

1 **SENATE FLOOR VERSION**

2 March 1, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 605

By: Rader of the Senate

and

Pfeiffer of the House

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8  
9 **[ income tax credit - calculation - effective date -  
10 emergency ]**

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

14 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.22, as  
15 amended by Section 1, Chapter 404, O.S.L. 2022 (68 O.S. Supp. 2022,  
16 Section 2357.22), is amended to read as follows:

17 Section 2357.22. A. For tax years 2028 and before, there shall  
18 be allowed a one-time credit against the income tax imposed by  
19 Section 2355 of this title for investments in qualified clean-  
20 burning motor vehicle fuel property placed in service on or after  
21 January 1, 1991.

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

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 years 2010 and 2023 through 2028;

22 4. Property which is directly related to the compression and  
23 delivery of natural gas from a private home or residence, for  
24 noncommercial purposes, into the fuel tank of a motor vehicle

1 propelled by compressed natural gas. The property covered by this  
2 paragraph must be new and must not have been previously installed or  
3 used to refuel vehicles powered by natural gas; or

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

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

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

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

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

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

22 c. for vehicles of ten thousand one (10,001) pounds, but  
23 not in excess of twenty-six thousand five hundred  
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1 (26,500) pounds, the credit shall be a maximum amount  
2 of Twenty-six Thousand Dollars (\$26,000.00), and

3 d. for vehicles in excess of twenty-six thousand five  
4 hundred one (26,501) pounds, the credit shall be a  
5 maximum amount of One Hundred Thousand Dollars  
6 (\$100,000.00);

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

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

16 E. In cases where no credit has been claimed pursuant to  
17 paragraph 1 of subsection D of this section by any prior owner and  
18 in which a motor vehicle is purchased by a taxpayer with qualified  
19 clean-burning motor vehicle fuel property installed by the  
20 manufacturer of such motor vehicle and the taxpayer is unable or  
21 elects not to determine the exact basis which is attributable to  
22 such property, the taxpayer may claim a credit in an amount not  
23 exceeding the lesser of ten percent (10%) of the cost of the motor  
24 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~~ through fiscal year 2023, the Tax Commission  
21 shall calculate an amount that equals five percent (5%) of the cost  
22 of qualified clean-burning motor vehicle fuel property as provided  
23 for in paragraph 1 of subsection D of this section for tax year  
24 2012. For each subsequent fiscal year thereafter, the Tax

1 Commission shall perform the same computation with respect to the  
2 second tax year preceding the beginning of each subsequent fiscal  
3 year. For fiscal year 2024, the Tax Commission shall calculate an  
4 amount that equals twelve percent (12%) of the credit for qualified  
5 clean-burning motor vehicle fuel property as provided in paragraph 1  
6 of subsection D of this section for tax year 2021. For each  
7 subsequent fiscal year, the Tax Commission shall perform the same  
8 calculation for credits claimed in the second preceding tax year.

9 The Tax Commission shall then transfer an amount equal to the amount  
10 calculated in this subsection from the revenue derived pursuant to  
11 the provisions of subsections A, B and E of Section 2355 of this  
12 title to the Compressed Natural Gas Conversion Safety and Regulation  
13 Fund created in Section 130.25 of Title 74 of the Oklahoma Statutes.

14 J. For the tax years 2020 through 2022, the total amount of  
15 credits authorized by this section used to offset tax shall be  
16 adjusted annually to limit the annual amount of credits to Twenty  
17 Million Dollars (\$20,000,000.00). The Tax Commission shall annually  
18 calculate and publish by the first day of the affected taxable year  
19 a percentage by which the credits authorized by this section shall  
20 be reduced so the total amount of credits used to offset tax does  
21 not exceed Twenty Million Dollars (\$20,000,000.00) per year. The  
22 formula to be used for the percentage adjustment shall be Twenty  
23 Million Dollars (\$20,000,000.00) divided by the credits claimed in

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

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

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

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

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

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

4           The Tax Commission shall annually calculate and publish by the  
5 first day of the affected taxable year a percentage by which the  
6 credits authorized by this section shall be reduced so the total  
7 amount of credits used to offset tax does not exceed each of the  
8 limits provided in paragraphs 1 through 3 of this subsection. The  
9 formula to be used for the percentage adjustment shall be Ten  
10 Million Dollars (\$10,000,000.00) divided by the credits claimed in  
11 the second preceding year, with respect to any changes to the future  
12 of the credit.

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

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

1 notice to the Governor, President Pro Tempore of the Senate and  
2 Speaker of the House of Representatives.

3 SECTION 2. This act shall become effective July 1, 2023.

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
9 March 1, 2023 - DO PASS AS AMENDED

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