

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 185**

4 (By Senators Kessler (Mr. President) and M. Hall,

5 By Request of the Executive)

6 \_\_\_\_\_  
7 [Originating in the Committee on Transportation and  
8 Infrastructure; reported March 22, 2013.]  
9 \_\_\_\_\_

10  
11 A BILL to amend and reenact §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4,  
12 §11-6D-5, §11-6D-6, §11-6D-7 and §11-6D-9 of the Code of West  
13 Virginia, 1931, as amended; and to amend said code by adding  
14 thereto a new section, designated §11-6D-10, all relating to  
15 the tax credit for alternative-fuel motor vehicles and  
16 qualified alternative-fuel vehicle refueling infrastructure  
17 and qualified alternative-fuel vehicle home refueling  
18 infrastructure; setting forth legislative findings; defining  
19 terms and modifying definitions and terms; on and after the  
20 effective date of the amendment and reenactment of the section  
21 during the regular session of the Legislature in 2013,  
22 eliminating the availability of tax credits for infrastructure  
23 related to and motor vehicles that are capable of running on  
24 ethanol and certain fuel mixtures containing ethanol, methanol

1 or other alcohols; excluding storage tanks from the definition  
2 of "qualified alternative-fuel vehicle home refueling  
3 infrastructure"; requiring that not more than one tax credit  
4 be granted for the purchase of an alternative-fuel motor  
5 vehicle, or for costs relating to conversion or retrofitting  
6 of a motor vehicle to an alternative-fuel motor vehicle, or  
7 for costs associated with qualified alternative-fuel vehicle  
8 refueling infrastructure, or for costs associated with  
9 qualified alternative-fuel home refueling infrastructure;  
10 removing the requirement that a converted vehicle must operate  
11 exclusively on an alternative fuel in order to take the  
12 credit; permitting a tax credit for certain retrofitted  
13 vehicles; requiring a taxpayer to own the alternative-fuel  
14 motor vehicle for which a claim is filed on the last day of  
15 the taxpayer's tax year for which the credit is claimed;  
16 clarifying restrictions and eligibility for tax credits;  
17 changing the amount of credit and the cap for qualified  
18 alternative-fuel vehicle refueling infrastructure; allowing  
19 pass-through entities to distribute credits to pass-through  
20 equity owners in any manner such equity owners see fit;  
21 eliminating a rule requirement; providing for the termination  
22 of tax credit for alternative-fuel motor vehicles purchased  
23 after December 31, 2017; providing for the termination of tax  
24 credit for motor vehicles converted or retrofitted to operate

1 on alternative fuel after December 31, 2017; providing for the  
2 termination of tax credit for construction or purchase and  
3 installation of qualified alternative-fuel vehicle refueling  
4 infrastructure occurring after December 31, 2017; providing  
5 for the termination of tax credit for construction or purchase  
6 and installation of qualified alternative-fuel vehicle home  
7 refueling infrastructure occurring in tax years beginning  
8 after December 31, 2015; capping the number of years for which  
9 a carryover credit is allowed for alternative-fuel motor  
10 vehicle tax credits and for qualified alternative-fuel vehicle  
11 home refueling infrastructure tax credits; permitting the  
12 transfer and sale of certain tax credits under certain  
13 conditions; setting forth how transfers of tax credits may be  
14 accomplished; providing an exception from consumers sales and  
15 service tax, use tax, corporation net income tax and personal  
16 income tax; and permitting government entities and nonprofit  
17 entities to utilize tax credits.

