

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2095

By: O'Donnell, McBride and
Fetgatter of the House

4 and

5 Bice of the Senate

6
7
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.

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22
23 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
24 entire bill and insert

"An Act relating to revenue and taxation; amending 68
O.S. 2011, Section 2357.22, as last amended by
Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
2018, Section 2357.22), which relates to tax credits
for investment in certain qualified clean-burning
motor vehicles and related assets; modifying taxable
years for which credit may be claimed; deleting
obsolete references to hydrogen fuel cells; modifying
method of computation for certain credits;
prohibiting use of tax credit to reduce tax liability
below certain amount; establishing limit on total

1 credits allowed for specified tax years; requiring
2 Oklahoma Tax Commission to calculate and publish
3 certain information and to utilize certain
4 methodology; requiring certain notice related to
5 credits allowed; providing an effective date; and
6 declaring an emergency.

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

8 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as
9 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
10 2018, Section 2357.22), is amended to read as follows:

11 Section 2357.22. A. For tax years beginning before ~~January 1,~~
12 ~~2020~~ December 31, 2027, there shall be allowed a one-time credit
13 against the income tax imposed by Section 2355 of this title for
14 investments in qualified clean-burning motor vehicle fuel property
15 placed in service after December 31, 1990.

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

18 1. Equipment installed to modify a motor vehicle which is
19 propelled by gasoline or diesel fuel so that the vehicle may be
20 propelled by ~~a hydrogen fuel cell~~, compressed natural gas, liquefied
21 natural gas or liquefied petroleum gas; ~~provided, equipment~~
22 ~~installed on a vehicle propelled by a hydrogen fuel cell shall only~~
23 ~~be eligible for tax year 2010.~~ The equipment covered by this
24 paragraph must:

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

11 2. A motor vehicle originally equipped so that the vehicle may
12 be propelled by a ~~hydrogen fuel cell~~, compressed natural gas, or
13 liquefied natural gas or liquefied petroleum gas but only to the
14 extent of the portion of the basis of such motor vehicle which is
15 attributable to the storage of such fuel, the delivery to the engine
16 of such motor vehicle of such fuel, and the exhaust of gases from
17 combustion of such fuel. ~~A motor vehicle originally equipped so~~
18 ~~that the vehicle may be propelled by a hydrogen fuel cell shall only~~
19 ~~be eligible for tax year 2010;~~

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

- 22 a. directly related to the delivery of compressed natural
23 gas, liquefied natural gas or liquefied petroleum gas,
24 ~~or hydrogen~~, for commercial purposes or for a fee or

1 charge, into the fuel tank of a motor vehicle
2 propelled by such fuel including compression equipment
3 and storage tanks for such fuel at the point where
4 such fuel is so delivered but only if such property is
5 not used to deliver such fuel into any other type of
6 storage tank or receptacle and such fuel is not used
7 for any purpose other than to propel a motor vehicle,
8 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. ~~After the effective date of this act, for~~ For the qualified
7 clean-burning motor vehicle fuel property defined in paragraph 1 or
8 2 of subsection B of this section, ~~forty-five percent (45%) of the~~
9 ~~cost of the qualified clean-burning motor vehicle fuel property~~ the
10 amount of the credit shall be as follows based upon gross vehicle
11 weight of the qualified vehicle:

- 12 a. for vehicles up to or below six thousand (6,000)
13 pounds, the credit shall be a maximum of Five Thousand
14 Five Hundred Dollars (\$5,500.00),
- 15 b. for vehicles between six thousand one (6,001) pounds
16 to ten thousand (10,000) pounds, the credit shall be a
17 maximum amount of Nine Thousand Dollars (\$9,000.00),
- 18 c. for vehicles of ten thousand one (10,001) pounds, but
19 not in excess of twenty-six thousand five hundred
20 (26,500) pounds, the credit shall be a maximum amount
21 of Twenty-six Thousand Dollars (\$26,000.00), and
- 22 d. for vehicles in excess of twenty-six thousand five
23 hundred one (26,501) pounds, the credit shall be a
24 maximum amount of Fifty Thousand Dollars (\$50,000.00);

1 2. For qualified clean-burning motor vehicle fuel property
2 defined in paragraph 3 of subsection B of this section, a per-
3 location credit of ~~seventy-five percent (75%)~~ forty-five percent
4 (45%) of the cost of the qualified clean-burning motor vehicle fuel
5 property; and

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

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

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

1 subsequent income tax liability for a period not to exceed five (5)
2 years. The tax credit authorized pursuant to the provisions of this
3 section shall not be used to reduce the tax liability of the
4 taxpayer to less than zero (0).

