STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SUBCOMMITTEE RECOMMENDATION

FOR

HOUSE BILL NO. 2756 By: Osborn (Leslie)

SUBCOMMITTEE RECOMMENDATION

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 2357.22, as last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp. 2017, Section 2357.22), which relates to tax credits for certain clean-burning-motor-fuel-related property; modifying taxable years for which tax credit may be claimed; defining terms; authorizing tax credits for certain vehicles; specifying amount of tax credit; limiting use of tax credit; authorizing carryover; modifying computation of credit amount based upon categories of property utilized; imposing limit on total amount of tax credits which may be claimed for certain period; prescribing formula for implementation of tax credit limitations; requiring certain notice to Office of

Management and Enterprise Services; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp. 2017, Section 2357.22), is amended to read as follows:

Section 2357.22 A. For tax years beginning before January 1, ~~2020~~ 2024, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for investments in qualified clean-burning motor vehicle fuel property placed in service after December 31, 1990.

B. As used in this section, "qualified clean-burning motor vehicle fuel property" means:

1. Equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas; provided, equipment installed on a vehicle propelled by a hydrogen fuel cell shall only

be eligible for tax year 2010. The equipment covered by this paragraph must:

a. be new, not previously used to modify or retrofit any vehicle propelled by gasoline or diesel fuel and be installed by an alternative fuels equipment technician who is certified in accordance with the Alternative Fuels Technician Certification Act,

b. meet all Federal Motor Vehicle Safety Standards set forth in 49 CFR 571, or

c. for any commercial motor vehicle (CMV), follow the Federal Motor Carrier Safety Regulations or Oklahoma Intrastate Motor Carrier Regulations;

2. A motor vehicle originally equipped so that the vehicle may be propelled by a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas but only to the extent of the portion of the basis of such motor vehicle which is attributable to the storage of such fuel, the delivery to the engine of such motor vehicle of such fuel, and the exhaust of gases from combustion of such fuel. A motor vehicle originally equipped so that the vehicle may be propelled by a hydrogen fuel cell shall only be eligible for tax year 2010;

3. A motor vehicle originally equipped so that the vehicle draws propulsion energy from a battery with at least five (5) kilowatt hours of capacity, and recharged from any external source of electricity, manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least four wheels. For purposes of this paragraph, the term "qualified clean-burning motor vehicle fuel property" does not include a low-speed vehicle within the meaning defined in 49 CFR 571.3, or a vehicle that is manufactured primarily for off-road use, such as primarily for use on a golf course. A motor vehicle originally equipped so that the vehicle draws propulsion energy from a battery shall only be eligible for a tax credit as provided in subsection D of this section with a gross vehicle weight rating of ten thousand (10,000) pounds or less;

4. Property, not including a building and its structural components, which is:

a. directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, or hydrogen, for commercial purposes or for a fee or charge, into the fuel tank of a motor vehicle propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a motor vehicle, or

b. a ~~metered-for-fee,~~ public access recharging system for motor vehicles propelled in whole or in part by electricity. The property covered by this paragraph must be new, and must not have been previously installed or used to refuel vehicles powered by compressed natural gas, liquefied natural gas or liquefied petroleum gas, hydrogen or electricity.

Any property covered by this paragraph which is related to the delivery of hydrogen into the fuel tank of a motor vehicle shall only be eligible for tax year 2010; or

~~4.~~ 5. Property which is directly related to:

a. the compression and delivery of natural gas from a private home or residence, for noncommercial purposes, into the fuel tank of a motor vehicle propelled by compressed natural gas. The property covered by this ~~paragraph~~ subparagraph must be new and must not have been previously installed or used to refuel vehicles powered by natural gas, or

b. the delivery of electricity from a private home or residence, for noncommercial purposes, into the storage unit of a motor vehicle propelled by electricity. The property covered by this subparagraph must be new and must not have been previously installed or used to recharge vehicles powered by electricity.

