

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2284 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jon Echols

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2284

By: Echols

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8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to state government; amending 68 O.S.
10 2021, Section 2397, which relates to the Oklahoma
11 Tourism Development Act; increasing maximum
12 cumulative inducements pursuant to the Oklahoma
13 Tourism Development Act; and providing an effective
14 date.

15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2397, is
18 amended to read as follows:

19 Section 2397. A. Upon receiving notification from the
20 Executive Director of the Oklahoma Department of Commerce that an
21 approved company has entered into a tourism project agreement and is
22 entitled to the inducements provided by the Oklahoma Tourism
23 Development Act, the Oklahoma Tax Commission shall provide the
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1 approved company with forms and instructions as necessary to claim
2 or receive or pass-through those inducements.

3 B. An approved company whose agreement provides that it shall
4 expend approved costs of more than Five Hundred Thousand Dollars
5 (\$500,000.00) for a tourism attraction project but less than One
6 Million Dollars (\$1,000,000.00) shall be entitled to a sales tax
7 credit if the company certifies to the Tax Commission that it has
8 expended at least the minimum amount in approved costs, and the
9 Executive Director certifies that the approved company is in
10 compliance with the Oklahoma Tourism Development Act. The Tax
11 Commission shall then issue a tax credit memorandum to the approved
12 company granting a sales tax credit in the amount of up to ten
13 percent (10%) of the approved costs, but limited to the percent of
14 the approved costs that will result in the project being revenue-
15 neutral to the State of Oklahoma as determined by the Oklahoma
16 Department of Commerce. Subsequent requests for credit for
17 additional certified approved costs in excess of the minimum amount
18 for each project as listed in this subsection but less than One
19 Million Dollars (\$1,000,000.00) shall result in a sales tax credit
20 in the amount of up to ten percent (10%) of the approved costs, but
21 limited to the percent of the approved costs that will result in the
22 project being revenue-neutral to the State of Oklahoma as determined
23 by the Oklahoma Department of Commerce. Sales tax credits allowed
24 pursuant to the provisions of the Oklahoma Tourism Development Act

1 shall not be transferable or assignable; provided that, with respect
2 to a tourism attraction project that is an Entertainment District,
3 the approved company can elect to pass-through all or a portion of
4 the sales tax credit to one or more Entertainment District Tenant
5 Parties. The approved company and the Entertainment District Tenant
6 Party shall jointly file a copy of the written credit pass-through
7 agreement with the Oklahoma Tax Commission within thirty (30) days
8 of the effective date of the agreement. Such filing of the
9 agreement with the Oklahoma Tax Commission shall perfect such
10 agreement. The written agreement shall contain the name, address
11 and taxpayer identification number of the parties to the agreement,
12 the amount of credit being passed-through, the month and year the
13 credit was originally allowed to the approved company, the month and
14 tax year or years for which the credit may be claimed, and a
15 representation by the approved company that the approved company has
16 neither claimed for its own behalf nor conveyed such credits to any
17 other Entertainment District Tenant Party. The Tax Commission shall
18 develop a standard form for use by an approved company and an
19 Entertainment District Tenant Party demonstrating eligibility for
20 the Entertainment District Tenant Party to utilize the sales tax
21 credit. The Tax Commission shall develop a system to record and
22 track the pass-through of the sales tax credit and certify the
23 ownership of the sales tax credit and may promulgate rules to permit
24 verification of the validity and timeliness of a sales tax credit

1 claimed upon a sales tax return pursuant to this subsection but
2 shall not promulgate any rules which unduly restrict or hinder the
3 pass-through of such sales tax credit to an Entertainment District
4 Tenant Party.

5 An approved company whose agreement provides that it shall
6 expend approved costs in excess of One Million Dollars
7 (\$1,000,000.00) shall be entitled to a sales tax credit if the
8 company certifies to the Tax Commission that it has expended at
9 least One Million Dollars (\$1,000,000.00) in approved costs and the
10 Executive Director certifies that the approved company is in
11 compliance with the Oklahoma Tourism Development Act. The Tax
12 Commission shall then issue a tax credit memorandum to the approved
13 company granting a sales tax credit in the amount of up to twenty-
14 five percent (25%) of the approved costs, but limited to the percent
15 of the approved costs that will result in the project being revenue-
16 neutral to the State of Oklahoma as determined by the Oklahoma
17 Department of Commerce. The credit on all subsequent additional
18 certified approved costs shall be in the amount of up to twenty-five
19 percent (25%) of the costs, but limited to the percent of the
20 approved costs that will result in the project being revenue-neutral
21 to the State of Oklahoma as determined by the Oklahoma Department of
22 Commerce. For a tourism attraction project that is an Entertainment
23 District, an approved company may elect to receive an incentive
24 payment based on sales tax collections of Entertainment District

1 Tenant Parties rather than a sales tax credit. The incentive
2 payment shall be in the amount of up to twenty-five percent (25%) of
3 the approved costs but limited to the percent of the approved costs
4 that will result in the project being revenue-neutral to the State
5 of Oklahoma as determined by the Oklahoma Department of Commerce;
6 provided that, (A) in no event shall the incentive payments exceed
7 the increased state sales tax liability of the approved company and
8 the Entertainment District Tenant Parties that is actually received
9 by the Tax Commission, and (B) the approved company shall be
10 entitled to receive only ten percent (10%) of the incentive payment
11 amount during each calendar year. The Tax Commission shall issue an
12 incentive payment memorandum to the approved company granting a
13 right to receive an incentive payment from the Tax Commission in the
14 amount of up to twenty-five percent (25%) of the approved costs but
15 limited to the percent of the approved costs that will result in the
16 project being revenue-neutral to the State of Oklahoma as determined
17 by the Oklahoma Department of Commerce. As soon as practicable
18 after the end of each calendar year during the term of the
19 agreement, the approved company shall file a claim for the incentive
20 payment with the Tax Commission, and the Tax Commission shall be
21 responsible for ensuring that the amount of the incentive payment
22 claimed does not exceed the increased state sales tax liability of
23 the approved company and the Entertainment District Tenant Parties
24 that has been actually received by the Tax Commission, which may

1 include accessing the Oklahoma sales tax returns of the
2 Entertainment District Tenant Parties as permitted by this section.