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

19 That §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4, §11-6D-5,  
20 §11-6D-6, §11-6D-7 and §11-6D-9 of the Code of West Virginia, 1931,  
21 as amended, be amended and reenacted; and that said code be amended  
22 by adding thereto a new section, designated §11-6D-10, all to read  
23 as follows:

24 **ARTICLE 6D. ALTERNATIVE FUEL MOTOR VEHICLE TAX CREDIT.**

1 **§11-6D-1. Legislative findings and purpose.**

2 Consistent with the public policy as stated in section one,  
3 article two-d, chapter twenty-four of this code, the Legislature  
4 hereby finds that the use of alternative fuels is in the public  
5 interest and promotes the general welfare of the people of this  
6 state insofar as it addresses serious concerns for our environment  
7 and our state's and nation's dependence on foreign oil as a source  
8 of energy. The Legislature further finds that ~~this state has an~~  
9 ~~abundant supply of alternative fuels and an extensive supply~~  
10 ~~network and that,~~ by encouraging the use of alternatively-fueled  
11 motor vehicles, and particularly natural gas fueled and liquefied  
12 petroleum gas fueled motor vehicles, the state will be reducing its  
13 dependence on foreign oil and attempting to improve its air  
14 quality. The Legislature further finds that the wholesale cost of  
15 fuel for certain alternatively-fueled motor vehicles is  
16 significantly lower than the cost of ~~fueling~~ fuel for traditional  
17 motor vehicles ~~with oil based fuels.~~

18 However, because the cost of motor vehicles which utilize  
19 alternative-fuel technologies remains high in relation to motor  
20 vehicles that employ more traditional technologies, citizens of  
21 this state who might otherwise choose an alternatively-fueled motor  
22 vehicle are forced by economic necessity to continue using motor  
23 vehicles that are fueled by more conventional means. Additionally,  
24 the availability of commercial and residential infrastructure to

1 support alternatively-fueled vehicles available to the public is  
2 inadequate to encourage the use of alternatively-fueled motor  
3 vehicles. It is the intent of the Legislature that the alternative  
4 fuel motor vehicle tax credit previously expired in 2006 be hereby  
5 reinstated with changes and amendments as set forth herein.  
6 Therefore, in order to encourage the use of alternatively-fueled  
7 motor vehicles and possibly reduce unnecessary pollution of our  
8 environment and reduce our dependence on foreign sources of energy,  
9 there is hereby created an ~~alternative fuel~~ alternative fuel motor  
10 vehicles tax credit and an ~~alternative fuel~~ alternative fuel  
11 infrastructure tax credit.

12 **§11-6D-2. Definitions.**

13 As used in this article, the following terms have the meanings  
14 ascribed to them in this section:

15 (a) "Alternative fuel" includes

16 (1) Compressed natural gas;

17 (2) ~~Liquified~~ Liquefied natural gas;

18 (3) ~~Liquified~~ Liquefied petroleum gas;

19 (4) Ethanol;

20 (5) Fuel mixtures that contain eighty-five percent or more by  
21 volume, when combined with gasoline or other fuels, of the  
22 following:

23 (A) Methanol;

24 (B) Ethanol; or

- 1 (C) Other alcohols;
- 2 (6) Natural gas hydrocarbons and derivatives;
- 3 (7) Hydrogen;
- 4 (8) Coal-derived liquid fuels; and
- 5 (9) Electricity, including electricity from solar energy.

6 (b) ~~"Alternative-fuel~~ Alternative fuel motor vehicle" means a  
7 motor vehicle that as a new or retrofitted or converted fuel  
8 vehicle:

- 9 (1) Operates solely on one alternative fuel;
- 10 (2) Is capable of operating on one or more alternative fuels,  
11 singly or in combination; or
- 12 (3) Is capable of operating on an alternative fuel and is also  
13 capable of operating on gasoline or diesel fuel.

14 (c) "Bi-fueled" motor vehicle means a motor vehicle fueled  
15 from two or more tanks, each of which stores a separate type of  
16 fuel or power, which has the ability of an alternative-fuel motor  
17 vehicle to operate on an alternative fuel and another form of fuel.  
18 Bi-fueled motor vehicles as herein defined are alternative fuel  
19 motor vehicles.

