

1 COMMITTEE SUBSTITUTE

2 FOR

3 COMMITTEE SUBSTITUTE

4 FOR

5 **Senate Bill No. 624**

6 (By Senators Browning, Unger, McCabe, Williams, Klempa and
7 Stollings)

8 _____
9 [Originating in the Committee on Finance;
10 reported February 27, 2012.]

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

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

24 That the Code of West Virginia, 1931, as amended, be amended
25 by adding thereto a new section, designated §11-6D-10; and that
26 said code be amended by adding thereto a new section, designated

1 §11-14C-5a, all to read as follows:

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

3 **§11-6D-10. Transfer or sale of credit.**

4 (a) For purposes of this article and notwithstanding any
5 provision in the code to the contrary, a governmental entity and a
6 nonprofit entity constitute a "taxpayer" as that term is defined in
7 section two of this article and are entitled to take and transfer
8 tax credits which are provided for in this article. Any entity may
9 transfer and sell the right to a tax credit issued pursuant to this
10 article for liquefied natural gas vehicles, compressed natural gas
11 vehicles, natural gas hydrocarbon and derivative vehicles and
12 qualified alternative-fuel vehicle refueling infrastructure to any
13 taxpayer, subject to the following conditions:

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

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

1 identification numbers for both transferor, if any, and transferee,
2 the date of transfer, the amount transferred and any other
3 information required by the Tax Commissioner. The Tax Commissioner
4 shall either approve or disapprove the application for sale,
5 transfer or assignment of the tax credit within thirty days of
6 receipt of the application. In the event the Tax Commissioner
7 denies the application for sale, transfer or assignment of the tax
8 credit, the Tax Commissioner shall provide the reason for such
9 denial.

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

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

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

22 (d) The purpose of this section is to authorize any entity to
23 take and transfer tax credits provided in this article, and
24 specifically allow government entities and nonprofit entities to
25 utilize certain tax credits issued pursuant to this article.

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

1 **§11-14C-5a. Collection of motor fuel excises taxes when compressed**
2 **natural gas or liquified natural gas used as motor fuel;**
3 **expiration date.**

4 (a) Beginning July 1, 2012, in lieu of the motor fuels excise
5 taxes levied by section five of this article, there is hereby
6 levied a flat tax of \$100 per year on liquified natural gas (LNG)
7 and compressed natural gas (CNG) used as motor fuel in each
8 passenger automobile or motorcycle, and in each pickup truck or van
9 not exceeding one (1) ton in capacity, using liquefied natural gas
10 (LNG) or compressed natural gas (CNG) as motor fuel, except that no
11 tax shall be levied on any vehicle owned or leased by an entity
12 that is exempt from tax pursuant to subdivisions (1) through (6),
13 subsection (c), section nine of this article.

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

24 (c) The one-year period provided for in subsections (a) and
25 (b) of this section shall begin on the first day of July of the

1 calendar year and expire at the end of the day that is the
2 thirtieth day of June of the next calendar year.

3 (d) Payment of the taxes levied by this section shall be
4 evidenced by a decal issued by the Tax Commissioner, which decal
5 shall be affixed to the lower right-hand corner of the windshield
6 of the vehicle. The decal shall be of a design prescribed by the
7 Tax Commissioner, shall be of a different color for each year of
8 the five-year period for which decals may be issued pursuant to
9 this section and shall meet any other specification reasonably
10 required by the Tax Commissioner.

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

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

22 (g) Upon receipt of satisfactory proof by the Tax Commissioner
23 that it has become necessary to replace the windshield of the
24 vehicle for which the decal was issued, another decal shall be
25 issued by the Tax Commissioner as a replacement for a fee of \$5.

26 (h) When any vehicle using liquefied natural gas or compressed

1 natural gas as motor fuel and displaying a current decal as
2 provided in this section, is sold or ownership is otherwise
3 transferred, the decal shall remain with the vehicle sold or
4 otherwise transferred, unless the equipment installed to enable the
5 vehicle to use liquefied petroleum gas, liquefied natural gas or
6 compressed natural gas has been removed from the vehicle before the
7 sale or other transfer of ownership.

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

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

23 (k) When any person fails to obtain a current decal within
24 thirty days of the date the decal is required as provided in this
25 section, there shall become due and payable a money penalty of \$50
26 in addition to the required fee. Collections of this money penalty

1 shall be deposited in the State Road Fund.

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