

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1857

By: David

COMMITTEE SUBSTITUTE

An Act relating to income tax credit; amending 68 O.S. 2021, Section 2357.22, which relates to tax credits for investment in certain qualified clean-burning motor vehicles and related assets; modifying tax years for which credit may be claimed; providing tax credit for hydrogen fuel cells and related assets; modifying credit limit for certain years; providing duty of Oklahoma Tax Commission; providing certain formula; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.22, is amended to read as follows:

Section 2357.22. A. For tax years ~~beginning before December 31, 2027~~ 2028 and before, 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~~ on or after January 1, 1991.

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

3 1. Equipment installed to modify a motor vehicle which is
4 propelled by gasoline or diesel fuel so that the vehicle may be
5 propelled by compressed natural gas, liquefied natural gas, or
6 liquefied petroleum gas. The equipment covered by this paragraph
7 must:

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

18 2. A motor vehicle originally equipped so that the vehicle may
19 be propelled by compressed natural gas, or liquefied natural gas or
20 liquefied petroleum gas but only to the extent of the portion of the
21 basis of such motor vehicle which is attributable to the storage of
22 such fuel, the delivery to the engine of such motor vehicle of such
23 fuel, and the exhaust of gases from combustion of such fuel;

1 3. Property, not including a building and its structural
2 components, which is:

- 3 a. directly related to the delivery of compressed natural
4 gas, liquefied natural gas or liquefied petroleum gas,
5 or hydrogen for commercial purposes or for a fee or
6 charge, into the fuel tank of a motor vehicle
7 propelled by such fuel including compression equipment
8 and storage tanks for such fuel at the point where
9 such fuel is so delivered but only if such property is
10 not used to deliver such fuel into any other type of
11 storage tank or receptacle and such fuel is not used
12 for any purpose other than to propel a motor vehicle,
13 or
14 b. a metered-for-fee, public access recharging system for
15 motor vehicles propelled in whole or in part by
16 electricity. The property covered by this paragraph
17 must be new, and must not have been previously
18 installed or used to refuel vehicles powered by
19 compressed natural gas, liquefied natural gas or
20 liquefied petroleum gas, hydrogen, or electricity.

21 Any property covered by this paragraph which is related to the
22 delivery of hydrogen into the fuel tank of a motor vehicle shall
23 only be eligible for ~~tax year 2010~~ tax years 2010 and 2023 through
24 2028; or

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

7 5. For tax years 2010 and 2023 through 2028, a motor vehicle
8 originally equipped so that the vehicle may be propelled by a
9 hydrogen fuel cell electric fueling system.

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

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

15 1. For the qualified clean-burning motor vehicle fuel property
16 defined in ~~paragraph 1 or 2~~ paragraphs 1, 2, or 5 of subsection B of
17 this section, the amount of the credit shall be as follows based
18 upon gross vehicle weight of the qualified vehicle:

- 19 a. for vehicles up to or below six thousand (6,000)
20 pounds, the credit shall be a maximum of Five Thousand
21 Five Hundred Dollars (\$5,500.00),
22 b. for vehicles between six thousand one (6,001) pounds
23 to ten thousand (10,000) pounds, the credit shall be a
24 maximum amount of Nine Thousand Dollars (\$9,000.00),

- 1 c. for vehicles of ten thousand one (10,001) pounds, but
2 not in excess of twenty-six thousand five hundred
3 (26,500) pounds, the credit shall be a maximum amount
4 of Twenty-six Thousand Dollars (\$26,000.00), and
5 d. for vehicles in excess of twenty-six thousand five
6 hundred one (26,501) pounds, the credit shall be a
7 maximum amount of ~~Fifty Thousand Dollars (\$50,000.00)~~
8 One Hundred Thousand Dollars (\$100,000.00);

9 2. For qualified clean-burning motor vehicle fuel property
10 defined in paragraph 3 of subsection B of this section, a per-
11 location credit of forty-five percent (45%) of the cost of the
12 qualified clean-burning motor vehicle fuel property; and

