

An Act

ENROLLED SENATE
BILL NO. 249

By: Thompson of the Senate

and

Townley of the House

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

SUBJECT: Tourism development

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

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

Section 2397. A. Upon receiving notification from the Executive Director of the Oklahoma Department of Commerce that an 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 approved company with forms and instructions as necessary to claim or receive or pass-through those inducements.

B. An approved company whose agreement provides that it shall expend approved costs of more than Five Hundred Thousand Dollars (\$500,000.00) for a tourism attraction project but less than One Million Dollars (\$1,000,000.00) shall be entitled to a sales tax credit if the company certifies to the Tax Commission that it has

expended at least the minimum amount in approved costs, and the Executive Director certifies that the approved company is in compliance with the Oklahoma Tourism Development Act. The Tax Commission shall then issue a tax credit memorandum to the approved company granting a sales tax credit in the amount of up to ten percent (10%) of the approved costs, but limited to the percent of the approved costs that will result in the project being revenue-neutral to this state as determined by the Oklahoma Department of Commerce. Subsequent requests for credit for additional certified approved costs in excess of the minimum amount for each project as listed in this subsection but less than One Million Dollars (\$1,000,000.00) shall result in a sales tax credit in the amount of up to ten percent (10%) of the approved costs, but limited to the percent of the approved costs that will result in the project being revenue-neutral to this state as determined by the Oklahoma Department of Commerce. Sales tax credits allowed pursuant to the provisions of the Oklahoma Tourism Development Act shall not be transferable or assignable; provided that, with respect to a tourism attraction project that is an Entertainment District, the approved company can elect to pass-through all or a portion of the sales tax credit to one or more Entertainment District Tenant Parties. The approved company and the Entertainment District Tenant Party shall jointly file a copy of the written credit pass-through agreement with the Oklahoma Tax Commission within thirty (30) days of the effective date of the agreement. Such filing of the agreement with the Oklahoma Tax Commission shall perfect such agreement. The written agreement shall contain the name, address and taxpayer identification number of the parties to the agreement, the amount of credit being passed-through, the month and year the credit was originally allowed to the approved company, the month and tax year or years for which the credit may be claimed, and a representation by the approved company that the approved company has neither claimed for its own behalf nor conveyed such credits to any other Entertainment District Tenant Party. The Tax Commission shall develop a standard form for use by an approved company and an Entertainment District Tenant Party demonstrating eligibility for the Entertainment District Tenant Party to utilize the sales tax credit. The Tax Commission shall develop a system to record and track the pass-through of the sales tax credit and certify the ownership of the sales tax credit and may promulgate rules to permit verification of the validity and timeliness of a sales tax credit claimed upon a sales tax return pursuant to this subsection but

shall not promulgate any rules which unduly restrict or hinder the pass-through of such sales tax credit to an Entertainment District Tenant Party.

An approved company whose agreement provides that it shall expend approved costs in excess of One Million Dollars (\$1,000,000.00) shall be entitled to a sales tax credit if the company certifies to the Tax Commission that it has expended at least One Million Dollars (\$1,000,000.00) in approved costs and the Executive Director certifies that the approved company is in compliance with the Oklahoma Tourism Development Act. The Tax Commission shall then issue a tax credit memorandum to the approved company granting a sales tax credit in the amount of up to twenty-five percent (25%) of the approved costs, but limited to the percent of the approved costs that will result in the project being revenue-neutral to this state as determined by the Oklahoma Department of Commerce. The credit on all subsequent additional certified approved costs shall be in the amount of up to twenty-five percent (25%) of the costs, but limited to the percent of the approved costs that will result in the project being revenue-neutral to this state as determined by the Oklahoma Department of Commerce. For a tourism attraction project that is an Entertainment District, an approved company may elect to receive an incentive payment based on sales tax collections of Entertainment District Tenant Parties rather than a sales tax credit. The incentive payment shall be in the amount of up to twenty-five percent (25%) of the approved costs but limited to the percent of the approved costs that will result in the project being revenue-neutral to this state as determined by the Oklahoma Department of Commerce; provided that, (A) in no event shall the incentive payments exceed the increased state sales tax liability of the approved company and the Entertainment District Tenant Parties that is actually received by the Tax Commission, and (B) the approved company shall be entitled to receive only ten percent (10%) of the incentive payment amount during each calendar year. The Tax Commission shall issue an incentive payment memorandum to the approved company granting a right to receive an incentive payment from the Tax Commission in the amount of up to twenty-five percent (25%) of the approved costs but limited to the percent of the approved costs that will result in the project being revenue-neutral to this state as determined by the Oklahoma Department of Commerce. As soon as practicable after the end of each calendar year during the term of the agreement, the approved company shall file a claim

for the incentive payment with the Tax Commission, and the Tax Commission shall be responsible for ensuring that the amount of the incentive payment claimed does not exceed the increased state sales tax liability of the approved company and the Entertainment District Tenant Parties that has been actually received by the Tax Commission, which may include accessing the Oklahoma sales tax returns of the Entertainment District Tenant Parties as permitted by this section.

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

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

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

1. Unanticipated and unavoidable delay in the construction of the tourism attraction;
2. An original completion date for the tourism attraction, as originally planned, which will be more than three (3) years from the date construction began; or
3. A change in business ownership or business structure resulting from a merger or acquisition.

C. A sales tax credit allowed pursuant to the provisions of this section may be used to offset a portion of the reported state

sales tax liability of the approved company or an Entertainment District Tenant Party, if applicable, for all sales tax reporting periods following the issuance of the credit memorandum subject to the following limitations:

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

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

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

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

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

E. The Tax Commission shall have the authority to obtain any information necessary from or regarding the approved company or an Entertainment District Tenant Party, if applicable, and the

Executive Director to verify that approved companies or an Entertainment District Tenant Party, if applicable, have received the proper amounts of inducements as authorized by the Oklahoma Tourism Development Act. The Oklahoma Tax Commission shall demand the repayment of any inducements taken or received in excess of the inducements allowed by the Oklahoma Tourism Development Act.

F. No sales tax credit or incentive payment right authorized by this section shall be granted on or after January 1, ~~2026~~ 2032. Notwithstanding the foregoing, an approved company that has entered into a tourism attraction project agreement with the Oklahoma Department of Commerce pursuant to Section 2396 of this title prior to January 1, ~~2026~~ 2032, shall continue to be entitled to claim or receive any inducements authorized by this section as contemplated by the tourism project agreement.

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

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

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

Passed the Senate the 26th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the 29th day of April, 2025.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____