

1 ENGROSSED HOUSE  
2 BILL NO. 2748

By: Wallace and Hilbert of the  
House

3 and

4 Thompson and Rader of the  
5 Senate

6  
7  
8 An Act relating to tourism development incentives;  
9 amending Sections 3, 4, 5, 6 and 7, Chapter 196,  
10 O.S.L. 2017 (68 O.S. Supp. 2018, Sections 2393, 2394,  
11 2395, 2396 and 2397), which relate to the Oklahoma  
12 Tourism Development Act; modifying definitions;  
13 modifying provisions related to information required  
14 by Executive Director of the Oklahoma Tourism and  
15 Recreation Department for applications; providing for  
16 content of reports related to Entertainment  
17 Districts; modifying provisions related to agreements  
18 for tourism attraction projects; modifying authorized  
19 term of agreements; providing for effect of  
20 agreements with respect to certain entities;  
21 providing for certain pass-through treatment by  
22 Entertainment Districts; modifying provisions related  
23 to liability based on disallowance of certain  
24 payments; providing for separate agreements based  
upon certain tourism attraction projects in  
components or phases; prescribing procedures related  
to consultant reports; providing for pass-through  
treatment to Entertainment District Tenant Parties  
and prescribing procedures related thereto;  
prescribing content of certain agreements; requiring  
rules by the Oklahoma Tax Commission; providing  
procedures related to incentive payments to  
Entertainment Districts; prescribing procedures for  
computation of incentive payment amount; prescribing  
procedures related to claim for payments; modifying  
date with respect to payment of incentives; and  
providing an effective date.

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

2 SECTION 1. AMENDATORY Section 3, Chapter 196, O.S.L.  
3 2017 (68 O.S. Supp. 2018, Section 2393), is amended to read as  
4 follows:

5 Section 2393. As used in the Oklahoma Tourism Development Act:

6 1. "Agreement" means an agreement entered into pursuant to  
7 Section ~~6~~ 2396 of this ~~act~~ title, by and between the Executive  
8 Director of the Oklahoma Tourism and Recreation Department and an  
9 approved company, with respect to a tourism attraction project;

10 2. "Approved company" means any eligible company ~~that is or~~  
11 companies seeking to undertake a tourism attraction project and is  
12 approved by the Executive Director pursuant to Sections ~~5~~ 2395 and ~~6~~  
13 2396 of this ~~act~~ title;

14 3. "Approved costs" means:

15 a. obligations incurred for labor and to vendors,  
16 contractors, subcontractors, builders and suppliers in  
17 connection with the acquisition, construction,  
18 equipping and installation of a tourism attraction  
19 project,

20 b. the costs of acquiring real property or rights in real  
21 property in connection with a tourism attraction  
22 project, and any costs incidental thereto,

23 c. the costs of contract bonds and of insurance of all  
24 kinds that may be required or necessary during the

1 course of the acquisition, construction, equipping and  
2 installation of a tourism attraction project which are  
3 not paid by the vendor, supplier or contractor, or  
4 otherwise provided,

5 d. all costs of architectural and engineering services  
6 including, but not limited to, estimates, plans and  
7 specifications, preliminary investigations, and  
8 supervision of construction and installation, as well  
9 as for the performance of all the duties required by  
10 or consequent to the acquisition, construction,  
11 equipping and installation of a tourism attraction  
12 project,

13 e. all costs required to be paid under the terms of any  
14 contract for the acquisition, construction, equipping  
15 and installation of a tourism attraction project,

16 f. all costs required for the installation of utilities  
17 in connection with a tourism attraction project  
18 including, but not limited to, water, sewer, sewage  
19 treatment, gas, electricity and communications, and  
20 including off-site construction of utility extensions  
21 paid for by the approved company, and

22 g. all other costs comparable with those described in  
23 this paragraph;

24

1 4. "Director" means the Executive Director of the Oklahoma  
2 Tourism and Recreation Department or the Executive Director's  
3 designated representative;

4 5. "Eligible company" means any corporation, limited liability  
5 company, partnership, sole proprietorship, business trust or any  
6 other entity, operating or intending to operate a tourism attraction  
7 project, whether owned or leased, within this state that meets the  
8 standards promulgated by the Executive Director pursuant to Section  
9 4 2394 of this act title and, with respect to an Entertainment  
10 District, shall also include any such entity that will acquire,  
11 construct, develop, equip, install, expand or operate all or any  
12 portion of the Entertainment District, whether owned or leased;