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

18 E. In cases where no credit has been claimed pursuant to
19 paragraph 1 of subsection D of this section by any prior owner and
20 in which a motor vehicle is purchased by a taxpayer with qualified
21 clean-burning motor vehicle fuel property installed by the
22 manufacturer of such motor vehicle and the taxpayer is unable or
23 elects not to determine the exact basis which is attributable to
24 such property, the taxpayer may claim a credit in an amount not

1 exceeding the lesser of ten percent (10%) of the cost of the motor
2 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

3 F. If the tax credit allowed pursuant to subsection A of this
4 section exceeds the amount of income taxes due or if there are no
5 state income taxes due on the income of the taxpayer, the amount of
6 the credit not used as an offset against the income taxes of a
7 taxable year may be carried forward, in order, as a credit against
8 subsequent income tax liability for a period not to exceed five (5)
9 years. The tax credit authorized pursuant to the provisions of this
10 section shall not be used to reduce the tax liability of the
11 taxpayer to less than zero (0).

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

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

20 I. Notwithstanding the provisions of Section 2352 of this
21 title, for the fiscal year beginning on July 1, 2014, and each
22 fiscal year thereafter, the Tax Commission shall calculate an amount
23 that equals five percent (5%) of the cost of qualified clean-burning
24 motor vehicle fuel property as provided for in paragraph 1 of

1 subsection D of this section for tax year 2012. For each subsequent
2 fiscal year thereafter, the Tax Commission shall perform the same
3 computation with respect to the second tax year preceding the
4 beginning of each subsequent fiscal year. The Tax Commission shall
5 then transfer an amount equal to the amount calculated in this
6 subsection from the revenue derived pursuant to the provisions of
7 subsections A, B and E of Section 2355 of this title to the
8 Compressed Natural Gas Conversion Safety and Regulation Fund created
9 in Section 130.25 of Title 74 of the Oklahoma Statutes.

10 J. For the ~~taxable year beginning January 1, 2020, and each~~
11 ~~taxable year thereafter~~ tax years 2020 through 2022, the total
12 amount of credits authorized by this section used to offset tax
13 shall be adjusted annually to limit the annual amount of credits to
14 Twenty Million Dollars (\$20,000,000.00). The Tax Commission shall
15 annually calculate and publish by the first day of the affected
16 taxable year a percentage by which the credits authorized by this
17 section shall be reduced so the total amount of credits used to
18 offset tax does not exceed Twenty Million Dollars (\$20,000,000.00)
19 per year. The formula to be used for the percentage adjustment
20 shall be Twenty Million Dollars (\$20,000,000.00) divided by the
21 credits claimed in the second preceding year, with respect to any
22 changes to the future of the credit.

23 K. Pursuant to subsection J of this section, in the event the
24 total tax credits authorized by this section exceed Twenty Million

Dollars (\$20,000,000.00) in any calendar year, the Tax Commission shall permit any excess over Twenty Million Dollars (\$20,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years with respect to any changes to the future of the credit.

L. For the tax years 2023 through 2028, 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:

1. Ten Million Dollars (\$10,000,000.00) for qualified clean burning fuel property propelled by compressed natural gas, liquefied natural gas, or liquefied petroleum gas, property related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, and property directly related to the compression and delivery of natural gas;

2. Ten Million Dollars (\$10,000,000.00) for property originally equipped so that the vehicle may be propelled by a hydrogen fuel cell electric fueling system and property directly related to the delivery of hydrogen; and

3. Ten Million Dollars (\$10,000,000.00) for property which is a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity.

The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits authorized by this section shall be reduced so the total

1 amount of credits used to offset tax does not exceed each of the
2 limits provided in paragraphs 1 through 3 of this subsection. The
3 formula to be used for the percentage adjustment shall be Ten
4 Million Dollars (\$10,000,000.00) divided by the credits claimed in
5 the second preceding year, with respect to any changes to the future
6 of the credit.

7 M. Pursuant to subsection L of this section, in the event the
8 tax credits authorized by this section exceed any of the limits
9 provided in paragraphs 1 through 3 of subsection L of this section
10 in any year, the Tax Commission shall permit any excess over Ten
11 Million Dollars (\$10,000,000.00) but shall factor such excess into
12 the percentage adjustment formula for subsequent years with respect
13 to any changes to the future of the credit.

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

21 SECTION 2. This act shall become effective January 1, 2023.

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