

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2542

6 By: O'Donnell and McBride of
7 the House

8 and

9 Woods of the Senate

10 **[revenue and taxation - income tax credits - fuel**
11 **burning properties - effective date -**
12 **emergency]**

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

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

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

23 B. As used in this section, "qualified clean-burning motor
24 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, a hydrogen fuel cell, liquefied
4 natural gas, or liquefied petroleum gas. The equipment covered by
5 this paragraph 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, a hydrogen fuel cell, or
18 liquefied natural gas or liquefied petroleum gas but only to the
19 extent of the portion of the basis of such motor vehicle which is
20 attributable to the storage of such fuel, the delivery to the engine
21 of such motor vehicle of such fuel, and the exhaust of gases from
22 combustion of such fuel;

23 3. Property, not including a building and its structural
24 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
24

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 One Hundred Thousand Dollars
6 (\$100,000.00);

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

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

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

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

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

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

18 I. Notwithstanding the provisions of Section 2352 of this
19 title, for the fiscal year beginning on July 1, 2014, and each
20 fiscal year thereafter, the Tax Commission shall calculate an amount
21 that equals five percent (5%) of the cost of qualified clean-burning
22 motor vehicle fuel property as provided for in paragraph 1 of
23 subsection D of this section for tax year 2012. For each subsequent
24 fiscal year thereafter, the Tax Commission shall perform the same

1 computation with respect to the second tax year preceding the
2 beginning of each subsequent fiscal year. The Tax Commission shall
3 then transfer an amount equal to the amount calculated in this
4 subsection from the revenue derived pursuant to the provisions of
5 subsections A, B and E of Section 2355 of this title to the
6 Compressed Natural Gas Conversion Safety and Regulation Fund created
7 in Section 130.25 of Title 74 of the Oklahoma Statutes.

8 J. For the tax years 2020 through 2022, the total amount of
9 credits authorized by this section used to offset tax shall be
10 adjusted annually to limit the annual amount of credits to Twenty
11 Million Dollars (\$20,000,000.00). The Tax Commission shall annually
12 calculate and publish by the first day of the affected taxable year
13 a percentage by which the credits authorized by this section shall
14 be reduced so the total amount of credits used to offset tax does
15 not exceed Twenty Million Dollars (\$20,000,000.00) per year. The
16 formula to be used for the percentage adjustment shall be Twenty
17 Million Dollars (\$20,000,000.00) divided by the credits claimed in
18 the second preceding year, with respect to any changes to the future
19 of the credit.

20 K. Pursuant to subsection J of this section, in the event the
21 total tax credits authorized by this section exceed Twenty Million
22 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission
23 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)
24 but shall factor such excess into the percentage adjustment formula

1 for subsequent years with respect to any changes to the future of
2 the credit.

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

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

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

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

19 The Tax Commission shall annually calculate and publish by the
20 first day of the affected taxable year a percentage by which the
21 credits authorized by this section shall be reduced so the total
22 amount of credits used to offset tax does not exceed each of the
23 limits provided in paragraphs 1 through 3 of this subsection. The
24 formula to be used for the percentage adjustment shall be Ten

1 Million Dollars (\$10,000,000.00) divided by the credits claimed in
2 the second preceding year, with respect to any changes to the future
3 of the credit.

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

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

18 SECTION 2. This act shall become effective July 1, 2023.

19 SECTION 3. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
24 April 10, 2023 - DO PASS AS AMENDED