

On November 15, 2011 Senators Robert Menendez (D-NJ), Harry Reid (D-NV), Richard Burr (R-NC) and Saxby Chambliss (R-GA) introduced the New Alternative Transportation to Give Americans Solutions (NAT GAS) Act of 2011 (S. 1863) This bill is a major step toward reducing America's dependence on foreign oil, and is driven by the need for America to quickly reduce its dependence on foreign oil while simultaneously reducing greenhouse gases and urban pollution. To achieve those goals, the bill's objective is to accelerate the production and use of more natural gas-fueled vehicles. The basic provisions of the bill* would:

**TITLE I—PROMOTE THE PURCHASE AND USE OF NGVS WITH AN
EMPHASIS ON HEAVY-DUTY VEHICLES AND FLEET VEHICLES**

Sec. 101 Extension and modification of new qualified alternative fuel motor vehicle credit.

There currently are no federal tax credits to encourage the purchase of new natural gas vehicles, or to encourage the conversion of existing petroleum-fueled vehicles to operate on natural gas. Previous tax credits, located in 26 USC 30B, intended to encourage such purchases expired on 12/31/2010. This provision would reinstate the expired credits and extend the incentive through the end of 2016. Other provisions in this bill would make additional modifications to these incentives.

Sec. 102 Allowance of vehicle and infrastructure credits against regular and minimum tax and transferability of credits.

The alternative minimum tax provisions in the tax code limit the usability of natural gas fueling infrastructure (IRC, 30C) and natural gas vehicle (IRC, 30B) tax credits. Most business and individual tax credits may only be applied to reduce regular taxes -- not minimum taxes. This section would allow the tax credits to be applied against a taxpayers minimum tax, thus providing more immediate benefit from the tax incentive instead of requiring a taxpayer to carry-over all or a portion of the credit to future years.

The transferability provision similarly is intended to enhance the utility of the fueling infrastructure and vehicle tax credits in cases where the taxpayer who would otherwise benefit from the credit is unable to do so because of insufficient tax liability. Under IRC 30B and 30C, the tax credit benefit goes to the buyer. For leased fueling infrastructure or vehicles, the credit goes to the lessor (i.e., leasing company). For sales to tax exempt entities, the tax code treats the seller as if they placed the fueling infrastructure or vehicle in service and allows the seller to claim the tax credit, but only if they disclose the value of the tax credit to the purchaser. Legally the credit belongs to the seller in such cases; there is no transfer of the credit as it belongs to the seller. The transferability provision in this bill allows the claimant to transfer the credit if they cannot benefit from it, allowing the taxpayer to transfer the credit to the seller, manufacturer or lessee (in cases involving leases). Previously, the tax credits could not be transferred, so for example if there was a sale of a new natural gas vehicle to a tax exempt entity and the automotive dealership selling the vehicle had

insufficient tax liability, the tax credit would go unused. Under the new provision, the dealership selling the vehicle to a tax exempt entity could potentially transfer the credit back to the manufacturer. A leasing company similarly could transfer the credit back to the manufacturer, or to the lessee.

Sec. 103 Modification of credit for purchase of vehicles fueled by compressed natural gas or liquefied natural gas.

The previous tax credits for natural gas vehicles found in IRC 30B only encouraged the acquisition of dedicated natural gas vehicles. Some heavy-duty dual-fuel or mixed-fueled vehicles qualified for the tax credits but in general dual-fuel and bi-fuel vehicles did not qualify for the federal tax credits. Also, the value of the tax credits was tied to the incremental cost of such vehicles and the credit values were capped according to weight with the maximum tax credit values allowed under the law ranging from \$2,500 to \$32,000. As described below, this bill increases these dollar amounts.

