

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 797

By: Bice of the Senate

and

O'Donnell of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to income tax; amending 68 O.S. 2011,
12 Section 2357.22, as last amended by Section 12,
13 Chapter 328, O.S.L. 2014 (68 O.S. Supp. 2018, Section
14 2357.22), which relates to credit for investments in
15 clean-burning motor fuel and electric motor vehicles;
16 modifying time period during which credits may be
17 claimed; deleting obsolete language; modifying amount
18 of credit which may be claimed for certain property
19 and manner in which credit is calculated;
20 establishing total annual limitation on amount of
21 credits allowed; requiring Oklahoma Tax Commission to
22 publish certain percentage; providing methodology for
23 specified calculation; permitting certain excess
24 credits under specified circumstance; requiring
 certain notice by Oklahoma Tax Commission; and
 providing an effective date.

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

1 Section 2357.22 A. For tax years beginning before ~~January 1,~~
2 ~~2020~~ January 1, 2027, there shall be allowed a one-time credit
3 against the income tax imposed by Section 2355 of this title for
4 investments in qualified clean-burning motor vehicle fuel property
5 placed in service after December 31, 1990.

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

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

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

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

10 3. Property, not including a building and its structural
11 components, which is:

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

1 electricity. The property covered by this paragraph
2 must be new, and must not have been previously
3 installed or used to refuel vehicles powered by
4 compressed natural gas, liquefied natural gas or
5 liquefied petroleum gas, hydrogen or electricity.

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

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

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

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

20 1. ~~After the effective date of this act, for~~ For the qualified
21 clean-burning motor vehicle fuel property defined in paragraph 1 or
22 2 of subsection B of this section, ~~forty-five percent (45%) of the~~
23 ~~cost of the qualified clean-burning motor vehicle fuel property~~ the

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1 amount of the credit shall be as follows, based upon gross vehicle
2 weight of the qualified vehicle:

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

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

9 c. for vehicles of ten thousand one pounds (10,001), but
10 not in excess of twenty-six thousand five hundred
11 (26,500) pounds, the credit shall be a maximum amount
12 of Twenty-six Thousand Dollars (\$26,000.00),

13 d. for vehicles of twenty-six thousand five hundred one
14 (26,501) pounds or greater, the credit shall be a
15 maximum amount of Fifty Thousand Dollars (\$50,000.00);

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 ~~seventy-five percent (75%)~~ forty-five percent
19 (45%) of the cost of the qualified clean-burning motor vehicle fuel
20 property; and

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

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

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

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 of this act~~ 130.25 of Title 74 of the Oklahoma
17 Statutes.

18 J. For the tax year beginning January 1, 2020, and each tax
19 year thereafter, the total amount of credits authorized by this
20 section used to offset tax shall be adjusted annually to limit the
21 annual amount of credits to Twenty Million Dollars (\$20,000,000.00).
22 The Tax Commission shall annually calculate and publish by the first
23 day of the affected year a percentage by which the credits
24 authorized by this section shall be reduced so the total amount of

1 credits used to offset tax does not exceed Twenty Million Dollars
2 (\$20,000,000.00) per year. The formula to be used for the
3 percentage adjustment shall be Twenty Million Dollars
4 (\$20,000,000.00) divided by the credits claimed in the second
5 preceding year.

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.

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

19 SECTION 2. This act shall become effective January 1, 2020.

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21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND NATURAL RESOURCES,
22 dated 04/10/2019 - DO PASS, As Amended.

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