

1 ENGROSSED HOUSE
2 BILL NO. 3426

By: Archer and Menz of the
House

3 and

4 Haste of the Senate

5
6
7 [revenue and taxation - income tax credits for
8 qualified space transportation vehicle providers -
9 taxable years - definitions - effective date]
10
11

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

13 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.42, is
14 amended to read as follows:

15 Section 2357.42 A. For tax years beginning after December 31,
16 2000, and ending before January 1, ~~2009~~ 2030, there shall be allowed
17 to an investor making an eligible investment a credit against the
18 tax imposed by Section 2355 or 2370 of this title or Section 624 or
19 628 of Title 36 of the Oklahoma Statutes. The credit may be used in
20 the payment of estimated tax payments for the tax imposed by Section
21 624 or 628 of Title 36 of the Oklahoma Statutes. The credit shall
22 be in the amount as set forth in subsection G of this section.

23 B. The amount of the credit shall be transferable to subsequent
24 transferees.

1 C. As used in this section:

2 1. "Eligible investment" means an investment made during a
3 period not earlier than January 1, 2001, and not later than December
4 31, ~~2003~~ 2029, in a qualified space transportation vehicle provider
5 that:

6 a. is headquartered in this state or is ultimately
7 controlled by an entity headquartered in this state,
8 or

9 b. has been certified by the Oklahoma Tax Commission as
10 meeting the following minimum qualifications:

11 (1) is included within the definition of "basic
12 industry" as set forth in division (1) of
13 subparagraph a of paragraph 1 of subsection A of
14 Section 3603 of this title and has been
15 preapproved by the Oklahoma Department of
16 Commerce to receive incentive payments pursuant
17 to the Oklahoma Quality Jobs Program Act or the
18 Former Military Facility Development Act. The
19 Department shall establish a process for
20 preapproval of applicants for the Oklahoma
21 Quality Jobs Program Act or the Former Military
22 Facility Development Act for purposes of this
23 division. The qualified space transportation
24 vehicle provider shall agree to submit such

1 information as may be required under this section
2 and the Oklahoma Quality Jobs Program Act or the
3 Former Military Facility Development Act to allow
4 the Tax Commission to determine the amount of the
5 tax credit allowed pursuant to the provisions of
6 this section and the amount of incentive payments
7 allowed pursuant to the Oklahoma Quality Jobs
8 Program Act or the Former Military Facility
9 Development Act for purposes of subsection K of
10 this section,

11 (2) has equity capitalization of not less than ~~Ten~~
12 ~~Million Dollars (\$10,000,000.00)~~ Twenty Million
13 Dollars (\$20,000,000.00), and

14 (3) has received a commitment by a local governmental
15 entity, whether by contract, letter agreement,
16 terms sheet, resolution, ordinance or indenture,
17 to provide funds, personal property or real
18 property in the aggregate amount of ~~Fifteen~~
19 ~~Million Dollars (\$15,000,000.00)~~ One Million
20 Dollars (\$1,000,000.00) or more which will be
21 utilized by one or more qualified space
22 transportation vehicle providers. For purposes
23 of this division, such property may include
24 personal or real property owned by a local

1 governmental entity which has been leased to a
2 state authority pursuant to a long-term lease or
3 personal or real property which a local
4 governmental entity has transferred to a state
5 authority. If such property has been so
6 transferred, the commitment required by this
7 division may be satisfied if the state authority
8 agrees in writing to make the property so
9 transferred available for use by one or more
10 qualified space transportation vehicle providers;

11 2. "Qualified space transportation vehicle provider" means any
12 commercial provider organized under the laws of this state as a
13 corporation or a limited liability company and engaged in designing,
14 developing, producing, or operating commercial space transportation
15 vehicles in this state;

16 3. "Space transportation vehicle" includes all types of
17 vehicles or orbital or suborbital spacecraft, whether now in
18 existence, developed in the future, or currently under design,
19 development, construction, reconstruction, or reconditioning,
20 constructed in this state and owned by a qualified space
21 transportation vehicle provider, for the purpose of operating in, or
22 transporting a payload to, from, or within, outer space, or in
23 suborbital trajectory, and includes any component of such vehicle or
24 spacecraft not specifically designed or adapted for a payload; and

1 4. "Subsequently refunded or returned", when used in reference
2 to an eligible investment, means an actual redemption by the
3 qualified space transportation vehicle provider of the securities or
4 other indicia of ownership in the qualified space transportation
5 vehicle provider received by the investor from the investor's
6 investment. The failure to allow the tax credits or the recapture
7 of the tax credits shall not affect the validity of the tax credits
8 in the hands of a transferee of the initial investor or subsequent
9 transferees. Provided, an investor to whom an eligible investment,
10 or portion thereof, is subsequently refunded or returned shall
11 reimburse the Tax Commission the amount of any credits claimed by a
12 transferee with respect to any such amount.

