

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 589

By: Montgomery

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5
6 AS INTRODUCED

7 An Act relating to income tax credit; amending 68
8 O.S. 2021, Section 2357.22, as amended by Section 1,
9 Chapter 404, O.S.L. 2022 (68 O.S. Supp. 2022, Section
10 2357.22), which relates to credit for investments in
11 qualified clean-burning motor vehicle fuel property;
12 modifying credit amount for purchase of motor
13 vehicles for certain tax years; and providing
14 effective date.

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

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

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

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

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:

6 (1) for tax year 2023, One Hundred Thousand Dollars
7 (\$100,000.00),

8 (2) for tax year 2024, Two Hundred Fifty Thousand
9 Dollars (\$250,000.00),

10 (3) for tax year 2025, Two Hundred Thousand Dollars
11 (\$200,000.00),

12 (4) for tax year 2026, One Hundred Fifty Thousand
13 Dollars (\$150,000.00), and

14 (5) for tax years 2027 and 2028, One Hundred Thousand
15 Dollars (\$100,000.00);

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

20 3. For qualified clean-burning motor vehicle fuel property
21 defined in paragraph 4 of subsection B of this section, a per-
22 location credit of the lesser of fifty percent (50%) of the cost of
23 the qualified clean-burning motor vehicle fuel property or Two
24 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 130.25 of Title 74 of the Oklahoma Statutes.

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

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

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

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

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

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

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 November 1, 2023.

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