C. As used in this section, "motor vehicle" means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways.

D. The credit provided for in subsection A of this section shall be as follows:

1. ~~After the effective date of this act, for~~ For the qualified clean-burning motor vehicle fuel property defined in paragraph 1 or 2 of subsection B of this section, ~~forty-five percent (45%) of the cost of the qualified clean-burning motor vehicle fuel property~~ the amount of the credit shall be as follows:

a. for vehicles up to or below six thousand (6,000) pounds, the credit shall be a maximum of Five Thousand Five Hundred Dollars ($5,500.00),

b. for vehicles between six thousand one (6,001) pounds to ten thousand (10,000) pounds, the credit shall be a maximum amount of Nine Thousand Dollars ($9,000.00),

c. for vehicles of ten thousand one (10,001) pounds, but not in excess of twenty-six thousand five hundred (26,500) pounds, the credit shall be a maximum amount of Twenty-six Thousand Dollars ($26,000.00), and

d. for vehicles in excess of twenty-six thousand five hundred one (26,501) pounds, the credit shall be a maximum amount of Fifty Thousand Dollars ($50,000.00);

2. For qualified clean-burning motor vehicle fuel property defined in paragraph ~~3~~ 4 of subsection B of this section, a per-location credit of ~~seventy-five percent (75%)~~ forty-five percent (45%) of the cost of the qualified clean-burning motor vehicle fuel property defined as follows:

a. for equipment installations completed and commercially available by midnight on December 31, 2018, seventy-five percent (75%) of the cost of the qualified clean-burning motor vehicle fuel property, and

b. for equipment installations completed and commercially available between January 1, 2019, through December 31, 2024, forty-five percent (45%) of the cost of the qualified clean-burning motor vehicle fuel property; and

3. For qualified clean-burning motor vehicle fuel property defined in paragraph ~~4~~ 5 of subsection B of this section, a per-location credit of the lesser of fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or Two Thousand Five Hundred Dollars ($2,500.00).

E. The tax credit authorized pursuant to the provisions of this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

F. In cases where no credit has been claimed pursuant to ~~paragraph 1 of~~ subsection D of this section by any prior owner and in which a motor vehicle is purchased by a taxpayer with qualified clean-burning motor vehicle fuel property installed by the manufacturer of such motor vehicle and the taxpayer is unable or elects not to determine the exact basis which is attributable to such property, the taxpayer may claim a credit in an amount not exceeding the lesser of ten percent (10%) of the cost of the motor vehicle or One Thousand Five Hundred Dollars ($1,500.00).

~~F.~~ G. If the tax credit allowed pursuant to ~~subsection A of~~ this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed ~~five (5)~~ six (6) years.

~~G.~~ H. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

~~H.~~ I. The Oklahoma Tax Commission is herein empowered to promulgate rules by which the purpose of this section shall be administered, including the power to establish and enforce penalties for violations thereof.

~~I.~~ J. Notwithstanding the provisions of Section 2352 of this title, for the fiscal year beginning on July 1, 2014, and each fiscal year thereafter, the Tax Commission shall calculate an amount that equals five percent (5%) of the cost of qualified clean-burning motor vehicle fuel property as provided for in ~~paragraph~~ paragraphs 1 and 2 of subsection ~~D~~ B of this section for tax year 2012. For each subsequent fiscal year thereafter, the Tax Commission shall perform the same computation with respect to the second tax year preceding the beginning of each subsequent fiscal year. The Tax Commission shall then transfer an amount equal to the amount calculated in this subsection from the revenue derived pursuant to the provisions of subsections ~~A, B~~ C and E of Section 2355 of this title to the Compressed Natural Gas Conversion Safety and Regulation Fund created in Section ~~13~~ 130.25 of ~~this act~~ Title 74 of the Oklahoma Statutes.

K. For the fiscal year beginning July 1, 2018, and each fiscal year thereafter, the total amount of credits authorized by this section used to offset tax shall be adjusted annually to limit the annual amount of credits to Thirty-two Million Dollars ($32,000,000.00). The Tax Commission shall annually calculate and publish by the first day of the affected fiscal year a percentage by which the credits authorized by this section shall be reduced so the total amount of credits used to offset tax does not exceed Thirty-two Million Dollars ($32,000,000.00) per year. The formula to be used for the percentage adjustment shall be Thirty-two Million Dollars ($32,000,000.00) divided by the credits used to offset tax in the second preceding year with respect to any changes to the future of the credit.

L. Pursuant to subsection K of this section, in the event the total tax credits authorized by this section exceed Thirty-two Million Dollars ($32,000,000.00) in any calendar year, the Tax Commission shall permit any excess over Thirty-two Million Dollars ($32,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years with respect to any changes to the future of the credit.

M. The Tax Commission shall notify the Office of the State Secretary of Energy and Environment at any time when the amount of claims for credits allowed pursuant to this section reaches eighty percent (80%) of the total annual limit provided in subsection K of this section. Upon such notification, the Secretary shall provide notice to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives.

SECTION 2. This act shall become effective July 1, 2018.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

56-2-9869 MAH 02/23/18