OKLAHOMA STATE SENATE
GENERAL CONFERENCE COMMITTEE ON APPROPRIATIONS
COMMITTEE REPORT

May 11, 2022

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1857

By: Montgomery and David of the Senate and Wallace and Boles of the House

Title: Income tax credit; extending credit for qualified clean-burning vehicles; providing credit for hydrogen fuel cells. Effective date.

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together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.

2. By restoring the title as follows:

"An Act relating to income tax credit; amending 68 O.S. 2021, Section 2357.22, which relates to tax credits for investment in certain qualified clean-burning motor vehicles and related assets; modifying tax years for which credit may be claimed; providing tax credit for hydrogen fuel cells and related assets; modifying credit limit for certain years; providing duty of Oklahoma Tax Commission; providing certain formula; and providing an effective date."

Respectfully submitted,

SENATE CONFEREES:

Thompson	Kidd
Hall	Kirt
Brooks	Matthews
David	Montgomery
Dossett, J.J.	Newhouse

Senate Action____________Date________ House Action____________Date________

Dugger

Floyd

Haste

Brent Howard
Howard

Jech

Pederson

Pemberton

Dan Rader
Rader

Rosino

Simpson

Weaver

HOUSE CONFEREES:

General Conference Committee on Appropriations

Senate Action____________Date________ House Action____________Date________

SB1857 CCR (A)

HOUSE CONFEREES

Baker, Rhonda		Bennett, Forrest	
Blancett, Meloyde		Boatman, Jeff	
Dills, Sheila	Sheila L. Dills	Echols, Jon	Jon Echols
Fetgatter, Scott	[illegible]	Ford, Ross	Ross Ford
Goodwin, Regina		Hill, Brian	Brian Hill
Kannady, Chris		Lawson, Mark	Mark P. Lawson
Lepak, Mark		Martinez, Ryan	[illegible]
McBride, Mark		McDugle, Kevin	[illegible]
McEntire, Marcus	[illegible]	Miller, Nicole	
Mize, Garry	[illegible]	Munson, Cyndi	
Newton, Carl	[illegible]	Nichols, Monroe	
O'Donnell, Terry	[illegible]	Osburn, Mike	[illegible]
Pfeiffer, John		Roberts, Dustin	[illegible]
Roberts, Sean		Russ, Todd	
Sterling, Danny	Danny J. Sterling	Strom, Judd	
Virgin, Emily		Walke, Collin	
Wallace, Kevin	[illegible]	West, Josh	[illegible]
West, Tammy	Tammy West		

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Senate Action____________Date_________ House Action_____________Date________

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1857

By: Montgomery and David of the Senate

and

Wallace of the House

[income tax credit - qualified clean-burning motor vehicles and related assets - hydrogen fuel cells and related assets - effective date]

AUTHOR: Add the following House Coauthor: Boles

AMENDMENT NO. 1. Page 1, line 10, strike the enacting clause

Passed the House of Representatives the 20th day of April, 2022.

____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of __________, 2022.

____
Presiding Officer of the Senate

ENGROSSED SENATE
BILL NO. 1857

By: Montgomery and David of the Senate

and

Wallace of the House

[income tax credit - qualified clean-burning motor vehicles and related assets - hydrogen fuel cells and related assets - effective date]

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.22, is amended to read as follows:

Section 2357.22. A. For tax years ~~beginning before December 31, 2027~~ 2028 and before, 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~~ on or after January 1, 1991.

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

1. Equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by compressed natural gas, liquefied natural gas, or

liquefied petroleum gas. The equipment covered by this paragraph must:

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

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

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

2. A motor vehicle originally equipped so that the vehicle may be propelled by compressed natural gas, or liquefied natural gas or liquefied petroleum gas but only to the extent of the portion of the basis of such motor vehicle which is attributable to the storage of such fuel, the delivery to the engine of such motor vehicle of such fuel, and the exhaust of gases from combustion of such fuel;

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

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

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

Any property covered by this paragraph which is related to the delivery of hydrogen into the fuel tank of a motor vehicle shall only be eligible for ~~tax year 2010~~ tax years 2010 and 2023 through 2028; ~~or~~

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

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

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

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

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

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

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

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

d. for vehicles in excess of twenty-six thousand five hundred one (26,501) pounds, the credit shall be a maximum amount of ~~Fifty Thousand Dollars ($50,000.00)~~ One Hundred Thousand Dollars ($100,000.00);

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

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

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

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

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

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

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

J. For the ~~taxable year beginning January 1, 2020, and each taxable year thereafter~~ tax years 2020 through 2022, the total amount of credits authorized by this section used to offset tax shall be adjusted annually to limit the annual amount of credits to Twenty Million Dollars ($20,000,000.00). The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits authorized by this section shall be reduced so the total amount of credits used to offset tax does not exceed Twenty Million Dollars ($20,000,000.00) per year. The formula to be used for the percentage adjustment shall be Twenty Million Dollars ($20,000,000.00) divided by the credits claimed in the second preceding year, with respect to any changes to the future of the credit.

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

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

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

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

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

The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits authorized by this section shall be reduced so the total amount of credits used to offset tax does not exceed each of the limits provided in paragraphs 1 through 3 of this subsection. The formula to be used for the percentage adjustment shall be Ten Million Dollars ($10,000,000.00) divided by the credits claimed in

<u>the second preceding year, with respect to any changes to the future of the credit.</u>

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

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

SECTION 2. This act shall become effective January 1, 2023.

Passed the Senate the 14th day of March, 2022.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2022.

____
Presiding Officer of the House of Representatives