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March 3, 2022

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 1857

By: Montgomery and David of the  
Senate

and

Wallace of the House

[ income tax credit - qualified clean-burning motor vehicles and related assets - hydrogen fuel cells and related assets - 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.

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

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

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

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

22        3. Property, not including a building and its structural  
23 components, which is:  
24

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

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

23           4.     Property which is directly related to the compression and  
24 delivery of natural gas from a private home or residence, for

1 noncommercial purposes, into the fuel tank of a motor vehicle  
2 propelled by compressed natural gas. The property covered by this  
3 paragraph must be new and must not have been previously installed or  
4 used to refuel vehicles powered by natural gas; or

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

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

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

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

- 17 a. for vehicles up to or below six thousand (6,000)  
18 pounds, the credit shall be a maximum of Five Thousand  
19 Five Hundred Dollars (\$5,500.00),
- 20 b. for vehicles between six thousand one (6,001) pounds  
21 to ten thousand (10,000) pounds, the credit shall be a  
22 maximum amount of Nine Thousand Dollars (\$9,000.00),
- 23 c. for vehicles of ten thousand one (10,001) pounds, but  
24 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)~~ One Hundred Thousand Dollars (\$100,000.00);

2. For qualified clean-burning motor vehicle fuel property defined in paragraph 3 of subsection B of this section, a per-location credit of 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 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. 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).

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

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

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

18 I. Notwithstanding the provisions of Section 2352 of this  
19 title, for the fiscal year beginning on July 1, 2014, and each  
20 fiscal year thereafter, the Tax Commission shall calculate an amount  
21 that equals five percent (5%) of the cost of qualified clean-burning  
22 motor vehicle fuel property as provided for in paragraph 1 of  
23 subsection D of this section for tax year 2012. For each subsequent  
24 fiscal year thereafter, the Tax Commission shall perform the same

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

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

21 K. Pursuant to subsection J of this section, in the event the  
22 total tax credits authorized by this section exceed Twenty Million  
23 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission  
24 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)

1 but shall factor such excess into the percentage adjustment formula  
2 for subsequent years with respect to any changes to the future of  
3 the credit.

4 L. For the tax years 2023 through 2028, the total amount of  
5 credits authorized by this section used to offset tax shall be  
6 adjusted annually to limit the annual amount of credits to:

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

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

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

20 The Tax Commission shall annually calculate and publish by the  
21 first day of the affected taxable year a percentage by which the  
22 credits authorized by this section shall be reduced so the total  
23 amount of credits used to offset tax does not exceed each of the  
24 limits provided in paragraphs 1 through 3 of this subsection. The



1 formula to be used for the percentage adjustment shall be Ten  
2 Million Dollars (\$10,000,000.00) divided by the credits claimed in  
3 the second preceding year, with respect to any changes to the future  
4 of the credit.

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
21 March 3, 2022 - DO PASS AS AMENDED. Title stricken by Committee on  
22 Finance.  
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