13 6. "Entertainment District" means a mixed-use planned  
14 development project, with approved costs of One Million Dollars  
15 (\$1,000,000.00) or more in the aggregate, encompassing more than one  
16 hundred thousand (100,000) square feet and including an  
17 entertainment or recreational component and at least three of the  
18 following categories: (a) retail; (b) housing; (c) office; (d)  
19 restaurants; (e) hotel, regardless of whether the hotel is a  
20 destination hotel; (f) grocery; (g) brewery facilities for a small  
21 brewer (as defined in the Oklahoma Alcoholic Beverage Control Act,  
22 Section 1-103 of Title 37A of the Oklahoma Statutes); or (h)  
23 structured parking. An Entertainment District may include a project  
24 that is anticipated to be completed in multiple phases;

1        7. "Entertainment District Tenant Party" means any corporation,  
2 limited liability company, partnership, sole proprietorship,  
3 business trust or any other entity operating within a tourism  
4 attraction project that is an Entertainment District pursuant to a  
5 lease or similar agreement with an approved company or otherwise;

6        8. "Final approval" means the action taken by the Executive  
7 Director authorizing the eligible company to receive inducements  
8 under Section 7 2397 of this ~~act~~ title;

9        ~~7.~~ 9. "Increased state sales tax liability" means that portion  
10 of an ~~approved company's~~ entity's reported state sales tax liability  
11 resulting from taxable sales of goods and services to its customers  
12 at the tourism attraction which exceeds the reported state sales tax  
13 liability for sales to its customers at the tourism attraction for  
14 the same month in the calendar year immediately preceding the  
15 certification as an approved company or an Entertainment District  
16 Tenant Party, as applicable;

17        ~~8.~~ 10. "Inducements" means the sales tax credit or incentive  
18 payment as prescribed in Section 7 2397 of this ~~act~~ title;

19        ~~9.~~ 11. "Preliminary approval" means the action taken by the  
20 Executive Director conditioned upon final approval by the Executive  
21 Director upon satisfaction by the eligible company of the  
22 requirements of this act;

23        ~~10.~~ 12. a. "Tourism attraction" means:  
24                    (1) a cultural or historical site,

- 1 (2) a recreational or entertainment facility,
- 2 (3) an area of natural phenomena or scenic beauty,
- 3 (4) a theme park,
- 4 (5) an amusement or entertainment park,
- 5 (6) an indoor or outdoor play or music show,
- 6 (7) a botanical garden,
- 7 (8) a cultural or educational center, ~~or~~
- 8 (9) a destination hotel whose location and amenities,
- 9 including but not limited to upscale dining,
- 10 recreation and entertainment, make the hotel
- 11 itself a destination for tourists, or
- 12 (10) an Entertainment District.

13 b. A tourism attraction shall not include:

- 14 (1) lodging facilities, unless:
  - 15 (a) the facilities constitute a portion of a
  - 16 tourism attraction project and represent
  - 17 less than fifty percent (50%) of the total
  - 18 approved costs of the tourism attraction
  - 19 project, or
  - 20 (b) the lodging facilities are a part of a
  - 21 destination hotel or an Entertainment
  - 22 District,
- 23 (2) facilities that are primarily devoted to the
- 24 retail sale of goods, unless:



1 of the Oklahoma Statutes, shall be a tourism  
2 attraction for purposes of this act for any  
3 approved project as outlined in subparagraph a of  
4 this paragraph or for an approved project  
5 relating to pari-mutuel racing at the facility  
6 and not for establishing a casino or for offering  
7 casino-style gambling; and

8 ~~11.~~ 13. "Tourism attraction project" or "project" means:

- 9 a. the acquisition, including the acquisition of real  
10 estate by leasehold interest with a minimum term of  
11 ten (10) years, construction and equipping of a  
12 tourism attraction, and
- 13 b. the construction and installation of improvements to  
14 facilities necessary or desirable for the acquisition,  
15 construction and installation of a tourism attraction,  
16 including, but not limited to:

17 (1) surveys, and

18 (2) installation of utilities, which may include:

19 (a) water, sewer, sewage treatment, gas,  
20 electricity, communications and similar  
21 facilities, and

22 (b) off-site construction of utility extensions  
23 to the boundaries of the real estate on  
24 which the facilities are located, all of



1                   which shall be used to improve the economic  
2                   situation of the approved company in a  
3                   manner that shall allow the approved company  
4                   to attract tourists.

5           SECTION 2.        AMENDATORY        Section 4, Chapter 196, O.S.L.  
6 2017 (68 O.S. Supp. 2018, Section 2394), is amended to read as  
7 follows:

8           Section 2394.   A.   The Executive Director of the Oklahoma  
9 Tourism and Recreation Department, with approval of the Oklahoma  
10 Tourism and Recreation Commission, shall establish standards for the  
11 making of applications for inducements to eligible companies and  
12 their tourism attraction projects by the promulgation of rules in  
13 accordance with the Administrative Procedures Act.

