

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 2894

6 By: Townley

7  
8 SUBCOMMITTEE RECOMMENDATION

9 An Act relating to revenue and taxation; amending 68  
10 O.S. 2021, Section 2397, as amended by Section 2,  
11 Chapter 30, 1st Extraordinary Session, O.S.L. 2023  
12 (68 O.S. Supp. 2024, Section 2397), which relates to  
13 Oklahoma Tourism Development Act inducements;  
14 increasing the cap on cumulative inducements per  
15 year; extending sunset; and providing an effective  
16 date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2397, as  
19 amended by Section 2, Chapter 30, 1st Extraordinary Session, O.S.L.  
20 2023 (68 O.S. Supp. 2024, Section 2397), is amended to read as  
21 follows:

22 Section 2397. A. Upon receiving notification from the  
23 Executive Director of the Oklahoma Department of Commerce that an  
24 approved company has entered into a tourism project agreement and is  
entitled to the inducements provided by the Oklahoma Tourism  
Development Act, the Oklahoma Tax Commission shall provide the

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 this state as determined by the Oklahoma Department of  
16 Commerce. Subsequent requests for credit for additional certified  
17 approved costs in excess of the minimum amount for each project as  
18 listed in this subsection but less than One Million Dollars  
19 (\$1,000,000.00) shall result in a sales tax credit in the amount of  
20 up to ten percent (10%) of the approved costs, but limited to the  
21 percent of the approved costs that will result in the project being  
22 revenue-neutral to this state as determined by the Oklahoma  
23 Department of Commerce. Sales tax credits allowed pursuant to the  
24 provisions of the Oklahoma Tourism Development Act shall not be

1 transferable or assignable; provided that, with respect to a tourism  
2 attraction project that is an Entertainment District, the approved  
3 company can elect to pass-through all or a portion of the sales tax  
4 credit to one or more Entertainment District Tenant Parties. The  
5 approved company and the Entertainment District Tenant Party shall  
6 jointly file a copy of the written credit pass-through agreement  
7 with the Oklahoma Tax Commission within thirty (30) days of the  
8 effective date of the agreement. Such filing of the agreement with  
9 the Oklahoma Tax Commission shall perfect such agreement. The  
10 written agreement shall contain the name, address and taxpayer  
11 identification number of the parties to the agreement, the amount of  
12 credit being passed-through, the month and year the credit was  
13 originally allowed to the approved company, the month and tax year  
14 or years for which the credit may be claimed, and a representation  
15 by the approved company that the approved company has neither  
16 claimed for its own behalf nor conveyed such credits to any other  
17 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 this state as determined by the Oklahoma Department of  
17 Commerce. The credit on all subsequent additional certified  
18 approved costs shall be in the amount of up to twenty-five percent  
19 (25%) of the costs, but limited to the percent of the approved costs  
20 that will result in the project being revenue-neutral to this state  
21 as determined by the Oklahoma Department of Commerce. For a tourism  
22 attraction project that is an Entertainment District, an approved  
23 company may elect to receive an incentive payment based on sales tax  
24 collections of Entertainment District Tenant Parties rather than a

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

1 returns of the Entertainment District Tenant Parties as permitted by  
2 this section.

3 The cumulative inducements provided pursuant to the Oklahoma  
4 Tourism Development Act shall not exceed Thirty Million Dollars  
5 (\$30,000,000.00) 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 memoranda  
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 the Oklahoma Tourism Development 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~~ January 1,  
5 2032. Notwithstanding the foregoing, an approved company that has  
6 entered into a tourism attraction project agreement with the  
7 Oklahoma Department of Commerce pursuant to Section 2396 of this  
8 title prior to ~~January 1, 2026,~~ January 1, 2032, shall continue to  
9 be entitled to claim or receive any inducements authorized by this  
10 section as contemplated 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 November 1,  
14 2021.

15 H. On November 1, 2021, all administrative rules promulgated by  
16 the Oklahoma Tourism and Recreation Department regarding the  
17 Oklahoma Tourism Development Act shall be transferred to and become  
18 a part of the administrative rules of the Oklahoma Department of  
19 Commerce. The Office of Administrative Rules in the Office of the  
20 Secretary of State shall provide adequate notice in the Oklahoma  
21 Register of the transferred rules and shall place the transferred  
22 rules under the Administrative Code section of the Oklahoma  
23 Department of Commerce. On November 1, 2021, any amendment, repeal,  
24 or addition to the transferred rules shall be under the jurisdiction

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

4 SECTION 2. This act shall become effective November 1, 2025.

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