Under this bill, all new dedicated natural gas vehicles and certain bi-fuel and dual-fuel alternative natural gas vehicles would be eligible for a credit equal to 80 % of the incremental cost up to a maximum tax credit amount or cap. To qualify for the maximum credit of 80%, a bi-fuel natural gas vehicle must be capable of operating a minimum of 85 percent of its total range on compressed or liquefied natural gas. Dual-fuel natural gas vehicles qualify for the maximum tax credit allowed if the vehicle is capable of operating on a mixture of no less 90 percent compressed or liquefied natural gas and no more than 10% gasoline or diesel. All other new or converted natural gas vehicles are eligible for a credit equal to 50% of the incremental cost up to a credit cap. The maximum value of the tax credits provided would be capped and would range depending on the weight of the vehicle as shown below:

NGV Eligible Weight Categories	Max. Allowable Tax Credit
Light Duty, less than 8,501 lbs.	\$7,500.00
Medium Duty, 8,501 - 14,000 lbs.	\$16,000.00
Heavy Duty 14,000 - 26,000 lbs.	\$40,000.00
Heavy Duty 26,001 & up lbs.	\$64,000.00

Sec. 104 Modification of definition of new qualified alternative fuel motor vehicle.

This section modifies the definition of new qualified alternative fuel motor vehicles so that in addition to dedicated alternative fueled vehicle that are only capable of operating on an alternative fuel, IRC 30B now also includes bi-fuel natural gas vehicles, and a dual-fuel natural gas vehicle. For purposes of IRC 30B, this section defines bi-fuel vehicles as a vehicle that is capable of operating on compressed or liquefied natural gas and gasoline or diesel fuel. Dual-fuel vehicles are defined as vehicles that are capable of operating on a mixture of compressed or liquefied natural gas and gasoline or diesel fuel. This section also clarifies that converted or repowered vehicles shall be treated as new vehicles for the purposes of this section.

Sec. 105 Providing for the treatment of property purchased by Indian tribal governments.

The tax credits found in IRC 30B and 30C currently benefit certain tax exempt entities by treating the seller to such entities as if they placed the vehicle or fueling infrastructure into service and thus allowing the seller to claim the tax credit. However, this section does not specifically include sales to Indian Tribal Governments and therefore Indian Tribes do not receive any potential benefit from this provision. The provision relating to sales to tax exempt entities is intended to give the seller a tax benefit with the idea that some of the tax benefit will be passed along to the purchaser in the form a lower price. Therefore, this bill amends IRC 30B and 30C to clearly identify Indian Tribal Governments along with other tax exempt entities.

TITLE II— PROMOTE PRODUCTION OF NGVS BY ORIGINAL EQUIPMENT MANUFACTURERS

Sec. 201 Credit for producing vehicles fueled by natural gas or liquefied natural gas.

To encourage manufacturers to offer a greater variety of new NGVs -- and in particular light duty NGVs, this section creates a new production tax credit in section 45S of the IRC. The tax credit is valued at the lesser of 10 percent of basis of the new natural gas powered motor vehicle or \$4,000. The maximum aggregate amount that can be claimed by an individual manufacturer is \$200 million.

Sec. 202 Additional vehicles qualifying for the advanced technology vehicles manufacturing incentive program.

EISA 2007, Section 136 (42 USC 17013) contains the Advanced Technology Vehicle Loan Program administered by the Department of Energy's Loan Programs Office. The Advanced Technology Vehicles Manufacturing (ATVM) Loan Program supports the development of innovative, advanced automotive technologies. The program emphasizes modifications to production facilities that are related to producing more fuel efficient vehicles. Currently, only one NGV manufacturer has been awarded a loan under this program. DOE has never issued definitive guidance concerning the ability of NGVs to qualify for this loan program. However, it appears that dedicated NGVs do qualify. To ensure that other NGV manufacturers qualify for this program, this section amends the statute so that the advanced technology vehicles specifically includes dedicated, bi-fuel and dual-fuel natural gas powered vehicles. The amendment also opens up this program to manufacturers of medium- or heavy-duty NGVs as well as bus manufacturers.

TITLE III—INCENTIVIZE THE INSTALLATION OF NATURAL GAS FUEL PUMPS

Sec. 301 Extension and modification of alternative fuel vehicle refueling property credit.

The tax credit for natural gas fueling infrastructure located in IRC 30C currently expires at the end of 2011. This bill extends the tax credit for qualified natural gas vehicle refueling property until the end of 2016.

Sec. 302 Increase in credit for certain alternative fuel vehicle refueling properties.

Under current law, IRC 30C, a taxpayer who acquires natural gas refueling property qualifies for an income tax credit equal to the lesser of \$30,000 or 30% of cost of the property, or \$1,000 for home refueling units. This bill increases the value of the tax credits so that new natural gas fueling equipment that is depreciable property would qualify for a tax credit equal to the lesser of \$100,000 or 50% of the cost of the property, or \$2,000 for fueling property that is acquired by a taxpayer but is not depreciable.