20 (d) "Liquefied petroleum gas" means fuel commonly known and  
21 designated as "liquefied petroleum gas" or "LP gas." The term  
22 "liquefied petroleum gas" also means and includes:

- 23 (1) Propane;
- 24 (2) Butane; or

1        (3) A mix of gasses used as motor fuel which is predominantly  
2 propane or butane, or predominantly a mixture of propane and  
3 butane.

4        ~~(d)~~ (e) "Plug-in hybrid electric vehicle" means:

5        (1) A plug-in hybrid electric vehicle manufactured by an  
6 established motor vehicle manufacturer of plug-in hybrid electric  
7 vehicles that can operate solely on electric power and that is  
8 capable of recharging its battery from an on-board generation  
9 source and an off-board electricity source; and

10        (2) A plug-in hybrid electric vehicle conversion that provides  
11 an increase in city fuel economy of seventy-five percent or more as  
12 compared to a comparable nonhybrid version vehicle for a minimum of  
13 twenty miles and that is capable of recharging its battery from an  
14 on-board generation source and an off-board electricity source. A  
15 vehicle is comparable if it is the same model year and the same  
16 vehicle class as established by the United States Environmental  
17 Protection Agency and is comparable in weight, size and use. Fuel  
18 economy comparisons shall be made using city fuel economy standards  
19 in a manner that is substantially similar to the manner in which  
20 city fuel economy is measured in accordance with procedures set  
21 forth in 40 C.F.R. 600 as in effect on January 1, 2011.

22        ~~(e)~~ (f) "Qualified alternative fuel vehicle refueling  
23 infrastructure" means property owned by the applicant for the tax  
24 credit and used for storing alternative fuels and for dispensing

1 such alternative fuels into fuel tanks of motor vehicles,  
2 including, but not limited to, natural gas supply lines,  
3 compression equipment, storage tanks and dispensing units for  
4 alternative fuel at the point where the fuel is delivered into a  
5 motor vehicle for consumption: *Provided,* That the property is  
6 installed and located in this state and is not located on ~~a private~~  
7 ~~residence~~ residential property or in a private home.

8       ~~(f)~~ (g) "Qualified alternative fuel vehicle home refueling  
9 infrastructure" means property owned by the applicant for the tax  
10 credit located on a private residence or private home and used for  
11 storing alternative fuels and for dispensing such alternative fuels  
12 into fuel tanks of motor vehicles, including, but not limited to,  
13 compression equipment, ~~storage tanks~~ and dispensing units, but not  
14 storage tanks, for alternative fuel at the point where the fuel is  
15 delivered or for providing electricity to plug-in hybrid electric  
16 vehicles or electric vehicles: *Provided,* That the property is  
17 installed and located in this state.

18       ~~(g)~~ (h) "Taxpayer" means any natural person, corporation,  
19 limited liability company or partnership subject to the tax imposed  
20 under article twenty-one, article twenty-three or article  
21 twenty-four of this chapter or any combination thereof and, for the  
22 purposes of transferability as allowed pursuant to section ten of  
23 this article, state, county and municipal governmental entities and  
24 nonprofit entities.



1 **§11-6D-3. Credit allowed for alternative fuel motor vehicles and**  
2 **alternative fuel vehicle refueling infrastructure;**  
3 **application against personal income tax, business**  
4 **franchise tax or corporate net income tax;**  
5 **limitation of alternative fuel qualifying for a tax**  
6 **credit; effective dates.**

7 (a) The tax credits for the purchase of ~~alternative fuel~~  
8 alternative fuel motor vehicles or conversion or retrofitting to  
9 ~~alternative fuel~~ alternative fuel motor vehicles, qualified  
10 alternative fuel vehicle refueling infrastructure and qualified  
11 alternative fuel vehicle home refueling infrastructure provided in  
12 this article may be applied against the tax liability of a taxpayer  
13 imposed by the provisions of either article twenty-one, article  
14 twenty-three or article twenty-four of this chapter, but in no case  
15 may more than one tax credit be granted under this article or any  
16 combination of articles set forth in this chapter for the same  
17 ~~alternative fuel~~ alternative fuel motor vehicle purchase, costs  
18 relating to conversion or retrofitting to an alternative fuel motor  
19 vehicle, costs associated with qualified alternative fuel vehicle  
20 refueling infrastructure, or costs associated with qualified  
21 alternative fuel home refueling infrastructure as defined in  
22 ~~subdivision (b), section two of~~ this article. This credit shall be  
23 available for those tax years beginning on or after January 1,  
24 2011.