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

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

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

1 Compressed Natural Gas Conversion Safety and Regulation Fund created
2 in Section ~~13~~ 130.25 of ~~this act~~ Title 74 of the Oklahoma Statutes.

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

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

23 L. The Tax Commission shall notify the Office of the State
24 Secretary of Energy and Environment at any time when the amount of

1 claims for credits allowed pursuant to this section reaches eighty
2 percent (80%) of the total annual limit provided in subsection J of
3 this section. Upon such notification, the Secretary shall provide
4 notice to the Governor, President Pro Tempore of the Senate and
5 Speaker of the House of Representatives.

6 SECTION 2. This act shall become effective January 1, 2020."
7 Passed the Senate the 23rd day of April, 2019.

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9 _____
10 Presiding Officer of the Senate

11 Passed the House of Representatives the ____ day of _____,
12 2019.

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14 _____
15 Presiding Officer of the House
16 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2095

By: O'Donnell, McBride and
Fetgatter of the House

3 and

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

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

22 SECTION 3. 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
investments in qualified clean-burning motor vehicle fuel property
placed in service after December 31, 1990.

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

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

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

20 2. A motor vehicle originally equipped so that the vehicle may
21 be propelled by ~~a hydrogen fuel cell~~, compressed natural gas, or
22 liquefied natural gas or liquefied petroleum gas but only to the
23 extent of the portion of the basis of such motor vehicle which is
24 attributable to the storage of such fuel, the delivery to the engine

1 of such motor vehicle of such fuel, and the exhaust of gases from
2 combustion of such fuel. A motor vehicle originally equipped so
3 that the vehicle may be propelled by a hydrogen fuel cell shall only
4 be eligible for tax year 2010;

5 3. Property, not including a building and its structural
6 components, which is:

7 a. directly related to the delivery of compressed natural
8 gas, liquefied natural gas or liquefied petroleum gas,
9 ~~or hydrogen,~~ for commercial purposes or for a fee or
10 charge, into the fuel tank of a motor vehicle
11 propelled by such fuel including compression equipment
12 and storage tanks for such fuel at the point where
13 such fuel is so delivered but only if such property is
14 not used to deliver such fuel into any other type of
15 storage tank or receptacle and such fuel is not used
16 for any purpose other than to propel a motor vehicle,
17 or

18 b. a metered-for-fee, public access recharging system for
19 motor vehicles propelled in whole or in part by
20 electricity. The property covered by this paragraph
21 must be new, and must not have been previously
22 installed or used to refuel vehicles powered by
23 ~~compressed natural gas, liquefied natural gas or~~
24 ~~liquefied petroleum gas, hydrogen or electricity.~~

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

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

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

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

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

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

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

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

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

21 E. In cases where no credit has been claimed pursuant to
22 paragraph 1 of subsection D of this section by any prior owner and
23 in which a motor vehicle is purchased by a taxpayer with qualified
24 clean-burning motor vehicle fuel property installed by the

1 manufacturer of such motor vehicle and the taxpayer is unable or
2 elects not to determine the exact basis which is attributable to
3 such property, the taxpayer may claim a credit in an amount not
4 exceeding the lesser of ten percent (10%) of the cost of the motor
5 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

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

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

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

23 I. Notwithstanding the provisions of Section 2352 of this
24 title, for the fiscal year beginning on July 1, 2014, and each

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

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

1 second preceding year, with respect to any changes to the future of
2 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. 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 subsection reaches
13 eighty percent (80%) of the total annual limit provided in
14 subsection J of this section. Upon such notification, the Secretary
15 shall provide notice to the Governor, President Pro Tempore of the
16 Senate and Speaker of the House of Representatives.

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1 Passed the House of Representatives the 12th day of March, 2019.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

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8 _____
9 Presiding Officer of the Senate