14           B.   With respect to each eligible company making an application  
15 to the Executive Director for inducements, and with respect to the  
16 tourism attraction described in the application, the Executive  
17 Director shall make inquiries and request materials of the applicant  
18 that shall include, but shall not be limited to:

19           1.   Marketing plans for the project that target individuals who  
20 are not residents of this state;

21           2.   A description and location of the project, including a  
22 description and boundary of the area encompassing the Entertainment  
23 District, if applicable;

1           3. Capital and other anticipated expenditures for the project  
2 that indicate that the total cost of the project shall exceed the  
3 minimum amount set forth in subsection C of this section and the  
4 anticipated sources of funding therefor, which for an Entertainment  
5 District that is anticipated to be completed in multiple phases may  
6 include capital and other anticipated expenditures for all phases of  
7 the project;

8           4. The anticipated employment and wages to be paid at the  
9 project, which may include employment and wages to be paid by the  
10 eligible company and any tenants of the tourism attraction project;

11           5. Business plans which indicate the average number of days in  
12 a year in which the project or any component thereof will be in  
13 operation and open to the public, if applicable; and

14           6. The anticipated revenues and expenses generated by the  
15 project, which for an Entertainment District may include the  
16 anticipated revenues and expenses generated by each of the different  
17 phases or components of the Entertainment District.

18           Based upon a review of these materials, if the Executive  
19 Director determines that the eligible company and the tourism  
20 attraction may reasonably be expected to satisfy the criteria for  
21 final approval in subsection C of this section, then the Executive  
22 Director may consider granting a preliminary approval of the  
23 eligible company and the tourism attraction project pursuant to  
24 subsection B of Section ~~5~~ 2395 of this ~~act~~ title.

1 C. For a tourism attraction project, after granting a  
2 preliminary approval, the Executive Director shall engage the  
3 services of a competent consulting firm which shall submit to the  
4 Executive Director a report analyzing the data made available by the  
5 eligible company and which shall collect and analyze additional  
6 information necessary to determine that, in the independent judgment  
7 of the consultant, the tourism attraction project will:

8 1. Attract at least twenty-five percent (25%) of its visitors  
9 from among persons who are not residents of this state;

10 2. Have costs in excess of Five Hundred Thousand Dollars  
11 (\$500,000.00);

12 3. Have a significant and positive economic impact on this  
13 state considering, among other factors, the extent to which the  
14 tourism attraction project will compete directly with existing  
15 tourism attractions in this state, and the extent to which the  
16 tourism attraction project will be revenue-neutral to the State of  
17 Oklahoma, meaning the amount by which increased tax revenues from  
18 the tourism attraction project will exceed the ~~sales tax credit~~  
19 inducements allowed pursuant to Section ~~7~~ 2397 of this ~~act~~ title;

20 4. Produce sufficient revenues and public demand to be  
21 operating and open to the public on a regular and persistent basis;  
22 and

23 5. Not adversely affect existing employment in this state.  
24

1       D. For a tourism attraction project that is an Entertainment  
2 District and is anticipated to be completed in multiple phases, the  
3 consulting firm's report may include the data and information for  
4 the entire Entertainment District including any and all components  
5 or phases of the Entertainment District and a separate report for  
6 each component or phase of the Entertainment District shall not be  
7 required.

8       E. The eligible company shall pay for the cost of the  
9 consultant's report and shall cooperate with the consultant and  
10 provide all of the data that the consultant deems necessary to make  
11 a determination pursuant to this section.

12       SECTION 3.       AMENDATORY       Section 5, Chapter 196, O.S.L.  
13 2017 (68 O.S. Supp. 2018, Section 2395), is amended to read as  
14 follows:

15       Section 2395. A. The Executive Director of the Oklahoma  
16 Tourism and Recreation Department, with the approval of the Oklahoma  
17 Tourism and Recreation Commission, shall establish standards for  
18 preliminary approval and final approval of eligible companies and  
19 their projects by the promulgation of rules in accordance with the  
20 Administrative Procedures Act.

21       B. The Executive Director may give preliminary approval by  
22 designating an eligible company as a preliminarily approved company  
23 and preliminarily authorizing the undertaking of the tourism  
24 attraction project.