13 D. The tax credit provided for in this section shall not be
14 allowed or, if already claimed, shall be subject to recapture as to
15 the initial investor or investors with respect to any amount of an
16 eligible investment made which is subsequently refunded or returned
17 to such investor. Further, a tax credit shall not be allowed to an
18 investor making an eligible investment in a qualified space
19 transportation vehicle provider or shall be subject to recapture as
20 to the initial investor or investors if previously allowed if the
21 qualified space transportation vehicle provider in which the
22 investment was made fails to make use of such funds or property
23 within three (3) years of the date the tax credit was allowed. Any
24 recapture under this subsection shall only apply as to that part of

1 the tax credit as is associated with the amount of the investment
2 which is subsequently refunded or returned or which is not utilized.

3 E. The Tax Commission shall:

4 1. Certify, upon request of an authorized agent or
5 representative of a qualified space transportation vehicle provider,
6 that the qualified space transportation vehicle provider for which
7 the certification is sought meets the qualifications prescribed by
8 subparagraph b of paragraph 1 of subsection C of this section. The
9 certification shall be in writing and signed by an authorized
10 representative of the Tax Commission and, for purposes of
11 determining qualifications of a qualified space transportation
12 vehicle provider in which an investment may be eligible for the
13 credit authorized by this section, shall be binding upon the Tax
14 Commission; and

15 2. Issue a certificate to an investor that provides adequate
16 documentation of qualification for the credit authorized by this
17 section even if the credit may not be claimed until after the date
18 upon which the certificate is requested. Upon issuance, the
19 certificate shall be evidence that an investor or a transferee of
20 the original tax credit claimant submitting the certificate, or a
21 certified copy thereof, with the relevant tax return or other form,
22 has the legal right to exercise the credit in order to reduce the
23 relevant tax liability for the period authorized by this section.

24

1 F. The maximum amount of all eligible investments for which tax
2 credits may be claimed under this section shall be Thirty Million
3 Dollars (\$30,000,000.00). If more than one qualified space
4 transportation vehicle provider has been certified by the Tax
5 Commission pursuant to the provisions of subsection E of this
6 section, the investors in the first such approved qualified space
7 transportation vehicle provider shall be entitled to a credit based
8 on their investment of the lesser of their eligible investment or
9 Thirty Million Dollars (\$30,000,000.00). The investors in the
10 second such approved qualified space transportation vehicle provider
11 shall then be entitled to a credit based on their investment of the
12 lesser of their eligible investment or the difference between the
13 total eligible investments in previously approved qualified space
14 transportation vehicle providers and Thirty Million Dollars
15 (\$30,000,000.00). This same procedure will apply for all
16 subsequently approved qualified space transportation vehicle
17 providers. If the amount of eligible investments exceeds the amount
18 upon which the tax credit may be claimed as provided herein,
19 investors shall be allowed a share of the amount of the available
20 tax credit in order of the dates of receipt of certification
21 therefor by the Tax Commission pursuant to the provisions of
22 paragraph 1 of subsection E of this section.

23 G. The amount of the tax credit allowed pursuant to the
24 provisions of subsection A of this section shall be deemed fully

1 earned as of the date of the investment and shall be fully
2 redeemable as follows:

| Period for Which | Tax Liability Determined | Credit Allowed |
|--|--------------------------|-----------------------------------|
| Tax year subsequent to year of eligible investment | | 10.6% of eligible investment |
| Second tax year subsequent to year of eligible investment | | 11.236% of eligible investment |
| Third tax year subsequent to year of eligible investment | | 11.910% of eligible investment |
| Fourth tax year subsequent to year of eligible investment | | 12.624% of eligible investment |
| Fifth tax year subsequent to year of eligible investment | | 13.381% of eligible investment |

20 H. The amount of a tax credit allowed pursuant to the
21 provisions of this section not used in payment of taxes due in the
22 year in which such credit is allowed pursuant to subsection G of
23 this section may be used as a credit against subsequent tax
24 liability of the investor or a subsequent transferee for a period

1 not to exceed three (3) years from the year in which such credit is
2 originally allowed.

3 I. The Tax Commission shall develop and issue appropriate forms
4 and instructions to enable investors to claim the tax credit
5 provided for in this section.

6 J. A qualified space transportation vehicle provider in which
7 an eligible investment qualifies for a credit authorized by this
8 section shall maintain a record of investment made in the qualified
9 space transportation vehicle provider for the period beginning
10 January 1, 2001, and ending December 31, ~~2003~~ 2029. The qualified
11 space transportation vehicle provider shall notify the Tax
12 Commission not later than January 31, 2004, of the total investment
13 amount for such period. Any such qualified space transportation
14 vehicle provider which refunds or returns any amount of an eligible
15 investment to the investor shall notify the Tax Commission in
16 writing of the amount and recipient of such refunds or returns. The
17 Tax Commission shall compute the maximum amount of credits available
18 pursuant to this section based upon notification of the investment
19 amount transmitted to the Tax Commission by the qualified space
20 transportation vehicle provider.

