COMMITTEE SUBSTITUTE

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Senate Bill No. 624

(By Senators Browning, Unger, McCabe,

Williams, Klempa and Stollings)

[Originating in the Committee on Finance;

reported February 27, 2012.]

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

Be it enacted by the Legislature of West Virginia:

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

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

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

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

(1) A single transfer or sale may involve one or more transferees, assignees or purchasers. A transfer or sale of the

credits may involve multiple transfers to one or more transferees, assignees or purchasers.

(2) Transferors and sellers shall apply to the tax department for approval of any transfer, sale or assignment of the tax credit. Any amount of the tax credit that has been transferred or assigned is subject to the same limitations and conditions that apply to transferor's or seller's entitlement, use and application of the credit. The application for sale, transfer or assignment of the credit shall include the transferor's tax credit balance prior to transfer, if any, the name of the seller, the transferor's remaining tax credit balance after transfer, if any, all tax identification numbers for both transferor, if any, and transferee, the date of transfer, the amount transferred and any other information required by the Tax Commissioner. The Tax Commissioner shall either approve or disapprove the application for sale, transfer or assignment of the tax credit within thirty days of receipt of the application. In the event the Tax Commissioner denies the application for sale, transfer or assignment of the tax credit, the Tax Commissioner shall provide the reason for such denial.

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

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

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

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

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

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

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

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

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

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

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

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

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

(h) When any vehicle using liquefied natural gas or compressed natural gas as motor fuel and displaying a current decal as provided in this section, is sold or ownership is otherwise transferred, the decal shall remain with the vehicle sold or otherwise transferred, unless the equipment installed to enable the vehicle to use liquefied petroleum gas, liquefied natural gas or compressed natural gas has been removed from the vehicle before the sale or other transfer of ownership.

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

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

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

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