

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2095

By: O'Donnell and **McBride** of
the House

and

Bice of the Senate

11 COMMITTEE SUBSTITUTE

12 An Act relating to revenue and taxation; amending 68
13 O.S. 2011, Section 2357.22, as last amended by
14 Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
15 2018, Section 2357.22), which relates to tax credits
16 for investment in certain qualified clean-burning
17 motor vehicles and related assets; modifying taxable
18 years for which credit may be claimed; modifying
19 references to hydrogen fuel cells; modifying
20 provisions related to certain property related to
21 vehicles powered by electricity; providing for
22 computation of tax credits based on vehicle weight;
23 and prohibiting use of tax credit to reduce tax
24 liability below certain amount.

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.
2018, Section 2357.22), is amended to read as follows:

1 Section 2357.22 A. For tax years beginning before ~~January 1,~~
2 ~~2020~~ December 31, 2026, there shall be allowed a one-time credit
3 against the income tax imposed by Section 2355 of this title for
4 investments in qualified clean-burning motor vehicle fuel property
5 placed in service after December 31, 1990.

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

8 1. Equipment installed to modify a motor vehicle which is
9 propelled by gasoline or diesel fuel so that the vehicle may be
10 propelled by ~~a hydrogen fuel cell~~, compressed natural gas, liquefied
11 natural gas or liquefied petroleum gas; provided, equipment
12 installed on a vehicle propelled by a hydrogen fuel cell shall only
13 be eligible for tax year 2010. The equipment covered by this
14 paragraph must:

- 15 a. be new, not previously used to modify or retrofit any
16 vehicle propelled by gasoline or diesel fuel and be
17 installed by an alternative fuels equipment technician
18 who is certified in accordance with the Alternative
19 Fuels Technician Certification Act,
20 b. meet all Federal Motor Vehicle Safety Standards set
21 forth in 49 CFR 571, or
22 c. for any commercial motor vehicle (CMV), follow the
23 Federal Motor Carrier Safety Regulations or Oklahoma
24 Intrastate Motor Carrier Regulations;

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

10 3. Property, not including a building and its structural
11 components, which is:

- 12 a. directly related to the delivery of compressed natural
13 gas, liquefied natural gas or liquefied petroleum gas, ~~or~~
14 ~~or hydrogen~~, for commercial purposes or for a fee or
15 charge, into the fuel tank of a motor vehicle
16 propelled by such fuel including compression equipment
17 and storage tanks for such fuel at the point where
18 such fuel is so delivered but only if such property is
19 not used to deliver such fuel into any other type of
20 storage tank or receptacle and such fuel is not used
21 for any purpose other than to propel a motor vehicle, ~~or~~
22 or
23 b. a metered-for-fee, public access recharging system for
24 motor vehicles propelled in whole or in part by

1 electricity. The property covered by this paragraph
2 must be new, and must not have been previously
3 installed or used to refuel vehicles powered by
4 ~~compressed natural gas, liquefied natural gas or~~
5 ~~liquefied petroleum gas, hydrogen or~~ electricity.

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

9 4. Property which is directly related to the compression and
10 delivery of natural gas from a private home or residence, for
11 noncommercial purposes, into the fuel tank of a motor vehicle
12 propelled by compressed natural gas. The property covered by this
13 paragraph must be new and must not have been previously installed or
14 used to refuel vehicles powered by natural gas.

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

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

20 1. ~~After the effective date of this act, for~~ For the qualified
21 clean-burning motor vehicle fuel property defined in paragraph 1 or
22 2 of subsection B of this section, ~~forty-five percent (45%) of the~~
23 ~~cost of the qualified clean-burning motor vehicle fuel property~~ the
24

1 amount of the credit shall be as follows based upon gross vehicle
2 weight of the qualified vehicle:

- 3 a. for vehicles up to or below six thousand (6,000)
4 pounds, the credit shall be a maximum of Five Thousand
5 Five Hundred Dollars (\$5,500.00),
- 6 b. for vehicles between six thousand one (6,001) pounds
7 to ten thousand (10,000) pounds, the credit shall be a
8 maximum amount of Nine Thousand Dollars (\$9,000.00),
- 9 c. for vehicles of ten thousand one (10,001) pounds, but
10 not in excess of twenty-six thousand five hundred
11 (26,500) pounds, the credit shall be a maximum amount
12 of Twenty-six Thousand Dollars (\$26,000.00), and
- 13 d. for vehicles in excess of twenty-six thousand five
14 hundred one (26,501) pounds, the credit shall be a
15 maximum amount of Fifty Thousand Dollars (\$50,000.00);

16 2. For qualified clean-burning motor vehicle fuel property
17 defined in paragraph 3 of subsection B of this section, a per-
18 location credit of ~~seventy-five percent (75%)~~ forty-five percent
19 (45%) of the cost of the qualified clean-burning motor vehicle fuel
20 property; and

21 3. For qualified clean-burning motor vehicle fuel property
22 defined in paragraph 4 of subsection B of this section, a per-
23 location credit of the lesser of fifty percent (50%) of the cost of
24

1 the qualified clean-burning motor vehicle fuel property or Two
2 Thousand Five Hundred Dollars (\$2,500.00).

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

12 F. If the tax credit allowed pursuant to subsection A of this
13 section exceeds the amount of income taxes due or if there are no
14 state income taxes due on the income of the taxpayer, the amount of
15 the credit not used as an offset against the income taxes of a
16 taxable year may be carried forward, in order, as a credit against
17 subsequent income tax liability for a period not to exceed five (5)
18 years. The tax credit authorized pursuant to the provisions of this
19 section shall not be used to reduce the tax liability of the
20 taxpayer to less than zero (0).

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

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

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

19 J. For the taxable year beginning January 1, 2020, and each
20 taxable year thereafter, the total amount of credits authorized by
21 this section used to offset tax shall be adjusted annually to limit
22 the annual amount of credits to Twenty Million Dollars
23 (\$20,000,000.00). The Tax Commission shall annually calculate and
24 publish by the first day of the affected taxable year a percentage

1 by which the credits authorized by this section shall be reduced so
2 the total amount of credits used to offset tax does not exceed
3 Twenty Million Dollars (\$20,000,000.00) per year. The formula to be
4 used for the percentage adjustment shall be Twenty Million Dollars
5 (\$20,000,000.00) divided by the credits used to offset tax in the
6 second preceding year, with respect to any changes to the future of
7 the credit.

8 K. Pursuant to subsection J of this section, in the event the
9 total tax credits authorized by this section exceed Twenty Million
10 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission
11 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)
12 but shall factor such excess into the percentage adjustment formula
13 for subsequent years with respect to any changes to the future of
14 the credit.

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

22
23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 03/04/2019 - DO PASS, As Amended and Coauthored.