

H. B. 2135

(By Delegates Manypenny, Marshall, Guthrie,
Moore, Martin, Fleischauer and Talbott)

[Introduced January 12, 2011; referred to the

Committee on Roads and Transportation then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4,
§11-6D-5, §11-6D-6 and §11-6D-7 of the Code of West Virginia,
1931, as amended, all relating to a tax incentive for plug-in
electric drive motor vehicles; defining terms; specifying
initial availability of the credit and duration of the credit;
providing eligibility for the credit; providing calculation of
the amount of the credit; and updating language to apply only
to plug-in electric drive motor vehicles.

Be it enacted by the Legislature of West Virginia:

That §11-6D-1, §11-6D-2, §11-6D-3, §11-6D-4, §11-6D-5, §11-6D-
6 and §11-6D-7 of the Code of West Virginia, 1931, as amended, be
amended and reenacted, all to read as follows:

ARTICLE 6D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES TAX CREDIT.

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

Consistent with the public policy as stated in section one,
article two-d, chapter twenty-four of this code, the Legislature

1 hereby finds that the use of alternative fuels, including
2 electricity, is in the public interest and promotes the general
3 welfare of the people of this state insofar as it addresses serious
4 concerns for our environment and our state's and nation's
5 dependence on foreign oil as a source of energy. The Legislature
6 further finds that ~~this state has an abundant supply of alternative~~
7 ~~fuels and an extensive supply network and that~~ by encouraging the
8 use of ~~alternatively-fueled~~ plug-in electric drive motor vehicles,
9 the state will be reducing its dependence on foreign oil and
10 attempting to improve its air quality.

11 However, because the cost of motor vehicles which utilize
12 alternative-fuel technologies, including electricity, remains high
13 in relation to motor vehicles that employ more traditional
14 technologies, citizens of this state who might otherwise choose ~~an~~
15 ~~alternatively-fueled~~ a plug-in electric drive motor vehicle are
16 forced by economic necessity to continue using motor vehicles that
17 are fueled by more conventional means. Therefore, in order to
18 encourage the use of ~~alternatively-fueled~~ plug-in electric drive
19 motor vehicles and possibly reduce unnecessary pollution of our
20 environment and reduce our dependence on foreign sources of energy,
21 there is hereby created ~~an alternative-fuel~~ a plug-in electric
22 drive motor vehicles tax credit.

23 **§11-6D-2. Definitions.**

24 As used in this article, the following terms have the meanings

1 ascribed to them in this section:

2 ~~(a) "Alternative fuel" includes:~~

3 ~~(1) Compressed natural gas;~~

4 ~~(2) Liquified natural gas;~~

5 ~~(3) Liquified petroleum gas;~~

6 ~~(4) Methanol;~~

7 ~~(5) Ethanol;~~

8 ~~(6) Fuel mixtures that contain eighty-five percent or more by~~
9 ~~volume, when combined with gasoline or other fuels, of the~~

10 following:

11 ~~(A) Methanol;~~

12 ~~(B) Ethanol; or~~

13 ~~(C) Other alcohols;~~

14 ~~(7) Coal-derived liquid fuels; and~~

15 ~~(8) Electricity, including electricity from solar energy.~~

16 ~~(b) "Alternative-fuel motor vehicle" means a motor vehicle~~
17 ~~that as a new or retrofitted or converted fuel:~~

18 ~~(1) Operates solely on one alternative fuel;~~

19 ~~(2) Is capable of operating on one or more alternative fuels,~~
20 ~~singly or in combination; or~~

21 ~~(3) Is capable of operating on an alternative fuel and is also~~
22 ~~capable of operating on gasoline or diesel fuel.~~

23 (1) "New qualified plug-in electric drive motor vehicle" means
24 a motor vehicle:

1 (A) The original use of which commences with the taxpayer;

2 (B) Which is made by a manufacturer;

3 (C) Which is acquired for use or lease by the taxpayer and not
4 for resale;

5 (D) Which is treated as a motor vehicle for purposes of title
6 II of the Clean Air Act;

7 (E) Which has a gross vehicle weight rating of less than
8 fourteen thousand pounds; and

9 (F) Which is propelled to a significant extent by an electric
10 motor which draws electricity from a battery which:

11 (i) Has a capacity of at least four kilowatt hours; and

12 (ii) Is capable of being recharged from an external source of
13 electricity.

14 (2) "Motor vehicle" means any vehicle which is manufactured
15 primarily for use on public streets, roads and highways and which
16 has at least four wheels. The term does not include a vehicle
17 operated exclusively on a rail or rails.

18 **§11-6D-3. Credit allowed for ~~alternative-fuel~~ new qualified plug-**
19 **in electric drive motor vehicles; application against**
20 **personal income tax or corporate net income tax;**
21 **effective date.**

22 The tax credit provided in this article may be applied against
23 the tax liability of a taxpayer imposed by the provisions of either

1 article twenty-one or article twenty-four of this chapter, but in
 2 no case may more than one credit be granted for the same
 3 ~~alternative-fuel~~ new qualified plug-in electric drive motor vehicle
 4 as defined in subdivision ~~(b)~~ (1), section two of this article.
 5 This credit ~~shall be~~ is available for those tax years beginning
 6 after ~~the thirtieth day of June, one thousand nine hundred ninety-~~
 7 ~~seven~~ June 30, 2011.

