To amend the Internal Revenue Code of 1986 to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2001

Mr. CALVERT (for himself, Mr. Ortiz, Mr. Lucas of Oklahoma, Mr. Foley, Mr. Bartlett of Maryland, Mr. Baca, Mr. McKeon, Mr. Lewis of California, Mr. Sensenbrenner, Mr. Skeen, Mr. Weldon of Florida, Mr. Rehberg, Mr. Sandlin, Mr. Reyes, and Mrs. Capps) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) Short Title.—This Act may be cited as the “Invest in Space Now Act of 2001”.

6 (b) Table of Contents.—
SEC. 2. FINDINGS.

The Congress hereby finds that:

(1) The United States commercial space transportation industry is an essential part of the national economy.

(2) Opportunities for United States commercial providers are growing as international markets expand.

(3) The development of the United States commercial space transportation industry is consistent with the national security needs and foreign policy interests of the United States.

(4) United States trading partners have been able to lower their commercial space transportation prices aggressively either through direct cash payments for commercially targeted product development or with indirect benefits derived from non-market economy status.

(5) Because United States incentives for space transportation development have historically focused on civil and military rather than commercial use, United States space transportation costs have re-
mained comparatively high, and United States space
transportation technology has not been commercially
focused.

(6) As a result, the United States share of the
world commercial market for space transportation
has decreased from nearly 100 percent 20 years ago
to approximately 47 percent in 1998.

(7) In order to avoid undue reliance on foreign
space transportation services, the United States
must strive to have sufficient domestic capacity as
well as the highest quality and the lowest cost per
service provided.

(8) A successful high quality, lower cost United
States commercial space transportation industry
should also lead to substantial United States tax-
payer savings through collateral lower United States
Government costs for its space access requirements.

(9) Opening the commercial opportunities of
space to the American aerospace industry must be a
high priority of the United States Government as we
begin the 21st century.

(10) Opening space and maintaining United
States leadership in the world market does not re-
quire massive Government intrusion, but enough
Government support on an incremental and timely
basis to enable the more cost effective United States private sector to build lower cost space transportation vehicles.

(11) Private sector companies across the United States are already attempting to develop a variety of lower cost space transportation vehicles, but lack of sufficient private financing, particularly in the early stages of development, has proven to be a major obstacle, an obstacle our trading partners have removed by providing direct access to government funding.

(12) Given the strengths and creativity of private industry in the United States, a more effective alternative to the approach of our trading partners is for the United States Government to provide limited incentives industry wide to assist qualifying United States private sector companies obtain otherwise unavailable private equity financing for the critical development stages of a project, while at the same time keeping Government involvement at a minimum.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure availability of otherwise unavailable private sector equity financing for United
States private sector development of commercial space transportation vehicles which will have transportation costs significantly below current levels; and

(2) as a result—

(A) to avoid undue reliance on foreign space transportation services;

(B) to reduce substantially United States Government space transportation expenditures;

(C) to increase the international competitiveness of the United States space industry;

(D) to encourage the growth of space-related commerce in the United States and internationally; and

(E) to open the space frontier to the American people.

SEC. 4. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) SPACE LAUNCH SITE.—The term “space launch site” means a location from which a launch or landing takes place and includes all facilities located on, or components of, a launch or landing site, whether real or personal property, which are necessary to conduct a launch, whether on land, sea,
in the Earth’s atmosphere, or beyond the Earth’s atmosphere.

(3) **Space Transportation Vehicle.**—The term “space transportation vehicle” includes all types of vehicles, whether now in existence, developed in the future, or currently under design, development, construction, reconstruction, or reconditioning, which are constructed in the United States by a United States commercial provider and owned by the commercial provider, for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory.

(4) **State.**—The term “State” means any State in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(5) **United States Commercial Provider.**—The term “United States commercial provider” means a commercial provider organized under the laws of the United States or of a State as a corporation or a Limited Liability Company (LLC).
(6) United States commercial space transportation vehicle provider.—The term “United States commercial space transportation vehicle provider” means a United States commercial provider engaged in designing, developing, and producing commercial space transportation vehicles.

(7) United States commercial space transportation vehicle industry.—The term “United States commercial space transportation vehicle industry” means the collection of United States commercial space transportation vehicle providers.

(8) Space transportation costs significantly below current levels.—The term “space transportation costs significantly below current levels” means at the time of application, for that market segment for which, or in which, the space transportation vehicle is designed, developed, produced, maintained, or operated, the cost of producing, maintaining, and operating the vehicle is 50 percent of the then space transportation costs in that market segment as estimated by the Secretary. If no market exists for the transportation proposed at the time of application, the 50 percent requirement of the preceding sentence shall be treated as
being met if the vehicle has a reasonable possibility of creating the market proposed.