1 C. The Executive Director shall review the report of the  
2 consultant prepared pursuant to subsection C of Section 4 2394 of  
3 this ~~act~~ title and other information that has been made available to  
4 the Executive Director in order to assist the Executive Director in  
5 determining whether the tourism attraction project will further the  
6 purposes of this act.

7 D. The criteria for final approval of eligible companies and  
8 tourism attraction projects shall include, but shall not be limited  
9 to, the criteria set forth in subsection C of Section 4 2394 of this  
10 ~~act~~ title.

11 E. After a review of the relevant materials, the consultant's  
12 report, other information made available to the Executive Director,  
13 and completion of other inquiries, the Executive Director may give  
14 final approval to the eligible company's application for a tourism  
15 attraction project and may grant to the eligible company the status  
16 of an approved company. The decision reached by the Executive  
17 Director may be appealed by the eligible company to the Tourism and  
18 Recreation Commission. The decision of the Tourism and Recreation  
19 Commission shall constitute the final administrative decision of the  
20 Oklahoma Tourism and Recreation Department.

21 SECTION 4. AMENDATORY Section 6, Chapter 196, O.S.L.  
22 2017 (68 O.S. Supp. 2018, Section 2396), is amended to read as  
23 follows:

24

1 Section 2396. A. Upon granting final approval, the Executive  
2 Director of the Oklahoma Tourism and Recreation Department may enter  
3 into an agreement with an approved company with respect to its  
4 tourism attraction project. The terms and provisions of each  
5 agreement shall include, but shall not be limited to:

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

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

18 3. The following provisions:

19 a. the term of the agreement shall be ten (10) years from  
20 the later of:

21 (1) the date of the final approval of the tourism  
22 attraction project, or

23 (2) the completion date specified in the agreement,  
24 if the completion date is within ~~two (2)~~ three

1                   (3) years of the date of the final approval of  
2                   the tourism attraction project. However, the  
3                   term of the agreement may be extended for up to  
4                   two (2) additional years by the Executive  
5                   Director, with the advice and consent of the  
6                   Oklahoma Tax Commission, if the Executive  
7                   Director determines that the failure to complete  
8                   the tourism attraction project within ~~two (2)~~  
9                   three (3) years resulted from:

10                   (a) unanticipated and unavoidable delay in the  
11                   construction of the tourism attraction  
12                   project,

13                   (b) an original completion date for the tourism  
14                   attraction project, as originally planned,  
15                   which will be more than ~~two (2)~~ three (3)  
16                   years from the date construction began, or

17                   (c) a change in business structure resulting  
18                   from a merger or acquisition,

19                   b. in any tax year during which an agreement is in  
20                   effect, if the amount of sales tax to be remitted by  
21                   the approved company or an Entertainment District  
22                   Tenant Party, if applicable, exceeds the sales tax  
23                   credit available to the approved company or  
24                   Entertainment District Tenant Party, if applicable,

1 then the approved company or Entertainment District  
2 Tenant Party, if applicable, shall pay the excess to  
3 this state as sales tax,

4 c. within forty-five (45) days after the end of each  
5 calendar year the approved company shall supply the  
6 Executive Director with such reports and  
7 certifications as the Executive Director may request  
8 demonstrating to the satisfaction of the Executive  
9 Director that the approved company is in compliance  
10 with the provisions of the Oklahoma Tourism  
11 Development Act, and

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

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

22 (2) in any calendar year following the first year of  
23 the project or the tourism attraction project is  
24 not operating and open to the public on a regular



1 and consistent basis, which for a tourism  
2 attraction project that is an Entertainment  
3 District shall mean that a substantial portion of  
4 the Entertainment District is not operating and  
5 open to the public on a regular and consistent  
6 basis.

7 B. The agreement shall not be transferable or assignable by the  
8 approved company without the written consent of the Executive  
9 Director but, with respect to a tourism attraction project that is  
10 an Entertainment District, the approved company can elect to pass-  
11 through all or a portion of the sales tax credit to one or more  
12 Entertainment District Tenant Parties in accordance with Section  
13 2397 of this title.

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

1 District Tenant Party to whom the credit has been passed-through in  
2 accordance with Section 2397 of this title.

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

6 E. For a tourism attraction project that is an Entertainment  
7 District and anticipated to have multiple components or phases, the  
8 Executive Director may enter into more than one agreement with  
9 different approved companies for the different components or phases  
10 of the Entertainment District and such agreements may be entered  
11 into at different times as though the different components or phases  
12 of the Entertainment District are their own separate project. In  
13 such case, the Executive Director shall not be required to obtain a  
14 separate consultant's report (referred to in subsection C of Section  
15 2394 of this title) for each individual component or phase of the  
16 Entertainment District, but only one consultant's report for the  
17 entire Entertainment District.