8 **§11-6D-4. Eligibility for credit.**

9 (a) A taxpayer is eligible to claim the credit against tax
 10 provided in this article if he or she:

11 ~~(a)~~ (1) Converts a motor vehicle that is presently registered
 12 in West Virginia to ~~operate:~~

13 ~~(1) Exclusively on an alternative fuel as defined in~~
 14 ~~subdivision (a), section two of this article; or~~

15 ~~(2) In a dual fuel mode, as defined in paragraph (6),~~
 16 ~~subdivision (a), section two of this article; or~~ a qualified plug-
 17 in electric drive motor vehicle which, for the purposes of this
 18 subdivision means any new plug-in electric drive motor vehicle as
 19 defined in subdivision (1), section two of this article, without
 20 regard to paragraphs (A) and (B), and that conversion is made
 21 before December 31, 2011; or

22 ~~(b)~~ (2) Purchases from an original equipment manufacturer or
 23 an after-market conversion facility a new ~~dedicated or dually~~
 24 ~~fueled alternative-fuel~~ qualified plug-in electric drive motor

1 vehicle for which the taxpayer then obtains a valid West Virginia
2 registration.

3 ~~(c)~~ (b) The credit provided in this article ~~is not available~~
4 ~~to~~ and may not be claimed by any taxpayer under any obligation
5 pursuant to any federal or state law, policy or regulation to
6 convert to the use of ~~alternative fuels for any motor vehicle~~ plug-
7 in electric drive motor vehicles.

8 **§11-6D-5. Amount of credit.**

9 (a) The total amount of any credit allowed under this article
10 is limited by and subject to the provisions set forth in this
11 subsection and subsections (b) and (c) ~~and (d)~~ of this section and
12 may not exceed:

13 (1) In the case of a motor vehicle conversions or
14 retrofitting, ~~the actual cost of converting from a traditionally-~~
15 ~~fueled motor vehicle to an alternatively-fueled motor vehicle~~ ten
16 percent of the actual cost of the conversion; or

17 (2) In the case of a new purchase, the ~~incremental difference~~
18 ~~in cost between an alternative-fuel motor vehicle and a comparably~~
19 ~~equipped motor vehicle that employs traditional fuel technology.~~
20 sum of \$2,500 plus \$417 for each kilowatt hour of capacity in
21 excess of five kilowatt hours. The amount determined under this
22 subdivision may not exceed \$5,000.

23 (b) The maximum total credit allowed for a converted or
24 retrofitted electric plug-in vehicle is \$4,000. The maximum total

1 credit allowed for ~~an alternative-fuel~~ a new qualified plug-in
2 electric drive motor vehicle is \$7,500.

3 ~~(1) For a vehicle with a gross vehicle weight of not more than~~
4 ~~ten thousand pounds, \$3,750.~~

5 ~~(2) For a vehicle with a gross vehicle weight of more than ten~~
6 ~~thousand pounds up to twenty-six thousand pounds, \$9,250;~~

7 ~~(3) For a truck or van with a gross vehicle weight of more~~
8 ~~than twenty-six thousand pounds, \$50,000; and~~

9 ~~(4) For a bus capable of seating at least twenty adults,~~
10 ~~\$50,000.~~

11 ~~(c) Subject to the limitations set forth in subsection (a) of~~
12 ~~this section, a taxpayer who is otherwise entitled to a credit~~
13 ~~against tax who claims the credit provided for in this article on~~
14 ~~the basis of any alternative-fuel motor vehicle that operates~~
15 ~~exclusively on electricity is entitled to an additional credit of~~
16 ~~ten percent of the credit which is otherwise allowed under~~
17 ~~subsection (b) of this section.~~

18 ~~(d)~~ (c) The maximum incremental credit allowed per year is one
19 third of the credit attributable to five vehicles with the
20 cumulative credit over a three-year period not to exceed one third
21 of the credit attributable to fifteen vehicles.

22 **§11-6D-6. Credit to be apportioned over three-year period.**

23 The credit against tax for any ~~alternative-fuel~~ plug-in
24 electric drive motor vehicle provided for in this article may be

1 taken by a taxpayer claiming the credit only in three equal
2 increments over a three-consecutive tax-year period, so that in any
3 tax year in which a taxpayer is entitled to the credit, only one
4 third of the total credit allowed for a ~~certain alternative-fuel~~
5 qualified plug-in electric drive motor vehicle under section five
6 of this article may be taken.

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

8 (a) Except as otherwise provided in this article, the tax
9 credit provided in this article shall expire by operation of law
10 ten years after the effective date of the amendments to this
11 article during the 2012 regular session of the Legislature.
12 ~~Provided, That~~ Any eligible taxpayer who makes a valid claim for
13 the credit before that expiration is entitled to claim and receive
14 the remaining one-third increment or increments of the total credit
15 allowed under section five of this article for the tax year or
16 years ensuing after the expiration of this article until the total
17 amount of credit allowed has been exhausted.

NOTE: The purpose of this bill is to create a tax credit for new or converted qualified plug-in electric drive motor vehicles.

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