



1        1. The amount of approved costs, which shall be determined by  
2 negotiations between the Executive Director and the approved  
3 company;

4        2. A date certain by which the approved company shall have  
5 completed the tourism attraction project or an individual component  
6 or phase of the project if the tourism attraction project is an  
7 Entertainment District. Within three (3) months of the completion  
8 date of the whole or an individual component or phase of the  
9 project, the approved company shall document its actual costs of the  
10 project through a certification of the costs by an independent  
11 certified public accountant acceptable to the Executive Director;  
12 and

13        3. The following provisions:

14            a. the term of the agreement ~~shall~~ may be up to ten (10)  
15 years from the later of:

16                    (1) the date of the final approval of the tourism  
17 attraction project, or

18                    (2) the completion date specified in the agreement,  
19 if the completion date is within three (3) years  
20 of the date of the final approval of the tourism  
21 attraction project. However, the term of the  
22 agreement may be extended for up to two (2)  
23 additional years by the Executive Director, with  
24 the advice and consent of the Oklahoma Tax

1 Commission, if the Executive Director determines  
2 that the failure to complete the tourism  
3 attraction project within three (3) years  
4 resulted from:

5 (a) unanticipated and unavoidable delay in the  
6 construction of the tourism attraction  
7 project,

8 (b) an original completion date for the tourism  
9 attraction project, as originally planned,  
10 which will be more than three (3) years from  
11 the date construction began, or

12 (c) a change in business structure resulting  
13 from a merger or acquisition,

14 b. in any tax year during which an agreement is in  
15 effect, if the amount of sales tax to be remitted by  
16 the approved company or an Entertainment District  
17 Tenant Party, if applicable, exceeds the sales tax  
18 credit available to the approved company or  
19 Entertainment District Tenant Party, if applicable,  
20 then the approved company or Entertainment District  
21 Tenant Party, if applicable, shall pay the excess to  
22 this state as sales tax,

23 c. within forty-five (45) days after the end of each  
24 calendar year the approved company shall supply the

1 Executive Director with such reports and  
2 certifications as the Executive Director may request  
3 demonstrating to the satisfaction of the Executive  
4 Director that the approved company is in compliance  
5 with the provisions of the Oklahoma Tourism  
6 Development Act, and

7 d. the approved company or an Entertainment District  
8 Tenant Party, if applicable, shall not receive an  
9 inducement with respect to any calendar year if:

10 (1) with respect to any tourism attraction project  
11 that is not an Entertainment District in any  
12 calendar year following the fourth year of the  
13 agreement, the tourism attraction project fails  
14 to attract at least fifteen percent (15%) of its  
15 visitors from among persons who are not residents  
16 of this state, or

17 (2) in any calendar year following the first year of  
18 the project or the tourism attraction project is  
19 not operating and open to the public on a regular  
20 and consistent basis, which for a tourism  
21 attraction project that is an Entertainment  
22 District shall mean that a substantial portion of  
23 the Entertainment District is not operating and  
24

1 open to the public on a regular and consistent  
2 basis.

3 B. The agreement shall not be transferable or assignable by the  
4 approved company without the written consent of the Executive  
5 Director but, with respect to a tourism attraction project that is  
6 an Entertainment District, the approved company can elect to pass-  
7 through all or a portion of the sales tax credit to one or more  
8 Entertainment District Tenant Parties in accordance with Section  
9 2397 of this title.

10 C. If the approved company utilizes or receives inducements  
11 which are subsequently disallowed then the approved company will be  
12 liable for the payment to the Tax Commission of an amount equal to  
13 (i) all taxes resulting from the disallowance of the inducements  
14 plus applicable penalties and interest, whether owed by the approved  
15 company or an Entertainment District Tenant Party to which the  
16 credits have been passed-through in accordance with Section 2397 of  
17 this title, and/or (ii) all incentive payments previously received  
18 by the approved company, plus applicable penalties and interest.  
19 Only the approved company originally allowed a sales tax credit  
20 shall be held liable to make such payments and not any Entertainment  
21 District Tenant Party to whom the credit has been passed-through in  
22 accordance with Section 2397 of this title.

1 D. The Executive Director shall provide a copy of each  
2 agreement entered into with an approved company to the Tax  
3 Commission.

4 E. For a tourism attraction project that is an Entertainment  
5 District and anticipated to have multiple components or phases, the  
6 Executive Director may enter into more than one agreement with  
7 different approved companies for the different components or phases  
8 of the Entertainment District and such agreements may be entered  
9 into at different times as though the different components or phases  
10 of the Entertainment District are their own separate project. In  
11 such case, the Executive Director shall not be required to obtain a  
12 separate report (referred to in subsection C of Section 2394 of this  
13 title) for each individual component or phase of the Entertainment  
14 District, but only one report for the entire Entertainment District.

15 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2397, is  
16 amended to read as 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

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

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



1 unduly restrict or hinder the pass-through of such sales tax credit  
2 to an Entertainment District Tenant Party.

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

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

1 the Oklahoma sales tax returns of the Entertainment District Tenant  
2 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)~~ Thirty Million Dollars (\$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;

23  
24

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 memoranda shall expire at the end of the month following the  
6 expiration of the agreement as provided in Section 2396 of this  
7 title.

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

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

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

1 the repayment of any inducements taken or received in excess of the  
2 inducements allowed by ~~this act~~ the Oklahoma Tourism Development  
3 Act.

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

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

12 G. All currently approved tourism project agreements executed  
13 by the Oklahoma Tourism and Recreation Department are hereby  
14 transferred to the Oklahoma Department of Commerce upon ~~the~~  
15 ~~effective date of this act~~ November 1, 2021.

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

1 ~~effective date of this act~~ November 1, 2021, any amendment, repeal,  
2 or addition to the transferred rules shall be under the jurisdiction  
3 of the Oklahoma Department of Commerce, who shall have the authority  
4 to enact rules in order to carry out the provisions of the Oklahoma  
5 Tourism Development Act.

6 SECTION 3. This act shall become effective November 1, 2023.

7  
8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
9 04/05/2023 - DO PASS, As Amended.  
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