18 SECTION 5. AMENDATORY Section 7, Chapter 196, O.S.L.  
19 2017 (68 O.S. Supp. 2018, Section 2397), is amended to read as  
20 follows:

21 Section 2397. A. Upon receiving notification from the  
22 Executive Director of the Oklahoma Tourism and Recreation Department  
23 that an approved company has entered into a tourism project  
24 agreement and is entitled to the inducements provided by the

1 Oklahoma Tourism Development Act, the Oklahoma Tax Commission shall  
2 provide the approved company with forms and instructions as  
3 necessary to claim or receive or pass-through those inducements.

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

1 assignable; provided that, with respect to a tourism attraction  
2 project that is an Entertainment District, the approved company can  
3 elect to pass-through all or a portion of the sales tax credit to  
4 one or more Entertainment District Tenant Parties. The approved  
5 company and the Entertainment District Tenant Party shall jointly  
6 file a copy of the written credit pass-through agreement with the  
7 Oklahoma Tax Commission within thirty (30) days of the effective  
8 date of the agreement. Such filing of the agreement with the  
9 Oklahoma Tax Commission shall perfect such agreement. The written  
10 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 this act. The Tax Commission shall then issue a tax  
12 credit memorandum to the approved company granting a sales tax  
13 credit in the amount of up to twenty-five percent (25%) of the  
14 approved costs, but limited to the percent of the approved costs  
15 that will result in the project being revenue-neutral to the State  
16 of Oklahoma as determined by the Tax Commission. The credit on all  
17 subsequent additional certified approved costs shall be in the  
18 amount of up to twenty-five percent (25%) of the costs, but limited  
19 to the percent of the approved costs that will result in the project  
20 being revenue-neutral to the State of Oklahoma as determined by the  
21 Tax Commission. For a tourism attraction project that is an  
22 Entertainment District, an approved company may elect to receive an  
23 incentive payment based on sales tax collections of Entertainment  
24 District Tenant Parties rather than a sales tax credit. The

1 incentive payment shall be in the amount of up to twenty-five  
2 percent (25%) of the approved costs but limited to the percent of  
3 the approved costs that will result in the project being revenue-  
4 neutral to the State of Oklahoma as determined by the Tax  
5 Commission; provided that, (A) in no event shall the incentive  
6 payments exceed the increased state sales tax liability of the  
7 approved company and the Entertainment District Tenant Parties that  
8 is actually received by the Tax Commission, and (B) the approved  
9 company shall be entitled to receive only ten percent (10%) of the  
10 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 the State of Oklahoma as determined by the Tax Commission. As  
17 soon as practicable after the end of each calendar year during the  
18 term of the agreement, the approved company shall file a claim for  
19 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 ~~credits~~ inducements provided pursuant to this act  
4 shall not exceed Fifteen Million Dollars (\$15,000,000.00) per year.

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

11 No tax credit memorandum or incentive payment memorandum shall  
12 be issued for any approved costs expended after the expiration of  
13 ~~two (2)~~ three (3) years from the date the agreement was signed by  
14 the Executive Director and the approved company. However, the  
15 Executive Director, with the advice and consent of the Tax  
16 Commission, may authorize ~~tax credits~~ inducements for approved costs  
17 expended up to ~~four (4)~~ five (5) years from the date the agreement  
18 was signed if the Executive Director determines that the failure to  
19 complete the tourism attraction project within ~~two (2)~~ three (3)  
20 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 ~~two (2)~~ three (3) years  
3 from the 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 ~~6~~ 2396 of this ~~act~~ 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 ~~credit~~ inducement to the person from whom  
10 the 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 ~~sales~~  
16 ~~tax-credit~~ inducements provided by this 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 ~~tax-credits~~ inducements as authorized by this  
23 act. The Oklahoma Tax Commission shall demand the repayment of any  
24

1 ~~credits~~ inducements taken or received in excess of the ~~credit~~  
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, ~~2021~~ 2026.

5 Notwithstanding the foregoing, an approved company that has entered  
6 into a tourism attraction project agreement with the Oklahoma  
7 Tourism and Recreation Department pursuant to Section ~~6~~ 2396 of this  
8 ~~act~~ title prior to January 1, ~~2021~~ 2026, shall continue to be  
9 entitled to claim or receive any ~~sales tax credit~~ inducements  
10 authorized by this section as contemplated by the tourism project  
11 agreement.

12 SECTION 6. This act shall become effective November 1, 2019.

13 Passed the House of Representatives the 17th day of May, 2019.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate

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