TITLE IV—NATURAL GAS VEHICLES

Sec. 401 Grants for natural gas vehicles research and development.

This section directs the Secretary of DOE to provide funding for RD&D to improve NGV performance and efficiency and to integrate natural gas engines into additional on-road vehicles.

Sec. 402 Sense of the Congress regarding EPA certification of NGV retrofit kits.

In April 2011, the U.S. Environmental Protection Agency (EPA) published new regulations for aftermarket manufacturers of clean alternative fuel conversion systems. The purpose of the new rules is to alleviate some of the onerous burdens associated with certifying such systems and also to provide greater regulatory certainty with regard to the treatment of systems intended to be used on older vehicles and vehicles whose emission systems have exceeded their useful life. The rules are relatively new and their impact as yet is not clear. Therefore, this bill expresses the desire that the EPA continue to review its regulations and the impact they have on alternative fuel aftermarket conversion systems in order to determine if additional changes are necessary.

Sec. 403 Amendment to section 508 of the Energy Policy Act of 1992.

The current federal law governing certain fleet acquisitions of alternative fueled vehicles (AFVs) requires that these AFVs be newly acquired in order to satisfy the acquisition credits. These requirements were first enacted as part of the Energy Policy Act of 1992 and are still in effect today. Under rules issued by the U.S. Department of Energy, state government fleets and covered alternative fuel providers must: 1) buy a brand new AFV; 2) purchase a used AFV from someone

else; or 3) buy a vehicle and have it converted within four months of acquisition. The third option is too narrow and does not allow most conversions or repowering of older vehicles to earn credits or count against the program's acquisition requirements. This is particularly problematic for repowering because fleets do not repower vehicles within four months of purchase. The bill therefore directs DOE to provide credits to statement government fleets and covered fuel providers even if they convert or repower vehicles even if this does not occur within four months of acquiring the vehicle. The provision also directs DOE to issue similar rules with respect to conversions or repowers undertaken by federal government fleets.

TITLE V—TRANSIT SYSTEMS

Sec. 501 Federal share of costs for equipment for compliance with Clean Air Act.

Under current law, the federal share for transit bus purchases is 80 percent of the cost. However, federal law provides 90 percent of the net cost associated with complying with Clean Air Act requirements or the Americans with Disabilities Act. As a result, most transit buses actually qualify for the higher share of funding. In order to further encourage such purchases and help local jurisdictions, this bill would amend federal law to provide that the federal cost share is 100 percent of the net (i.e., incremental) cost of acquiring new, clean fuel or alternative fuel buses for amounts not to exceed a net cost of \$75,000. If the net cost is more than \$75,000, the federal cost-share would be 90 percent.

Sec. 502 Natural gas transit infrastructure investment.

The bill includes a new program to encourage the development of natural gas fueling infrastructure for transit agencies. This program would assist transit agencies in installing natural gas fueling infrastructure or expanding existing natural gas fueling infrastructure, and would authorize funding of up to \$100 million dollars to be competitively awarded by the Federal Transit Administration. In awarding grants under this program, the FTA shall take into consideration the amount of petroleum to be reduced by the project, the level of local financial support, and the technical and economical feasibility of the project.

TITLE VI—USER FEES

Sec. 601 User fees.

To offset the cost of the tax credits and new programs provided for in this bill, this section would impose a new and time-limited user fee on the sale of liquefied natural gas and compressed natural gas sold for use as a motor vehicle fuel. The fee for LNG would be per gallon and in the case of CNG would be based on a gasoline gallon equivalent. The fee would be separate from the excise tax imposed on CNG and LNG. The fee schedule would be phased-in starting in 2014 and would run through 2021 after which time it would expire. The fee schedule is as follows:

- Nothing for 2012 and 2013;
- 2.5 cents for 2014 and 2015;

- 5 cents for 2016 and 2017;
- 10 cents for 2018 and 2019;
- 12.5 cents for 2020 and 2021.

*This summary was adapted from the release issued by the Office of Senator Robert Menendez on November 15, 2011