

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2542

By: O'Donnell and McBride

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; 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 income tax credits for  
11 certain qualified fuel burning properties; modifying  
12 definitions; modifying eligible vehicle types for  
13 purposes of tax credit; deleting reference to certain  
14 tax year; providing an effective date; and declaring  
15 an emergency.

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

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

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

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

5 1. Equipment installed to modify a motor vehicle which is  
6 propelled by gasoline or diesel fuel so that the vehicle may be  
7 propelled by compressed natural gas, a hydrogen fuel cell, liquefied  
8 natural gas, or liquefied petroleum gas. The equipment covered by  
9 this 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 compressed natural gas, a hydrogen fuel cell, 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;

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

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

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

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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 years 2010 and 2023 through 2028;~~

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; or

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

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

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

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

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

- 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 One Hundred Thousand Dollars  
11                  (\$100,000.00);

12           2.    For qualified clean-burning motor vehicle fuel property  
13 defined in paragraph 3 of subsection B of this section, a per-  
14 location credit of forty-five percent (45%) of the cost of the  
15 qualified clean-burning motor vehicle fuel 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 130.25 of Title 74 of the Oklahoma Statutes.

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

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

8 L. For the tax years 2023 through 2028, 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:

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

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

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

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1 The Tax Commission shall annually calculate and publish by the  
2 first day of the affected taxable year a percentage by which the  
3 credits authorized by this section shall be reduced so the total  
4 amount of credits used to offset tax does not exceed each of the  
5 limits provided in paragraphs 1 through 3 of this subsection. The  
6 formula to be used for the percentage adjustment shall be Ten  
7 Million Dollars (\$10,000,000.00) divided by the credits claimed in  
8 the second preceding year, with respect to any changes to the future  
9 of the credit.

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

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

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

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

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