

1 **SENATE FLOOR VERSION**

2 April 11, 2018

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2756

6 By: Osborn (Leslie), Fetgatter,
7 O'Donnell, Calvey, Inman
8 and Virgin of the House

9 and

10 David, Kidd, Dugger,
11 Pittman, Bice, Boggs and
12 Fields of the Senate

13 **[revenue and taxation - tax credits - taxable years**
14 **- carryover period - formula - effective date]**

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

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as
17 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
18 2017, Section 2357.22), is amended to read as follows:

19 Section 2357.22. A. For tax years beginning before January 1,
20 ~~2020~~ 2024, there shall be allowed a one-time credit against the
21 income tax imposed by Section 2355 of this title for investments in
22 qualified clean-burning motor vehicle fuel property placed in
23 service after December 31, 1990.

24 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 a hydrogen fuel cell, compressed natural gas, liquefied
4 natural gas or liquefied petroleum gas; provided, equipment
5 installed on a vehicle propelled by a hydrogen fuel cell shall only
6 be eligible for tax year 2010. The equipment covered by this
7 paragraph 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 a hydrogen fuel cell, compressed natural gas,
20 liquefied natural gas or liquefied petroleum gas but only to the
21 extent of the portion of the basis of such motor vehicle which is
22 attributable to the storage of such fuel, the delivery to the engine
23 of such motor vehicle of such fuel, and the exhaust of gases from
24 combustion of such fuel. A motor vehicle originally equipped so

1 that the vehicle may be propelled by a hydrogen fuel cell shall only
2 be eligible for tax year 2010;

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

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

19 a. directly related to the delivery of compressed natural
20 gas, liquefied natural gas or liquefied petroleum gas,
21 or hydrogen, for commercial purposes or for a fee or
22 charge, into the fuel tank of a motor vehicle
23 propelled by such fuel including compression equipment
24 and storage tanks for such fuel at the point where

1 such fuel is so delivered but only if such property is
2 not used to deliver such fuel into any other type of
3 storage tank or receptacle and such fuel is not used
4 for any purpose other than to propel a motor vehicle,
5 or

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

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

16 ~~4.~~ 5. Property which is directly related to:

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

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

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. ~~After the effective date of this act, for~~ For the qualified
14 clean-burning motor vehicle fuel property defined in paragraph 1 ~~or,~~
15 2 or 3 of subsection B of this section, ~~forty-five percent (45%) of~~
16 ~~the cost of the qualified clean-burning motor vehicle fuel property~~
17 the amount of the credit shall be as follows:

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

21 **b.** for vehicles between six thousand one (6,001) pounds
22 to ten thousand (10,000) pounds, the credit shall be a
23 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 2. For qualified clean-burning motor vehicle fuel property
9 defined in paragraph ~~3~~ 4 of subsection B of this section, a per-
10 location credit of ~~seventy-five percent (75%)~~ forty-five percent
11 (45%) of the cost of the qualified clean-burning motor vehicle fuel
12 property defined as follows:

- 13 a. for equipment installations completed and commercially
14 available by midnight on December 31, 2018, seventy-
15 five percent (75%) of the cost of the qualified clean-
16 burning motor vehicle fuel property, and
17 b. for equipment installations completed and commercially
18 available between January 1, 2019, through December
19 31, 2023, forty-five percent (45%) of the cost of the
20 qualified clean-burning motor vehicle fuel property;
21 and

22 3. For qualified clean-burning motor vehicle fuel property
23 defined in paragraph ~~4~~ 5 of subsection B of this section, a per-
24 location credit of the lesser of fifty percent (50%) of the cost of

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

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

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

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

22 ~~G.~~ H. A husband and wife who file separate returns for a
23 taxable year in which they could have filed a joint return may each
24

1 claim only one-half (1/2) of the tax credit that would have been
2 allowed for a joint return.

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

7 ~~F.~~ J. Notwithstanding the provisions of Section 2352 of this
8 title, for the fiscal year beginning on July 1, 2014, and each
9 fiscal year thereafter, the Tax Commission shall calculate an amount
10 that equals five percent (5%) of the cost of qualified clean-burning
11 motor vehicle fuel property as provided for in ~~paragraph~~ paragraphs
12 1 and 2 of subsection ~~D~~ B of this section for tax year 2012. For
13 each subsequent fiscal year thereafter, the Tax Commission shall
14 perform the same computation with respect to the second tax year
15 preceding the beginning of each subsequent fiscal year. The Tax
16 Commission shall then transfer an amount equal to the amount
17 calculated in this subsection from the revenue derived pursuant to
18 the provisions of subsections ~~A, B~~ C and E of Section 2355 of this
19 title to the Compressed Natural Gas Conversion Safety and Regulation
20 Fund created in Section ~~13~~ 130.25 of ~~this act~~ Title 74 of the
21 Oklahoma Statutes.

22 K. For tax years beginning January 1, 2019, the total amount of
23 credits authorized by this section used to offset tax shall be
24 adjusted annually to limit the annual amount of credits to Sixteen

1 Million Dollars (\$16,000,000.00). The Tax Commission shall annually
2 calculate and publish a percentage by which the credits authorized
3 by this section shall be reduced so the total amount of credits used
4 to offset tax does not exceed Sixteen Million Dollars
5 (\$16,000,000.00) per year. The formula to be used for the
6 percentage adjustment shall be Sixteen Million Dollars
7 (\$16,000,000.00) divided by the credits claimed in the second
8 preceding year.

9 L. Pursuant to subsection K of this section, in the event the
10 total tax credits authorized by this section exceed Sixteen Million
11 Dollars (\$16,000,000.00), in any tax year, the Tax Commission shall
12 permit any excess over Sixteen Million Dollars (\$16,000,000.00) but
13 shall factor such excess into the percentage adjustment formula for
14 subsequent years.

15 M. 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 section reaches eighty
18 percent (80%) of the total annual limit provided in subsection K of
19 this section. Upon such notification, the Secretary shall provide
20 notice to the Governor, President Pro Tempore of the Senate and
21 Speaker of the House of Representatives.

22 SECTION 2. This act shall become effective January 1, 2019.

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
24 April 11, 2018 - DO PASS AS AMENDED