

1 ENGROSSED SENATE
2 BILL NO. 249

By: Thompson of the Senate

3 and

4 Townley of the House

5
6 An Act relating to the Oklahoma Tourism Development
7 Act; amending 68 O.S. 2021, Section 2397, as amended
8 by Section 2, Chapter 30, 1st Extraordinary Session,
9 O.S.L. 2023 (68 O.S. Supp. 2024, Section 2397), which
10 relates to inducement claims; extending sunset; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2397, as
14 amended by Section 2, Chapter 30, 1st Extraordinary Session, O.S.L.
15 2023 (68 O.S. Supp. 2024, Section 2397), is amended to read as
16 follows:

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

24 B. An approved company whose agreement provides that it shall
expend approved costs of more than Five Hundred Thousand Dollars

1 (\$500,000.00) for a tourism attraction project but less than One
2 Million Dollars (\$1,000,000.00) shall be entitled to a sales tax
3 credit if the company certifies to the Tax Commission that it has
4 expended at least the minimum amount in approved costs, and the
5 Executive Director certifies that the approved company is in
6 compliance with the Oklahoma Tourism Development Act. The Tax
7 Commission shall then issue a tax credit memorandum to the approved
8 company granting a sales tax credit in the amount of up to ten
9 percent (10%) of the approved costs, but limited to the percent of
10 the approved costs that will result in the project being revenue-
11 neutral to this state as determined by the Oklahoma Department of
12 Commerce. Subsequent requests for credit for additional certified
13 approved costs in excess of the minimum amount for each project as
14 listed in this subsection but less than One Million Dollars
15 (\$1,000,000.00) shall result in a sales tax credit in the amount of
16 up to ten percent (10%) of the approved costs, but limited to the
17 percent of the approved costs that will result in the project being
18 revenue-neutral to this state as determined by the Oklahoma
19 Department of Commerce. Sales tax credits allowed pursuant to the
20 provisions of the Oklahoma Tourism Development Act shall not be
21 transferable or assignable; provided that, with respect to a tourism
22 attraction project that is an Entertainment District, the approved
23 company can elect to pass-through all or a portion of the sales tax
24 credit to one or more Entertainment District Tenant Parties. The

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

1 An approved company whose agreement provides that it shall
2 expend approved costs in excess of One Million Dollars
3 (\$1,000,000.00) shall be entitled to a sales tax credit if the
4 company certifies to the Tax Commission that it has expended at
5 least One Million Dollars (\$1,000,000.00) in approved costs and the
6 Executive Director certifies that the approved company is in
7 compliance with the Oklahoma Tourism Development Act. The Tax
8 Commission shall then issue a tax credit memorandum to the approved
9 company granting a sales tax credit in the amount of up to twenty-
10 five percent (25%) of the approved costs, but limited to the percent
11 of the approved costs that will result in the project being revenue-
12 neutral to this state as determined by the Oklahoma Department of
13 Commerce. The credit on all subsequent additional certified
14 approved costs shall be in the amount of up to twenty-five percent
15 (25%) of the costs, but limited to the percent of the approved costs
16 that will result in the project being revenue-neutral to this state
17 as determined by the Oklahoma Department of Commerce. For a tourism
18 attraction project that is an Entertainment District, an approved
19 company may elect to receive an incentive payment based on sales tax
20 collections of Entertainment District Tenant Parties rather than a
21 sales tax credit. The incentive payment shall be in the amount of
22 up to twenty-five percent (25%) of the approved costs but limited to
23 the percent of the approved costs that will result in the project
24 being revenue-neutral to this state as determined by the Oklahoma

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

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1 The cumulative inducements provided pursuant to the Oklahoma
2 Tourism Development Act shall not exceed Thirty Million Dollars
3 (\$30,000,000.00) per year.

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

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

19 1. Unanticipated and unavoidable delay in the construction of
20 the tourism attraction;

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

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1 3. A change in business ownership or business structure
2 resulting from a merger or acquisition.

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

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

11 2. An approved company whose agreement provides that it shall
12 expend approved costs in excess of One Million Dollars
13 (\$1,000,000.00) or an Entertainment District Party, if applicable,
14 shall be entitled to use only ten percent (10%) of the amount of
15 each issued credit to offset increased state sales tax liability
16 during each calendar year, plus the amount of any unused credit
17 carried forward from a prior calendar year, and an approved company
18 whose agreement provides that it shall expend approved costs of more
19 than the minimum amount for each project as listed in this
20 subsection but less than One Million Dollars (\$1,000,000.00) shall
21 be entitled to use only twenty percent (20%) of the amount of each
22 issued credit to offset increased state sales tax liability during
23 each calendar year, plus the amount of any unused credit carried
24 forward from a prior calendar year; and

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

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

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

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

23 F. No sales tax credit or incentive payment right authorized by
24 this section shall be granted on or after January 1, ~~2026~~ 2032.

1 Notwithstanding the foregoing, an approved company that has entered
2 into a tourism attraction project agreement with the Oklahoma
3 Department of Commerce pursuant to Section 2396 of this title prior
4 to January 1, ~~2026~~ 2032, shall continue to be entitled to claim or
5 receive any inducements authorized by this section as contemplated
6 by the tourism project agreement.

7 G. All currently approved tourism project agreements executed
8 by the Oklahoma Tourism and Recreation Department are hereby
9 transferred to the Oklahoma Department of Commerce upon November 1,
10 2021.

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

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