SEC. 5. CREDIT FOR PURCHASE OF SPACE TRANSPORTATION VEHICLE PROVIDER STOCK.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Space Transportation Credit

SEC. 54. CREDIT FOR PURCHASE OF SPACE TRANSPORTATION VEHICLE PROVIDER STOCK.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the aggregate amount paid by the taxpayer during the taxable year for the purchase of qualified space transportation vehicle provider stock.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is the percentage determined in accordance with the following table:

<table>
<thead>
<tr>
<th>For taxable years beginning in calendar year</th>
<th>The applicable percentage is</th>
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<tbody>
<tr>
<td>2002, 2003, and 2004</td>
<td>50</td>
</tr>
<tr>
<td>2005</td>
<td>40</td>
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<tr>
<td>2006</td>
<td>35</td>
</tr>
<tr>
<td>2007</td>
<td>30</td>
</tr>
</tbody>
</table>
“(b) **Maximum Credit.**—

“(1) **Limitation for Each Provider.**—

“(A) **Large Capitalization Providers.**—The credit allowed under this section with respect to the stock of each large capitalization space transportation vehicle provider purchased during a calendar year shall not exceed—

“(i) $50,000,000 for 2002,
“(ii) $100,000,000 for 2003,
“(iii) $125,000,000 for 2004,
“(iv) $175,000,000 for 2005,
“(v) $200,000,000 for 2006,
“(vi) $50,000,000 for 2007, and
“(vii) $0 for 2008 and 2009.

“(B) **Small Capitalization Providers.**—The credit allowed under this section with respect to the stock of each small capitalization space transportation vehicle provider purchased during a calendar year shall not exceed—

“(i) $35,000,000 for 2002,
“(ii) $40,000,000 for 2003,
“(iii) $45,000,000 for 2004,
“(iv) $50,000,000 for each of 2005 and 2006,
“(v) $40,000,000 for 2007, and
“(vi) $35,000,000 for each of 2008 and 2009.

“(2) AGGREGATE LIMIT.—The aggregate credit allowed under this section with respect to the stock of all space transportation vehicle providers purchased during a calendar year shall not exceed—

“(A) $395,000,000 for 2002,
“(B) $580,000,000 for 2003,
“(C) $690,000,000 for 2004,
“(D) $875,000,000 for 2005,
“(E) $950,000,000 for 2006,
“(F) $430,000,000 for 2007,
“(G) $245,000,000 for 2008, and
“(H) $245,000,000 for 2009.

“(c) QUALIFIED SPACE TRANSPORTATION VEHICLE PROVIDER STOCK.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified space transportation vehicle provider stock’ means any common stock in a C corporation or any membership unit in a State-registered limited liability company (LLC) if—
“(A) as of the date of issuance, such corporation is a qualified space transportation vehicle provider,

“(B) such stock is acquired by the taxpayer at its original issue (directly or through an underwriter) in exchange for money or other property (not including stock), and

“(C) the proceeds of such issue are used by such issuer during the 36-month period beginning on the date of issuance in substantial compliance with the issuer’s projected usage submitted to the Secretary of Transportation under section 6 of the Invest in Space Now Act of 2001 with its application for authorization.

“(2) QUALIFIED SPACE TRANSPORTATION VEHICLE PROVIDER.—The term ‘qualified space transportation vehicle provider’ means any United States commercial space transportation vehicle provider (as defined in section 4 of the Invest in Space Now Act of 2001) for which an authorization is in effect under section 6 of such Act.

“(3) CAPITALIZATION STATUS OF QUALIFIED PROVIDERS.—For purposes of applying the limits under subsection (b)—
“(A) DESIGNATION.—The Secretary shall, using the guidelines developed under subparagraph (B), designate each qualified space transportation vehicle provider as a large capitalization space transportation vehicle provider or a small capitalization space transportation vehicle provider.

“(B) GUIDELINES.—The Secretary of Transportation shall, not later than 6 months after the date of the enactment of the Invest in Space Now Act of 2001, publish guidelines under which qualified space transportation vehicle providers are classified into large capitalization providers and small capitalization providers. The guidelines shall be based on factors particular to the space transportation industry, including—

“(i) the capital requirements necessary to support the type of provider the taxpayer is or is trying to become,

“(ii) the payload size of space transportation vehicles developed or used by the taxpayer,

“(iii) the markets in which the taxpayer is participating, and
“(iv) whether human spaceflight is included.

“(d) RECAPTURE OF CREDIT.—If—

“(1) the taxpayer fails to hold qualified space transportation vehicle provider stock for the 3-year period beginning on the date such stock was purchased by the taxpayer, or

“(2) during such 3-year period, the issuer of such stock ceases to meet the requirements of section 6 of the Invest in Space Now Act of 2001, then notwithstanding any other provision of this subtitle, the tax imposed by this chapter on the taxpayer for the taxable year beginning in the calendar year in which such cessation occurred shall be increased by the amount of credit allowed under subsection (a) to the taxpayer with respect to such stock.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—Rules similar to the rules of section 1202(c)(3) shall apply.

“(2) RELATED PERSONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of subsection

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(b) the taxpayer and any person related to the taxpayer shall be treated as one person.

“(B) EXCEPTION.—A taxpayer may elect to treat not more than one other person who is related to such taxpayer as unrelated for purposes of this section. A person treated as unrelated to the taxpayer under the previous sentence shall not be the same capitalization status (determined under subsection (c)(3) as the taxpayer.