1 (b) On and after the effective date of the amendment and  
2 reenactment of this section during the regular session of the  
3 Legislature in 2013, no tax credit shall be allowed under this  
4 article for the purchase of an alternative fuel motor vehicle, or  
5 for costs relating to conversion or retrofitting to an alternative  
6 fuel motor vehicle, or for costs associated with qualified  
7 alternative fuel vehicle refueling infrastructure, or for costs  
8 associated with qualified alternative fuel home refueling  
9 infrastructure unless the alternative fuel used for such motor  
10 vehicle or infrastructure is the following:

- 11 (1) Compressed natural gas;
- 12 (2) Liquefied natural gas;
- 13 (3) Liquefied petroleum gas;
- 14 (4) Natural gas hydrocarbons and derivatives;
- 15 (5) Hydrogen;
- 16 (6) Coal-derived liquid fuels; or
- 17 (7) Electricity, including electricity from solar energy.

18 Tax credits shall be given for moneys expended prior to the  
19 effective date of the amendment and reenactment of this section  
20 during the regular session of the Legislature in 2013 on qualifying  
21 infrastructure and alternative fuel motor vehicles.

22 **§11-6D-4. Eligibility for credit.**

23 A taxpayer is eligible to claim the credit against tax  
24 provided in this article if ~~he or she~~ the taxpayer:

1 (a) Converts or retrofits a motor vehicle that is presently  
2 registered in West Virginia to operate ~~exclusively~~ on an  
3 alternative fuel or as a bi-fueled motor vehicle as defined in  
4 ~~subdivision (a), section two of this article; or~~

5 (b) Purchases from an original equipment manufacturer or an  
6 after-market conversion facility or any other automobile retailer,  
7 a new dedicated alternative fuel motor vehicle or bi-fueled  
8 ~~alternative-fuel~~ motor vehicle for which the taxpayer then obtains  
9 a valid West Virginia registration; or

10 (c) Constructs or purchases and installs qualified alternative  
11 fuel vehicle refueling infrastructure or qualified alternative fuel  
12 vehicle home refueling infrastructure that is capable of dispensing  
13 alternative fuel for ~~alternative-fuel~~ alternative fuel motor  
14 vehicles.

15 (d) The credit provided in this article is not available to  
16 and may not be claimed by any taxpayer under any obligation  
17 pursuant to any federal or state law, policy or regulation to  
18 convert or retrofit to the use of alternative fuels for any motor  
19 vehicle.

20 (e) The credit provided in this article for purchase of an  
21 alternative fuel motor vehicle or conversion or retrofitting of a  
22 motor vehicle to an alternative fuel motor vehicle, is not  
23 available to and may not be claimed by any taxpayer in, or for, any  
24 tax year in which the taxpayer did not own the alternative fuel

1 motor vehicle for which the claim is filed on the last day of the  
2 taxpayer's tax year for which the credit is claimed.

3       **§11-6D-5. Amount of credit for alternative fuel motor**  
4 **vehicles.**

5       (a) For taxable years beginning on and after January 1, 2011,  
6 until the termination or cessation of the tax credit as specified  
7 in this article, the amount of the credit allowed under this  
8 article for an ~~alternative-fuel~~ alternative fuel motor vehicle that  
9 weighs less than twenty-six thousand pounds is thirty-five percent  
10 of the purchase price of the ~~alternative-fuel~~ alternative fuel  
11 motor vehicle up to a maximum amount of \$7,500 or fifty percent of  
12 the actual cost of converting or retrofitting from a traditionally  
13 fueled motor vehicle to an alternative fuel motor vehicle up to a  
14 maximum amount of \$7,500.