3 The cumulative inducements provided pursuant to the Oklahoma
4 Tourism Development Act shall not exceed ~~Fifteen Million Dollars~~
5 ~~(\$15,000,000.00)~~ Fifty Million Dollars (\$50,000,000.00) per year.

6 The Tax Commission shall require proof of expenditures prior to
7 issuing a tax credit memorandum or incentive payment memorandum to
8 the approved company which may be satisfied by a report from an
9 independent certified public accountant. Additional credit
10 memoranda or incentive memoranda may be issued as the approved
11 company certifies additional expenditures of approved costs.

12 No tax credit memorandum or incentive payment memorandum shall
13 be issued for any approved costs expended after the expiration of
14 three (3) years from the date the agreement was signed by the
15 Executive Director and the approved company. However, the Executive
16 Director, with the advice and consent of the Tax Commission, may
17 authorize inducements for approved costs expended up to five (5)
18 years from the date the agreement was signed if the Executive
19 Director determines that the failure to complete the tourism
20 attraction project within three (3) years resulted from:

21 1. Unanticipated and unavoidable delay in the construction of
22 the tourism attraction;

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1 2. An original completion date for the tourism attraction, as
2 originally planned, which will be more than three (3) years from the
3 date construction began; or

4 3. A change in business ownership or business structure
5 resulting from a merger or acquisition.

6 C. A sales tax credit allowed pursuant to the provisions of
7 this section may be used to offset a portion of the reported state
8 sales tax liability of the approved company or an Entertainment
9 District Tenant Party, if applicable, for all sales tax reporting
10 periods following the issuance of the credit memorandum subject to
11 the following limitations:

12 1. Only increased state sales tax liability may be offset by
13 the issued credit;

14 2. An approved company whose agreement provides that it shall
15 expend approved costs in excess of One Million Dollars
16 (\$1,000,000.00) or an Entertainment District Party, if applicable,
17 shall be entitled to use only ten percent (10%) of the amount of
18 each issued credit to offset increased state sales tax liability
19 during each calendar year, plus the amount of any unused credit
20 carried forward from a prior calendar year, and an approved company
21 whose agreement provides that it shall expend approved costs of more
22 than the minimum amount for each project as listed in this
23 subsection but less than One Million Dollars (\$1,000,000.00) shall
24 be entitled to use only twenty percent (20%) of the amount of each

1 issued credit to offset increased state sales tax liability during
2 each calendar year, plus the amount of any unused credit carried
3 forward from a prior calendar year; and

4 3. All issued credit memoranda or incentive payment memorandum
5 shall expire at the end of the month following the expiration of the
6 agreement as provided in Section 2396 of this title.

7 The approved company or an Entertainment District Tenant Party,
8 if applicable, shall have no obligation to refund or otherwise
9 return any amount of this inducement to the person from whom the
10 sales tax was collected.

11 D. The Tax Commission shall promulgate rules as are necessary
12 for the proper administration of the Oklahoma Tourism Development
13 Act. The Tax Commission may also develop forms and instructions as
14 necessary for an approved company or Entertainment District Tenant
15 Party, if applicable, to claim or receive or pass-through the
16 inducements provided by the Oklahoma Tourism Development Act.

17 E. The Tax Commission shall have the authority to obtain any
18 information necessary from or regarding the approved company or an
19 Entertainment District Tenant Party, if applicable, and the
20 Executive Director to verify that approved companies or an
21 Entertainment District Tenant Party, if applicable, have received
22 the proper amounts of inducements as authorized by the Oklahoma
23 Tourism Development Act. The Oklahoma Tax Commission shall demand
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1 the repayment of any inducements taken or received in excess of the
2 inducements allowed by this act.

3 F. No sales tax credit or incentive payment right authorized by
4 this section shall be granted on or after January 1, 2026.

5 Notwithstanding the foregoing, an approved company that has entered
6 into a tourism attraction project agreement with the Oklahoma
7 Department of Commerce pursuant to Section 2396 of this title prior
8 to January 1, 2026, shall continue to be entitled to claim or
9 receive any inducements authorized by this section as contemplated
10 by the tourism project agreement.

11 G. All currently approved tourism project agreements executed
12 by the Oklahoma Tourism and Recreation Department are hereby
13 transferred to the Oklahoma Department of Commerce upon the
14 effective date of this act.

15 H. On the effective date of this act, all administrative rules
16 promulgated by the Oklahoma Tourism and Recreation Department
17 regarding the Oklahoma Tourism Development Act shall be transferred
18 to and become a part of the administrative rules of the Oklahoma
19 Department of Commerce. The Office of Administrative Rules in the
20 Office of the Secretary of State shall provide adequate notice in
21 the Oklahoma Register of the transferred rules and shall place the
22 transferred rules under the Administrative Code section of the
23 Oklahoma Department of Commerce. On the effective date of this act,
24 any amendment, repeal or addition to the transferred rules shall be

1 under the jurisdiction of the Oklahoma Department of Commerce, who
2 shall have the authority to enact rules in order to carry out the
3 provisions of the Oklahoma Tourism Development Act.

4 SECTION 2. This act shall become effective November 1, 2023.

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