“(C) RELATED PERSONS.—For purposes of this paragraph, a person is a related person to another person if—

“(i) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

“(ii) such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears therein).

“(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for the purchase of any stock—
“(1) the increase in the basis of such stock which would (but for this subsection) result from such purchase shall be reduced by the amount of the credit so allowed, and

“(2) the basis of such stock shall be increased by the amount of the increase under subsection (d).

“(g) Application With Other Credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).”

(b) Conforming Amendment.—Subsection (a) of section 1016 of such Code is amended by striking “and” at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting “; and”, and by adding at the end the following new paragraph:

“(28) to the extent provided in section 54(f), in the case of amounts with respect to which a credit has been allowed under section 54 or a recapture imposed under section 54(d).”.
(c) **CLERICAL AMENDMENT.**—The table of subparts for part IV is amended by adding at the end the following new item:

"Subpart H. Space transportation credit."

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid after December 31, 2000.

**SEC. 6. UNITED STATES COMMERCIAL SPACE TRANSPORTATION VEHICLE AUTHORIZATION.**

(a) **UNITED STATES COMMERCIAL SPACE TRANSPORTATION VEHICLE INDUSTRY AUTHORIZATION PROGRAM.**—

(1) **ESTABLISHMENT OF PROGRAM.**—There shall be a United States Commercial Space Transportation Vehicle Industry Authorization Program to provide authorization for tax credit qualification under section 54 of the Internal Revenue Code of 1986 to multiple United States commercial space transportation vehicle providers developing vehicles with space transportation costs significantly below current levels.

(2) **ADMINISTRATION OF PROGRAM.**—The program shall be carried out by the Secretary of Transportation under a streamlined application process pursuant to the terms of this section and any regulations that may be promulgated hereunder, in con-
sultation with other United States Government officials, and private sector representatives, as necessary, to ensure fair, effective, and timely program administration and streamlined authorization.

(3) Scope of program.—

(A) Temporary government support.—The United States Commercial Space Transportation Vehicle Industry Authorization Program is intended to provide eligibility for tax credits under section 54 of the Internal Revenue Code of 1986 to investors to support financing of qualified commercial space transportation vehicle development ventures during their startup phases.

(B) Exclusion of space launch sites.—The program does not provide authorization pertaining to the construction, reconstruction, or reconditioning of space launch sites.

(C) Exclusion of nonrelated activities.—The program does not provide authorization for any corporation unless its business plan provides that the main core mission of the corporation is the construction, reconstruction, reconditioning, sale, or distribution of any prod-
uct which is integral to the design, development, construction, reconstruction, or reconditioning of a space transportation vehicle as described in subsection (b).

(4) NONDISCLOSURE OF CONFIDENTIAL MATERIALS.—Materials that are submitted by a United States commercial space transportation vehicle provider to the Secretary in connection with an application submitted under the United States Commercial Space Transportation Vehicle Authorization Program and deemed by the commercial provider to be confidential, and that contain trade secrets or proprietary commercial, financial, or technical information of a kind not customarily disclosed to the public, shall not be disclosed by the Secretary to persons other than Government officers or employees notwithstanding any other provision of law.

(5) CONSULTATION.—The Secretary shall consult to the extent deemed necessary for effective implementation of this Act with appropriate Federal agencies and congressional and space transportation industry representatives.

(6) PROGRAM MANAGEMENT.—The Secretary shall manage the authorization program consistent with the purposes of this Act.
(b) Authorization of Vehicle Providers.—

(1) Authorization based on reasonable possibility of success.—

(A) In general.—The Secretary shall authorize vehicle providers who demonstrate by the submission of technical and financial information that they have a reasonable possibility of developing, operating, and maintaining a space transportation vehicle or vehicles with space transportation costs significantly below current levels.

(B) Response by Secretary.—Authorization by the Secretary is deemed granted unless within 120 days of application submission the Secretary determines that the provider has no reasonable possibility of significantly lowering space transportation costs.

(2) Possible commercial viability and capital requirement to qualify stock for credit.—To demonstrate possible commercial viability the United States commercial space transportation vehicle provider must raise $10,000,000 of equity investment during the year of application in order to qualify its stock investors for credit under this Act. Equity raised in order to meet commercial
viability tests is eligible for credit once authorization
has been completed. The United States commercial
space transportation vehicle provider may qualify ad-
ditional stock for investor credit up to the maximum,
as provided, in section 54(b) of the Internal Revenue
Code of 1986, as added by section 5 of this Act.

(3) ANNUAL VERIFICATION OF SUBSTANTIAL
COMPLIANCE.—

(A) IN GENERAL.—Once authorized, a ve-
hicle provider must submit to the Secretary
each year a certified audit opinion letter
verifying its use of funds in substantial compli-
ance with its application.

(B) CONSEQUENCE OF FAILURES.—

(i) Failure to submit a certified audit
opinion letter verifying substantial compli-
ance with its application will result in de-
authorization of the vehicle provider.

(ii) Failure to use funds received after
authorization for the development of a
space transportation vehicle or vehicles
with the goal to reduce space transpor-
tation costs significantly below current lev-
els will result in deauthorization. Failure
to achieve success will not result in de-
authorization.