15       (b) For taxable years beginning on and after January 1, 2011,  
16 until the termination or cessation of the tax credit as specified  
17 in this article, the amount of the credit allowed under this  
18 article for an ~~alternative-fuel~~ alternative fuel motor vehicle that  
19 weighs more than twenty-six thousand pounds is thirty-five percent  
20 of the purchase price of the ~~alternative-fuel~~ alternative fuel  
21 motor vehicle up to a maximum amount of \$25,000 or fifty percent of  
22 the actual cost of converting or retrofitting from a traditionally  
23 fueled motor vehicle to an alternative fuel motor vehicle up to a  
24 maximum amount of \$25,000.

1 **§11-6D-6. Amount of credit for qualified alternative fuel vehicle**  
2 **refueling infrastructure and qualified alternative**  
3 **fuel vehicle home refueling infrastructure.**

4 (a) For taxable years beginning on and after January 1, 2011,  
5 but prior to January 1, 2014, the amount of the credit allowed  
6 under this article for qualified alternative fuel vehicle refueling  
7 infrastructure is equal to ~~an amount of~~ fifty percent of the total  
8 costs directly associated with the construction or purchase and  
9 installation of the qualified alternative fuel vehicle refueling  
10 infrastructure up to a maximum of \$250,000: *Provided*, That if the  
11 qualified alternative fuel vehicle refueling infrastructure is  
12 generally accessible for public use, the amount of the credit  
13 allowed will be multiplied by 1.25 and the maximum amount allowable  
14 will be \$312,500. The amount of credit allowed may not exceed the  
15 cost of construction of the qualified alternative fuel vehicle  
16 refueling infrastructure.

17 (b) For taxable years beginning on and after January 1, 2014,  
18 ~~but prior to January 1, 2016~~ until the termination or cessation of  
19 this credit as specified in this article, the amount of the credit  
20 allowed under this article for qualified alternative fuel vehicle  
21 refueling infrastructure is equal to ~~an amount of fifty~~ twenty  
22 percent per facility of the total costs directly associated with  
23 the construction or purchase and installation of the qualified  
24 alternative fuel vehicle refueling infrastructure up to a maximum

1 of ~~\$200,000~~ \$400,000 per facility. ~~Provided, That if the qualified~~  
2 ~~alternative fuel vehicle refueling infrastructure is generally~~  
3 ~~accessible for public use, the amount of the credit allowed will be~~  
4 ~~multiplied by 1.25 and the maximum amount allowable will be~~  
5 ~~\$250,000. The amount of credit allowed may not exceed the cost of~~  
6 ~~construction of the alternative fuel vehicle refueling~~  
7 ~~infrastructure~~

8       ~~(c) For taxable years beginning on and after January 1, 2016,~~  
9 ~~but prior to January 1, 2022, the amount of the credit allowed~~  
10 ~~under this article for qualified alternative fuel vehicle refueling~~  
11 ~~infrastructure is equal to an amount of fifty percent of the total~~  
12 ~~costs directly associated with the construction or purchase and~~  
13 ~~installation of the alternative fuel vehicle refueling~~  
14 ~~infrastructure up to a maximum of \$150,000: Provided, That if the~~  
15 ~~qualified alternative fuel vehicle refueling infrastructure is~~  
16 ~~generally accessible for public use, the amount of the credit~~  
17 ~~allowed will be multiplied by 1.25 and the maximum amount allowable~~  
18 ~~will be \$187,500. The amount of credit allowed may not exceed the~~  
19 ~~cost of construction of the alternative fuel vehicle refueling~~  
20 ~~infrastructure.~~

21       ~~(d)~~ (c) For taxable years beginning on and after January 1,  
22 2011, until the termination or cessation of this credit as  
23 specified in this article, the amount of the credit allowed under  
24 this article for qualified alternative fuel vehicle home refueling

1 infrastructure is equal to an amount of fifty percent of the total  
2 costs directly associated with the construction or purchase and  
3 installation of the qualified alternative fuel vehicle home  
4 refueling infrastructure up to a maximum of \$10,000.

