An Act

ENROLLED SENATE
BILL NO. 605

By: Rader of the Senate

and

Pfeiffer of the House

An Act relating to income tax credit; amending 68 O.S. 2021, Section 2357.22, as amended by Section 1, Chapter 404, O.S.L. 2022 (68 O.S. Supp. 2022, Section 2357.22), which relates to one-time credit for investments in qualified clean-burning motor vehicle fuel property; modifying certain required calculation by the Oklahoma Tax Commission for certain fiscal years; providing an effective date; and declaring an emergency.

SUBJECT: Income tax credit

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

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

Section 2357.22. A. For tax years 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 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 years 2010 and 2023 through 2028;

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 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 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~~ through fiscal year 2023, 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. For fiscal year 2024, the Tax Commission shall calculate an amount that equals twelve percent (12%) of the credit for qualified clean-burning motor vehicle fuel property as provided in paragraph 1 of subsection D of this section for tax year 2021. For each subsequent fiscal year, the Tax Commission shall perform the same calculation for credits claimed in the second preceding tax 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 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 the second preceding year, with respect to any changes to the future of the credit.

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.

N. 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 July 1, 2023.

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

Passed the Senate the 9th day of March, 2023.

Brent Howard
Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 1st
day of May, 2023, at 2:13 o'clock p. M.
By: Summer Curry

Approved by the Governor of the State of Oklahoma this 5th
day of May, 2023, at 10:45 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th
day of May, 2023, at 11:50 o'clock A. M.
By: Brian Bingman