax shall be levied on any vehicle owned or leased by an entity  
7 that is exempt from tax pursuant to subdivisions (1) through (6),  
8 subsection (c), section nine of this article.

9 (b) Beginning July 1, 2012, in lieu of the motor fuel excise  
10 taxes imposed by section five or this article, there is hereby  
11 levied a flat tax on liquified natural gas (LNG) and compressed  
12 natural gas (CNG) used as motor fuel in a vehicle equal to 150  
13 dollars per year for each motor vehicle exceeding one (1) ton in  
14 capacity, using liquified natural gas (LNG) or compressed natural  
15 gas (CNG) as motor fuel, except that no tax shall be levied on any  
16 vehicle owned or leased by an entity that is exempt from tax  
17 pursuant to subdivisions (1) through (6), subsection (c), section  
18 nine of this article.

19 (c) The one-year period provided for in subsections (a) and  
20 (b) of this section shall begin on the first day of July of the  
21 calendar year and expire at the end of the day that is the  
22 thirtieth day of June of the next calendar year.

23 (d) Payment of the taxes levied by this section shall be  
24 evidenced by a decal issued by the Tax Commissioner, which decal  
25 shall be affixed to the lower right-hand corner of the windshield  
26 of the vehicle. The decal shall be of a design prescribed by the

1 Tax Commissioner, shall be of a different color for each year of  
2 the five-year period for which decals may be issued pursuant to  
3 this section and shall meet any other specification reasonably  
4 required by the Tax Commissioner.

5 (e) Every person owning or operating a vehicle using liquefied  
6 natural gas or compressed natural gas, except as otherwise provided  
7 in subsections (a) and (b) of this section, shall make an annual  
8 application for and obtain a decal to be issued on a yearly basis  
9 by the Tax Commissioner. The application shall be in a form  
10 prescribed by the Tax Commissioner that is available at the website  
11 of the State Tax Department.

12 (f) Every person who makes application for and receives a  
13 decal under this section shall, at the time of making the  
14 application, remit to the Tax Commission the total amount of the  
15 tax due.

16 (g) Upon receipt of satisfactory proof by the Tax Commissioner  
17 that it has become necessary to replace the windshield of the  
18 vehicle for which the decal was issued, another decal shall be  
19 issued by the Tax Commissioner as a replacement for a fee of five  
20 dollars.

21 (h) When any vehicle using liquefied natural gas or compressed  
22 natural gas as motor fuel and displaying a current decal as  
23 provided in this section, is sold or ownership is otherwise  
24 transferred, the decal shall remain with the vehicle sold or  
25 otherwise transferred, unless the equipment installed to enable the  
26 vehicle to use liquefied petroleum gas, liquefied natural gas or

1 compressed natural gas has been removed from the vehicle before the  
2 sale or other transfer of ownership.

3 (i) When the equipment that allows the vehicle to use  
4 liquefied natural gas or compressed natural gas as motor fuel is  
5 removed before the sale or other transfer of the vehicle, the  
6 seller or other transferor of the vehicle shall also remove the  
7 decal required of vehicles using liquefied natural gas or  
8 compressed natural gas as motor fuel. The removed decal, a receipt  
9 from the Tax Commissioner showing that the fee required has been  
10 paid for the current year, and the payment of a five-dollar fee for  
11 duplicate decal shall entitle the seller or other transferor to  
12 make application for and obtain a new decal to be used for the  
13 remainder of the year on any vehicle of the seller or other  
14 transferor using liquefied natural gas or compressed natural gas as  
15 motor fuel in accordance with the provisions of this section.

16 (j) All funds derived from the taxes, fees and money penalties  
17 imposed by this section shall be deposited in the State Road Fund.

18 (k) When any person fails to obtain a current decal within 30  
19 days of the date the decal is required as provided in this section,  
20 there shall become due and payable a money penalty of 50 dollars in  
21 addition to the required fee. Collections of this money penalty  
22 shall be deposited in the State Road Fund.

23 (l) This section shall expire and be of no further effect on  
24 July 1, 2017, unless this date is extended by the Legislature.

NOTE: The purpose of this bill is to permit tax credits taken

for the purchase of alternative fuel vehicles or conversion to alternative fuel vehicles or the construction of alternative fuel vehicle infrastructure to be transferred and to provide for the collection of motor fuel excise taxes when liquified natural gas (LNG) and compressed natural gas (CNG) are used as motor fuel in a vehicle operating on the highways of this State.

Sections 11-6D-10 and 11-14C-5a are new; therefore, strike-throughs and underscoring have been omitted.