5 ~~(e)~~ (d) The cost of construction of the qualified alternative  
6 fuel vehicle refueling infrastructure or qualified alternative fuel  
7 vehicle home refueling infrastructure eligible for a tax credit  
8 under this ~~section~~ article does not include costs associated with  
9 exploration, development or production activities necessary for  
10 severing natural resources from the soil or ground.

11 ~~(f)~~ (e) When the taxpayer is a pass-through entity treated  
12 like a partnership for federal and state income tax purposes, the  
13 credit allowed under this article for the year shall flow through  
14 to the equity owners of the pass-through entity in ~~the same~~ any  
15 manner that such equity owners see fit and is not required to flow  
16 through such equity owners in the same manner as distributive share  
17 flows through to the equity owners. ~~and in accordance with any~~  
18 ~~legislative rule the Tax Commissioner may propose for legislative~~  
19 ~~approval in accordance with article three, chapter twenty-nine-a of~~  
20 ~~this code to administer this section.~~

21 ~~(g)~~ (f) No credit allowed by this article may be applied  
22 against employer withholding taxes imposed by article twenty-one of  
23 this chapter.

24 **§11-6D-7. Duration of availability of credit.**

1 No ~~person~~ taxpayer is eligible to receive a tax credit under  
2 this article for:

3 (1) An ~~alternative-fuel~~ alternative fuel motor vehicle  
4 purchased after December 31, ~~2021~~ 2017;

5 (2) A vehicle converted or retrofitted to an ~~alternative-fuel~~  
6 alternative fuel motor vehicle after December 31, ~~2021~~ 2017; ~~or~~

7 (3) The construction or purchase and installation of qualified  
8 alternative fuel vehicle refueling infrastructure or qualified  
9 alternative fuel vehicle home refueling infrastructure occurring  
10 after December 31, ~~2021~~ 2017; or

11 (4) The construction or purchase and installation of qualified  
12 alternative fuel vehicle home refueling infrastructure occurring  
13 after December 31, 2015.

14 **§11-6D-9. Carryover credit allowed; recapture of credit.**

15 (a) If the alternative fuel motor vehicle tax credit allowed  
16 under this article in ~~any~~ the first taxable year in which the tax  
17 credit is allowable to offset tax exceeds the taxpayer's tax  
18 liability as determined in accordance with article twenty-one,  
19 article twenty-three ~~or~~ and article twenty-four of this chapter for  
20 that taxable year, the excess may be applied for not more than the  
21 four next succeeding taxable years until the ~~full amount of the~~  
22 excess tax credit is used or the end of the fourth next succeeding  
23 taxable year, whichever occurs first. Any excess credit remaining  
24 at the end of the fourth next succeeding taxable year shall be



1 forfeited.

2 (b) If the qualified alternative fuel vehicle refueling  
3 infrastructure tax credit allowed under this article in any taxable  
4 year exceeds the taxpayer's tax liability as determined in  
5 accordance with article twenty-one, article twenty-three or article  
6 twenty-four of this chapter for that taxable year, the excess may  
7 be applied for succeeding taxable years until the full amount of  
8 the excess tax credit is used.

9 (c) If the qualified alternative fuel vehicle home refueling  
10 infrastructure tax credit allowed under this article in the first  
11 taxable year in which the tax credit is allowable to offset tax  
12 exceeds the taxpayer's tax liability as determined in accordance  
13 with article twenty-one, article twenty-three or article  
14 twenty-four of this chapter for that taxable year, the excess may  
15 be applied for one next succeeding taxable year. Any excess credit  
16 remaining at the end of the next succeeding taxable year shall be  
17 forfeited.

