

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3426

By: Archer and **Menz** of the  
House

and

## Haste of the Senate

AS INTRODUCED

[ revenue and taxation - income tax credits for  
qualified space transportation vehicle providers -  
taxable years - definitions - effective date ]

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

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

Section 2357.42 A. For tax years beginning after December 31, 2000, and ending before January 1, ~~2009~~ 2030, there shall be allowed to an investor making an eligible investment a credit against the tax imposed by Section 2355 or 2370 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit may be used in the payment of estimated tax payments for the tax imposed by Section

1 624 or 628 of Title 36 of the Oklahoma Statutes. The credit shall  
2 be in the amount as set forth in subsection G of this section.

3 B. The amount of the credit shall be transferable to subsequent  
4 transferees.

5 C. As used in this section:

6 1. "Eligible investment" means an investment made during a  
7 period not earlier than January 1, 2001, and not later than December  
8 31, ~~2003~~ 2029, in a qualified space transportation vehicle provider  
9 that:

10 a. is headquartered in this state or is ultimately  
11 controlled by an entity headquartered in this state,  
12 or

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

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

1 Quality Jobs Program Act or the Former Military  
2 Facility Development Act for purposes of this  
3 division. The qualified space transportation  
4 vehicle provider shall agree to submit such  
5 information as may be required under this section  
6 and the Oklahoma Quality Jobs Program Act or the  
7 Former Military Facility Development Act to allow  
8 the Tax Commission to determine the amount of the  
9 tax credit allowed pursuant to the provisions of  
10 this section and the amount of incentive payments  
11 allowed pursuant to the Oklahoma Quality Jobs  
12 Program Act or the Former Military Facility  
13 Development Act for purposes of subsection K of  
14 this section,

15 (2) has equity capitalization of not less than ~~Ten~~  
16 ~~Million Dollars (\$10,000,000.00)~~ Twenty Million  
17 Dollars (\$20,000,000.00), and

18 (3) has received a commitment by a local governmental  
19 entity, whether by contract, letter agreement,  
20 terms sheet, resolution, ordinance or indenture,  
21 to provide funds, personal property or real  
22 property in the aggregate amount of ~~Fifteen~~  
23 ~~Million Dollars (\$15,000,000.00)~~ One Million  
24 Dollars (\$1,000,000.00) or more which will be

utilized by one or more qualified space transportation vehicle providers. For purposes of this division, such property may include personal or real property owned by a local governmental entity which has been leased to a state authority pursuant to a long-term lease or personal or real property which a local governmental entity has transferred to a state authority. If such property has been so transferred, the commitment required by this division may be satisfied if the state authority agrees in writing to make the property so transferred available for use by one or more qualified space transportation vehicle providers;

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

3. "Space transportation vehicle" includes all types of vehicles or orbital or suborbital spacecraft, whether now in existence, developed in the future, or currently under design, development, construction, reconstruction, or reconditioning, constructed in this state and owned by a qualified space

1 transportation vehicle provider, for the purpose of operating in, or  
2 transporting a payload to, from, or within, outer space, or in  
3 suborbital trajectory, and includes any component of such vehicle or  
4 spacecraft not specifically designed or adapted for a payload; and

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

17 D. The tax credit provided for in this section shall not be  
18 allowed or, if already claimed, shall be subject to recapture as to  
19 the initial investor or investors with respect to any amount of an  
20 eligible investment made which is subsequently refunded or returned  
21 to such investor. Further, a tax credit shall not be allowed to an  
22 investor making an eligible investment in a qualified space  
23 transportation vehicle provider or shall be subject to recapture as  
24 to the initial investor or investors if previously allowed if the

1 qualified space transportation vehicle provider in which the  
2 investment was made fails to make use of such funds or property  
3 within three (3) years of the date the tax credit was allowed. Any  
4 recapture under this subsection shall only apply as to that part of  
5 the tax credit as is associated with the amount of the investment  
6 which is subsequently refunded or returned or which is not utilized.

7 E. The Tax Commission shall:

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

19 2. Issue a certificate to an investor that provides adequate  
20 documentation of qualification for the credit authorized by this  
21 section even if the credit may not be claimed until after the date  
22 upon which the certificate is requested. Upon issuance, the  
23 certificate shall be evidence that an investor or a transferee of  
24 the original tax credit claimant submitting the certificate, or a

1 certified copy thereof, with the relevant tax return or other form,  
2 has the legal right to exercise the credit in order to reduce the  
3 relevant tax liability for the period authorized by this section.

