

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3445

By: O'Donnell

4  
5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2021, Section 2357.22, which relates to income  
9 tax credits for certain qualified fuel burning  
10 properties; modifying definitions; modifying eligible  
11 vehicle types for purposes of tax credit; deleting  
12 reference to certain tax year; providing an effective  
13 date; and declaring an emergency.

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

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

17 Section 2357.22 A. For tax years beginning before December 31,  
18 2027, there shall be allowed a one-time credit against the income  
19 tax imposed by Section 2355 of this title for investments in  
20 qualified clean-burning motor vehicle fuel property placed in  
21 service after December 31, 1990, or with respect to a hydrogen fuel  
22 cell, on or after the effective date of this act.

23 B. As used in this section, "qualified clean-burning motor  
24 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

1 propelled by compressed natural gas, a hydrogen fuel cell, liquefied  
2 natural gas or liquefied petroleum gas. The equipment covered by  
3 this paragraph must:

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

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

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

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

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

23 a. directly related to the delivery of compressed natural  
24 gas, liquefied natural gas or liquefied petroleum gas

1 for commercial purposes or for a fee or charge, into  
2 the fuel tank of a motor vehicle propelled by such  
3 fuel including compression equipment and storage tanks  
4 for such fuel at the point where such fuel is so  
5 delivered but only if such property is not used to  
6 deliver such fuel into any other type of storage tank  
7 or receptacle and such fuel is not used for any  
8 purpose other than to propel a motor vehicle or

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

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

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

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

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

6 1. For the qualified clean-burning motor vehicle fuel property  
7 defined in paragraph 1 or 2 of subsection B of this section, the  
8 amount of the credit shall be as follows based upon gross vehicle  
9 weight of the qualified vehicle:

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

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

16 c. for vehicles of ten thousand one (10,001) pounds, but  
17 not in excess of twenty-six thousand five hundred  
18 (26,500) pounds, the credit shall be a maximum amount  
19 of Twenty-six Thousand Dollars (\$26,000.00), and

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

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

1 location credit of forty-five percent (45%) of the cost of the  
2 qualified clean-burning motor vehicle fuel property; and

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

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

17 F. If the tax credit allowed pursuant to subsection A of this  
18 section exceeds the amount of income taxes due or if there are no  
19 state income taxes due on the income of the taxpayer, the amount of  
20 the credit not used as an offset against the income taxes of a  
21 taxable year may be carried forward, in order, as a credit against  
22 subsequent income tax liability for a period not to exceed five (5)  
23 years. The tax credit authorized pursuant to the provisions of this  
24

1 section shall not be used to reduce the tax liability of the  
2 taxpayer to less than zero (0).

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

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

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

1 J. For the taxable year beginning January 1, 2020, and each  
2 taxable year thereafter, the total amount of credits authorized by  
3 this section used to offset tax shall be adjusted annually to limit  
4 the annual amount of credits to Twenty Million Dollars  
5 (\$20,000,000.00). The Tax Commission shall annually calculate and  
6 publish by the first day of the affected taxable year a percentage  
7 by which the credits authorized by this section shall be reduced so  
8 the total amount of credits used to offset tax does not exceed  
9 Twenty Million Dollars (\$20,000,000.00) per year. The formula to be  
10 used for the percentage adjustment shall be Twenty Million Dollars  
11 (\$20,000,000.00) divided by the credits claimed in the second  
12 preceding year, with respect to any changes to the future of the  
13 credit.

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

21 L. The Tax Commission shall notify the Office of the State  
22 Secretary of Energy and Environment at any time when the amount of  
23 claims for credits allowed pursuant to this section reaches eighty  
24 percent (80%) of the total annual limit provided in subsection J of

1 this section. Upon such notification, the Secretary shall provide  
2 notice to the Governor, President Pro Tempore of the Senate and  
3 Speaker of the House of Representatives.

4 SECTION 2. This act shall become effective July 1, 2022.

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

9

10 58-2-8926 MAH 01/14/22

11

12

13

14

15

16

17

18

19

20

21

22

23

24