18 (d) No carry back to a prior taxable year is allowed for the  
19 amount of any unused credit in any taxable year.

20 ~~(c)~~ (e) A tax credit is subject to recapture, elimination or  
21 reduction if it is determined by the State Tax Commissioner that a  
22 taxpayer was not entitled to the credit, in whole or in part, in  
23 the tax year in which it was claimed by the taxpayer. The amount  
24 of credit that flows through to equity owners of a ~~passthrough~~

1 pass-through entity may be recaptured or recovered from either the  
2 taxpayer or the equity owners in the discretion of the Tax  
3 Commissioner.

4 **§11-6D-10. Transfer or sale of credit.**

5 (a) Any taxpayer may transfer and sell the right to a tax  
6 credit issued pursuant to this article for liquefied natural gas  
7 vehicles, compressed natural gas vehicles, natural gas hydrocarbon  
8 and derivative vehicles and qualified alternative-fuel vehicle  
9 refueling infrastructure to any taxpayer, subject to the following  
10 conditions:

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

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

1 the date of transfer, the amount transferred and any other  
2 information required by the Tax Commissioner. The Tax Commissioner  
3 shall either approve or disapprove the application for sale,  
4 transfer or assignment of the tax credit within thirty days of  
5 receipt of the application. In the event the Tax Commissioner  
6 denies the application for sale, transfer or assignment of the tax  
7 credit, the Tax Commissioner shall provide the reason for such  
8 denial: *Provided*, That the total amount of tax credits authorized  
9 to be transferred by state, county and municipal governmental  
10 entities and nonprofit entities in any one calendar year in the  
11 aggregate shall not exceed \$2 million for qualified alternative  
12 fuel motor vehicle tax credits and \$2 million for qualified  
13 alternative fuel vehicle refueling infrastructure tax credits.

14 (3) The Tax Commissioner may not approve the transfer or  
15 assignment of a tax credit to a taxpayer if the seller or  
16 transferor has an outstanding tax obligation with the state of West  
17 Virginia.

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

21 (c) For purposes of this section, any proceeds received by the  
22 transferor for its assignment or sale of the tax credits allowed  
23 pursuant to this section are exempt from the West Virginia  
24 consumers sales and service tax and use tax and from the

1 corporation net income tax and personal income tax.

2 (d) The purpose of this section is to authorize any entity to  
3 take and transfer tax credits provided in this article, and  
4 specifically allow state, county and municipal governmental  
5 entities and nonprofit entities to utilize certain tax credits  
6 issued pursuant to this article.

NOTE: The purpose of this bill is to refine, revise and modernize the alternative fuel motor vehicle infrastructure credit and alternative fuel motor vehicle credit to more closely align the code with specific intended economic development goals and budgetary goals. The bill eliminates the availability of a tax credit for infrastructure and motor vehicles that are capable of running on ethanol and certain fuel mixtures containing ethanol, methanol or other alcohols starting on the effective date of the amendment and reenactment of the section during the regular session of the Legislature in 2013. The bill removes the requirement that a converted vehicle must operate exclusively on an alternative fuel in order to take the credit. The bill clarifies and restricts the eligibility for tax credits. The bill eliminates a rule requirement. The bill allows pass-through entities to distribute credits to pass-through equity owners in any manner the equity owners see fit. The bill permits the transfer of tax credits for purchase of alternative-fuel vehicles, conversion or retrofitting to an alternative-fuel vehicle or construction of alternative-fuel vehicle infrastructure. The bill sets forth how those transfer of tax credits may be accomplished. The bill allows government entities and nonprofit entities to utilize certain tax credits.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§11-6D-10 is new; therefore, strike-throughs and underscoring have been omitted.