4 F. The maximum amount of all eligible investments for which tax  
5 credits may be claimed under this section shall be Thirty Million  
6 Dollars (\$30,000,000.00). If more than one qualified space  
7 transportation vehicle provider has been certified by the Tax  
8 Commission pursuant to the provisions of subsection E of this  
9 section, the investors in the first such approved qualified space  
10 transportation vehicle provider shall be entitled to a credit based  
11 on their investment of the lesser of their eligible investment or  
12 Thirty Million Dollars (\$30,000,000.00). The investors in the  
13 second such approved qualified space transportation vehicle provider  
14 shall then be entitled to a credit based on their investment of the  
15 lesser of their eligible investment or the difference between the  
16 total eligible investments in previously approved qualified space  
17 transportation vehicle providers and Thirty Million Dollars  
18 (\$30,000,000.00). This same procedure will apply for all  
19 subsequently approved qualified space transportation vehicle  
20 providers. If the amount of eligible investments exceeds the amount  
21 upon which the tax credit may be claimed as provided herein,  
22 investors shall be allowed a share of the amount of the available  
23 tax credit in order of the dates of receipt of certification  
24

1 therefor by the Tax Commission pursuant to the provisions of  
2 paragraph 1 of subsection E of this section.

3 G. The amount of the tax credit allowed pursuant to the  
4 provisions of subsection A of this section shall be deemed fully  
5 earned as of the date of the investment and shall be fully  
6 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



1 H. The amount of a tax credit allowed pursuant to the  
2 provisions of this section not used in payment of taxes due in the  
3 year in which such credit is allowed pursuant to subsection G of  
4 this section may be used as a credit against subsequent tax  
5 liability of the investor or a subsequent transferee for a period  
6 not to exceed three (3) years from the year in which such credit is  
7 originally allowed.

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

11 J. A qualified space transportation vehicle provider in which  
12 an eligible investment qualifies for a credit authorized by this  
13 section shall maintain a record of investment made in the qualified  
14 space transportation vehicle provider for the period beginning  
15 January 1, 2001, and ending December 31, ~~2003~~ 2029. The qualified  
16 space transportation vehicle provider shall notify the Tax  
17 Commission not later than January 31, 2004, of the total investment  
18 amount for such period. Any such qualified space transportation  
19 vehicle provider which refunds or returns any amount of an eligible  
20 investment to the investor shall notify the Tax Commission in  
21 writing of the amount and recipient of such refunds or returns. The  
22 Tax Commission shall compute the maximum amount of credits available  
23 pursuant to this section based upon notification of the investment  
24

1 amount transmitted to the Tax Commission by the qualified space  
2 transportation vehicle provider.

3 K. A qualified space transportation vehicle provider in which  
4 eligible investments qualify for the tax credit authorized by this  
5 section shall not receive incentive payments pursuant to the  
6 Oklahoma Quality Jobs Program Act or the Former Military Facility  
7 Development Act until the total of such incentive payments the  
8 qualified space transportation vehicle provider would otherwise  
9 receive exceeds the total amount of the credit authorized by this  
10 section as computed by the Tax Commission pursuant to subsection J  
11 of this section. The amount of incentive payments for any year  
12 which would otherwise be paid to the qualified space transportation  
13 vehicle provider shall be distributed as follows:

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

1        2. If the amount of such incentive payments and any amount  
2 retained by the Tax Commission pursuant to the provisions of  
3 paragraph 1 of this subsection is less than the amount of the tax  
4 credit for the year, notwithstanding the provisions of Section 1727  
5 of Title 69 of the Oklahoma Statutes, the Tax Commission shall  
6 withhold a portion of the taxes levied and collected pursuant to the  
7 provisions of paragraph 1 of subsection A of Section 500.4 of this  
8 title which would otherwise be paid to the Department of  
9 Transportation by the Oklahoma Transportation Authority pursuant to  
10 the provisions of paragraph (2) of subsection (d) of Section 1730 of  
11 Title 69 of the Oklahoma Statutes equal to the amount of the  
12 deficit.

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

18        3. If any amount is withheld by or paid to the Tax Commission  
19 pursuant to the provisions of paragraph 2 of this subsection, the  
20 amount of incentive payments to be subsequently paid to the  
21 qualified space transportation vehicle provider shall be apportioned  
22 by the Tax Commission to the Department of Transportation until such  
23 time as all amounts paid pursuant to the provisions of paragraph 2  
24 of this subsection are repaid.

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

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

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

21 O. No qualified space transportation vehicle provider which has  
22 made application to the Oklahoma Department of Commerce or which has  
23 executed any agreement with the Oklahoma Department of Commerce with  
24 respect to the receipt of incentive payments pursuant to the

1 provisions of the Oklahoma Quality Jobs Program Act or the Former  
2 Military Facility Development Act or which has received any  
3 incentive payment pursuant to the Oklahoma Quality Jobs Program Act  
4 or the Former Military Facility Development Act prior to May 24,  
5 2001, may be certified for purposes of determining eligibility for  
6 the credit authorized by this section.

7 SECTION 2. This act shall become effective November 1, 2024.  
8

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
10 02/29/2024 - DO PASS, As Amended and Coauthored.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24