

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2540**

BY DELEGATES PUSHKIN, HANSEN, AND WALKER

[Introduced February 16, 2021; Referred to the  
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-14D-1, §11-14D-2, and §11-14D-3, all relating to providing tax credits to  
 3 provide vehicles to certain persons; authorizing a tax credit for individual tax payers under  
 4 certain conditions; authorizing a tax credit to license automobile dealers under certain  
 5 conditions; providing for definitions; establishing the minimum criteria of a qualified  
 6 charitable organization; establishing the minimum criteria for an eligible vehicle to be used  
 7 as the basis of the tax credit; requiring that the Tax Commissioner track the number and  
 8 amount of tax credits claimed; providing that multiple qualified charitable organizations  
 9 may use a percentage of total allowable tax credits for the year; providing the Tax  
 10 Commissioner can develop criteria for allocating percentages of the total allowable tax  
 11 credits to qualified charitable organizations; establishing the maximum amount of tax  
 12 credits for tax years 2021 through 2022 at \$300,000; establishing the maximum amount  
 13 of tax credits for subsequent years at \$1 million; and providing for rule-making authority.

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

**ARTICLE 14D. TAX CREDIT TO PROVIDE RELIABLE AND AFFORDABLE VEHICLES  
 TO LOW-INCOME WORKING MEN AND WOMEN TO EXPAND ACCESS TO  
 EMPLOYMENT OPPORTUNITIES.**

**§11-14D-1. Tax Credits Allowed.**

1 (a) Credit allowed. – To Individual Tax Payers. Any person subject to the taxes imposed  
 2 by the State of West Virginia, who donates an eligible vehicle certified as such by a qualified  
 3 organization as defined by §11-14D-2 of this code, is entitled to a refundable tax credit of up to  
 4 \$6,000 per vehicle donated. The amount of the tax credit received by such person shall be the  
 5 amount set by the qualified charitable organization, but in no event shall be more than the fair  
 6 market value of the eligible vehicle. To be considered eligible under this article, a vehicle must be  
 7 determined by the qualified organization to be safe, in good condition, and must be used by the

8 qualified organization in the program described in §11-14D-2 of this code.

9 (b) Credit allowed. – To Licensed Automobile Dealers. Any automobile dealer licensed  
10 under the laws of West Virginia, who sells or donates an eligible vehicle certified as eligible by a  
11 qualified organization as defined by §11-14D-2 of this code, to a person participating in the  
12 program administered by such qualified organization, is entitled to a refundable tax credit of up to  
13 \$6,000 per vehicle sold or donated by such dealer which is included in the program. The amount  
14 of the tax credit received by such automobile dealer shall be equal to the amount by which the  
15 sale price of the car is reduced from the fair market value of the eligible vehicle, as determined  
16 by the qualified charitable organization.

**§11-14D-2. Definitions.**

1 For purposes of this article:

2 “Eligible Vehicle” means a vehicle eligible to be the basis of the tax credit provided by this  
3 article, an eligible vehicle must meet the following criteria:

4 (1) At the time of sale a vehicle history report from the National Motor Vehicle Title  
5 Information System as established by 49 U.S.C. § 30502 does not indicate that the vehicle has  
6 been reported as a junk automobile or a salvage automobile pursuant to 49 U.S.C. § 30504, and  
7 the certificate of title contains no brand information for the vehicle and the dealer has no  
8 knowledge or reason to believe the vehicle is or should have been branded or so reported;

9 (2) On the day of sale a check of the Vehicle Identification Number through the National  
10 Highway Traffic Safety Administration of the U.S. Department of Transportation reveals no open,  
11 unperformed safety recalls for the vehicle and the dealer has no knowledge or reason to believe  
12 the vehicle is subject to any unperformed safety recall; and

13 (3) The dealer provides an express written warranty covering the full cost of both parts  
14 and labor necessary to repair any defect that impairs the said used motor vehicle's safety or use  
15 for a minimum period of 90 days or 3,000 miles after the sale.

16 “Low-Income Worker” means a person living in a household with total income at or below

17 150 percent of the Federal Poverty Level.

18 “Qualified Charitable Organization” shall only mean a nonprofit association, which is  
19 eligible to file as a nonprofit under §501(c)(3) of the United States Code, that is registered with  
20 the State of West Virginia as required under the Solicitation of Charitable Funds Act, and which  
21 operates a program that provides the following services:

22 (1) Provides low-income workers in the state with below-market, affordable financing to  
23 purchase vehicles through the program’s cooperating financial institutions;

24 (2) Assists those participating workers by providing financial counseling and other training  
25 and assistance in meeting the terms of the loans used to purchase the vehicles through the  
26 program;

27 (3) Certifies the vehicles eligible to be purchased through the program as meeting  
28 reliability and safety guidelines as developed by the organization; and

29 (4) Determines the fair market value of the cars donated to the program, based on  
30 commonly accepted determinants in the marketplace, but incorporating the reliability and safety  
31 considerations necessary to protect the participating workers in the program.

**§11-14D-3. Administration of Tax Credits Available.**

1 (a) Certification of Availability of Tax Credits. – The Tax Commissioner of the State of  
2 West Virginia, or his or her designee, shall track the number and amount of tax credits provided  
3 to taxpayers in the previous year through each qualified charitable organization, as defined by  
4 §11-14D-2 of this code, and make such information available to the public, as well as such other  
5 relevant information to evaluate the success of the program.

6 (b) Use of Tax Credits. – If there is more than one organization in the State of West Virginia  
7 that meets the requirements to be a qualified charitable organization, as defined by §11-14D-2 of  
8 this code, then each such qualified charitable organization shall be entitled to use the percentage  
9 of the total as determined by the Tax Commissioner, based on criteria developed by the Tax  
10 Commissioner in cooperation with the Executive Director of the Legal Aid of West Virginia.

11 (c) Maximum Amount Allocated to Tax Credits. – For tax years 2021 through 2022 the tax  
12 credits permitted under this article shall not exceed \$300,000. In subsequent years, the tax credits  
13 permitted under this article shall not exceed \$1 million.

14 (d) The Tax Commissioner is permitted to promulgate rules, including emergency rules,  
15 pursuant to §29A-3-1 et seq. of this code in order to carry out the provisions of this article.

NOTE: The purpose of this bill is to establish a tax credit to facilitate the purchase of reliable and affordable vehicles to low-income working West Virginia men and women to expand access to employment opportunities.

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