21 K. A qualified space transportation vehicle provider in which
22 eligible investments qualify for the tax credit authorized by this
23 section shall not receive incentive payments pursuant to the
24 Oklahoma Quality Jobs Program Act or the Former Military Facility

1 Development Act until the total of such incentive payments the
2 qualified space transportation vehicle provider would otherwise
3 receive exceeds the total amount of the credit authorized by this
4 section as computed by the Tax Commission pursuant to subsection J
5 of this section. The amount of incentive payments for any year
6 which would otherwise be paid to the qualified space transportation
7 vehicle provider shall be distributed as follows:

8 1. If the amount of such incentive payments equals or exceeds
9 the amount of the tax credit for the year, the amount of such
10 payments which is equal to the amount of the tax credit shall be
11 apportioned as if collected from the tax imposed by Section 2355 or
12 2370 of this title or Section 624 or 628 of Title 36 of the Oklahoma
13 Statutes according to the tax against which the credit was claimed.
14 The amount of such payments which is in excess of the amount of the
15 tax credit shall be retained by the Tax Commission to be paid as
16 provided for in this paragraph for subsequent years for which the
17 tax credit is allowed to the qualified space transportation vehicle
18 provider;

19 2. If the amount of such incentive payments and any amount
20 retained by the Tax Commission pursuant to the provisions of
21 paragraph 1 of this subsection is less than the amount of the tax
22 credit for the year, notwithstanding the provisions of Section 1727
23 of Title 69 of the Oklahoma Statutes, the Tax Commission shall
24 withhold a portion of the taxes levied and collected pursuant to the

1 provisions of paragraph 1 of subsection A of Section 500.4 of this
2 title which would otherwise be paid to the Department of
3 Transportation by the Oklahoma Transportation Authority pursuant to
4 the provisions of paragraph (2) of subsection (d) of Section 1730 of
5 Title 69 of the Oklahoma Statutes equal to the amount of the
6 deficit.

7 The Tax Commission shall apportion all funds collected pursuant
8 to the provisions of this paragraph as if collected from the tax
9 imposed by Section 2355 or 2370 of this title or Section 624 or 628
10 of Title 36 of the Oklahoma Statutes according to the tax against
11 which the credit was claimed; and

12 3. If any amount is withheld by or paid to the Tax Commission
13 pursuant to the provisions of paragraph 2 of this subsection, the
14 amount of incentive payments to be subsequently paid to the
15 qualified space transportation vehicle provider shall be apportioned
16 by the Tax Commission to the Department of Transportation until such
17 time as all amounts paid pursuant to the provisions of paragraph 2
18 of this subsection are repaid.

19 L. A qualified space transportation vehicle provider in which
20 investments qualify for the credit allowed by this section shall not
21 be entitled to payment of any incentive payments accrued prior to
22 January 1, 2001, under the Oklahoma Quality Jobs Program Act or the
23 Former Military Facility Development Act.

24

1 M. Notwithstanding the provisions of this section, a qualified
2 space transportation vehicle provider may, prior to the issuance of
3 a tax credit with respect to the qualified space transportation
4 vehicle provider pursuant to the provisions of this section, elect
5 to receive incentive payments pursuant to the provisions of the
6 Oklahoma Quality Jobs Program Act or the Former Military Facility
7 Development Act in lieu of allowing the tax credit provided for
8 herein, in which case it shall so notify the Tax Commission in
9 writing and the provisions of this section shall not be applicable.

10 N. Except as provided by subsection M of this section, no
11 qualified space transportation vehicle provider which would
12 otherwise qualify for incentive payments pursuant to the provisions
13 of the Oklahoma Quality Jobs Program Act or the Former Military
14 Facility Development Act may receive such incentive payments prior
15 to January 1, 2003.

16 O. No qualified space transportation vehicle provider which has
17 made application to the Oklahoma Department of Commerce or which has
18 executed any agreement with the Oklahoma Department of Commerce with
19 respect to the receipt of incentive payments pursuant to the
20 provisions of the Oklahoma Quality Jobs Program Act or the Former
21 Military Facility Development Act or which has received any
22 incentive payment pursuant to the Oklahoma Quality Jobs Program Act
23 or the Former Military Facility Development Act prior to May 24,
24

1 2001, may be certified for purposes of determining eligibility for
2 the credit authorized by this section.

3 SECTION 2. This act shall become effective November 1, 2024.

4 Passed the House of Representatives the 6th day of March, 2024.

5

6

7 Presiding Officer of the House
8 of Representatives

8

9 Passed the Senate the ___ day of _____, 2024.

10

11

12 Presiding Officer of the Senate

12

13

14

15

16

17

18

19

20

21

22

23

24