

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2095

6 By: O'Donnell

7 COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68  
9 O.S. 2011, Section 2357.22, as last amended by  
10 Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.  
11 2018, Section 2357.22), which relates to tax credits  
12 for investment in certain qualified clean-burning  
13 motor vehicles and related assets; modifying taxable  
14 years for which credit may be claimed; modifying  
15 references to hydrogen fuel cells; modifying  
16 provisions related to certain property related to  
17 vehicles powered by electricity; providing for  
18 computation of tax credits based on vehicle weight;  
19 and prohibiting use of tax credit to reduce tax  
20 liability below certain amount.

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

22 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as  
23 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.  
24 2018, Section 2357.22), is amended to read as follows:

Section 2357.22 A. For tax years beginning before ~~January 1,~~  
~~2020~~ December 31, 2026, there shall be allowed a one-time credit  
against the income tax imposed by Section 2355 of this title for

1 investments in qualified clean-burning motor vehicle fuel property  
2 placed in service after December 31, 1990.

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

5 1. Equipment installed to modify a motor vehicle which is  
6 propelled by gasoline or diesel fuel so that the vehicle may be  
7 propelled by ~~a hydrogen fuel cell~~, compressed natural gas, liquefied  
8 natural gas or liquefied petroleum gas; provided, equipment  
9 installed on a vehicle propelled by a hydrogen fuel cell shall only  
10 be eligible for tax year 2010. The equipment covered by this  
11 paragraph must:

12 a. be new, not previously used to modify or retrofit any  
13 vehicle propelled by gasoline or diesel fuel and be  
14 installed by an alternative fuels equipment technician  
15 who is certified in accordance with the Alternative  
16 Fuels Technician Certification Act,

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

19 c. for any commercial motor vehicle (CMV), follow the  
20 Federal Motor Carrier Safety Regulations or Oklahoma  
21 Intrastate Motor Carrier Regulations;

22 2. A motor vehicle originally equipped so that the vehicle may  
23 be propelled by ~~a hydrogen fuel cell~~, compressed natural gas, or  
24 liquefied natural gas or liquefied petroleum gas but only to the

1 extent of the portion of the basis of such motor vehicle which is  
2 attributable to the storage of such fuel, the delivery to the engine  
3 of such motor vehicle of such fuel, and the exhaust of gases from  
4 combustion of such fuel. A motor vehicle originally equipped so  
5 that the vehicle may be propelled by a hydrogen fuel cell shall only  
6 be eligible for tax year 2010;

7 3. Property, not including a building and its structural  
8 components, which is:

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

1                   ~~compressed natural gas, liquefied natural gas or~~  
2                   ~~liquefied petroleum gas, hydrogen or electricity.~~

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

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

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

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

17       1. ~~After the effective date of this act, for~~ For the qualified  
18 clean-burning motor vehicle fuel property defined in paragraph 1 or  
19 2 of subsection B of this section, ~~forty-five percent (45%) of the~~  
20 ~~cost of the qualified clean-burning motor vehicle fuel property~~ the  
21 amount of the credit shall be as follows based upon gross vehicle  
22 weight of the qualified vehicle:

- 1           a. for vehicles up to or below six thousand (6,000)  
2           pounds, the credit shall be a maximum of Five Thousand  
3           Five Hundred Dollars (\$5,500.00),
- 4           b. for vehicles between six thousand one (6,001) pounds  
5           to ten thousand (10,000) pounds, the credit shall be a  
6           maximum amount of Nine Thousand Dollars (\$9,000.00),
- 7           c. for vehicles of ten thousand one (10,001) pounds, but  
8           not in excess of twenty-six thousand five hundred  
9           (26,500) pounds, the credit shall be a maximum amount  
10           of Twenty-six Thousand Dollars (\$26,000.00), and
- 11           d. for vehicles in excess of twenty-six thousand five  
12           hundred one (26,501) pounds, the credit shall be a  
13           maximum amount of Fifty Thousand Dollars (\$50,000.00);

14           2. For qualified clean-burning motor vehicle fuel property  
15 defined in paragraph 3 of subsection B of this section, a per-  
16 location credit of ~~seventy-five percent (75%)~~ forty-five percent  
17 (45%) of the cost of the qualified clean-burning motor vehicle fuel  
18 property; and

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

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

10 F. If the tax credit allowed pursuant to subsection A of this  
11 section exceeds the amount of income taxes due or if there are no  
12 state income taxes due on the income of the taxpayer, the amount of  
13 the credit not used as an offset against the income taxes of a  
14 taxable year may be carried forward, in order, as a credit against  
15 subsequent income tax liability for a period not to exceed five (5)  
16 years. The tax credit authorized pursuant to the provisions of this  
17 section shall not be used to reduce the tax liability of the  
18 taxpayer to less than zero (0).

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

23 H. The Oklahoma Tax Commission is herein empowered to  
24 promulgate rules by which the purpose of this section shall be

1 administered, including the power to establish and enforce penalties  
2 for violations thereof.

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

17 J. For the taxable year beginning January 1, 2020, and each  
18 taxable year thereafter, the total amount of credits authorized by  
19 this section used to offset tax shall be adjusted annually to limit  
20 the annual amount of credits to Twenty Million Dollars  
21 (\$20,000,000.00). The Tax Commission shall annually calculate and  
22 publish by the first day of the affected taxable year a percentage  
23 by which the credits authorized by this section shall be reduced so  
24 the total amount of credits used to offset tax does not exceed

1 Twenty Million Dollars (\$20,000,000.00) per year. The formula to be  
2 used for the percentage adjustment shall be Twenty Million Dollars  
3 (\$20,000,000.00) divided by the credits used to offset tax in the  
4 second preceding year, with respect to any changes to the future of  
5 the credit.

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

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

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57-1-8340 JM 02/28/19