

1 ENGROSSED SENATE
2 BILL NO. 1857

By: Montgomery and David of the
Senate

3 and

4 Wallace of the House

5
6 [income tax credit - qualified clean-burning motor
7 vehicles and related assets - hydrogen fuel cells and
8 related assets - effective date]
9

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

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

13 Section 2357.22. A. For tax years ~~beginning before December~~
14 ~~31, 2027~~ 2028 and before, there shall be allowed a one-time credit
15 against the income tax imposed by Section 2355 of this title for
16 investments in qualified clean-burning motor vehicle fuel property
17 placed in service ~~after December 31, 1990~~ on or after January 1,
18 1991.

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

21 1. Equipment installed to modify a motor vehicle which is
22 propelled by gasoline or diesel fuel so that the vehicle may be
23 propelled by compressed natural gas, liquefied natural gas, or
24

1 liquefied petroleum gas. The equipment covered by this paragraph
2 must:

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

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

19 3. Property, not including a building and its structural
20 components, which is:

- 21 a. directly related to the delivery of compressed natural
22 gas, liquefied natural gas or liquefied petroleum gas,
23 or hydrogen for commercial purposes or for a fee or
24 charge, into the fuel tank of a motor vehicle

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

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

15 Any property covered by this paragraph which is related to the
16 delivery of hydrogen into the fuel tank of a motor vehicle shall
17 only be eligible for ~~tax year 2010~~ tax years 2010 and 2023 through
18 2028; 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; or

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

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

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

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

- 13 a. for vehicles up to or below six thousand (6,000)
14 pounds, the credit shall be a maximum of Five Thousand
15 Five Hundred Dollars (\$5,500.00),
- 16 b. for vehicles between six thousand one (6,001) pounds
17 to ten thousand (10,000) pounds, the credit shall be a
18 maximum amount of Nine Thousand Dollars (\$9,000.00),
- 19 c. for vehicles of ten thousand one (10,001) pounds, but
20 not in excess of twenty-six thousand five hundred
21 (26,500) pounds, the credit shall be a maximum amount
22 of Twenty-six Thousand Dollars (\$26,000.00), and
- 23 d. for vehicles in excess of twenty-six thousand five
24 hundred one (26,501) pounds, the credit shall be a

1 maximum amount of ~~Fifty Thousand Dollars (\$50,000.00)~~
2 One Hundred Thousand Dollars (\$100,000.00);

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

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

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

21 F. If the tax credit allowed pursuant to subsection A of this
22 section exceeds the amount of income taxes due or if there are no
23 state income taxes due on the income of the taxpayer, the amount of
24 the credit not used as an offset against the income taxes of a

1 taxable year may be carried forward, in order, as a credit against
2 subsequent income tax liability for a period not to exceed five (5)
3 years. 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 G. A husband and wife who file separate returns for a taxable
7 year in which they could have filed a joint return may each claim
8 only one-half (1/2) of the tax credit that would have been allowed
9 for a joint return.

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

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

1 subsections A, B and E of Section 2355 of this title to the
2 Compressed Natural Gas Conversion Safety and Regulation Fund created
3 in Section 130.25 of Title 74 of the Oklahoma Statutes.

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

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

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

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

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

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

17 The Tax Commission shall annually calculate and publish by the
18 first day of the affected taxable year a percentage by which the
19 credits authorized by this section shall be reduced so the total
20 amount of credits used to offset tax does not exceed each of the
21 limits provided in paragraphs 1 through 3 of this subsection. The
22 formula to be used for the percentage adjustment shall be Ten
23 Million Dollars (\$10,000,000.00) divided by the credits claimed in

1 the second preceding year, with respect to any changes to the future
2 of the credit.

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

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

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

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