

1 **SENATE FLOOR VERSION**

2 February 19, 2021

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 500

6 By: Boren

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8 An Act relating to development incentives; amending  
9 62 O.S. 2011, Section 861, which relates to the Local  
10 Development Act; requiring collaboration with certain  
11 Departments; requiring the Oklahoma Tax Commission to  
publish annual report on tax increment  
apportionments; specifying content of report; and  
providing an effective date.

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

15 SECTION 1. AMENDATORY 62 O.S. 2011, Section 861, is  
16 amended to read as follows:

17 Section 861. A. A project plan may contain a provision that  
18 the increments from certain local taxes or fees may be used to  
19 finance project costs in areas qualified under the Local Development  
20 Act. The increment from local taxes or fees levied from and after  
21 the effective date of the approval of such plan shall be apportioned  
22 in the following manner for a period not to exceed twenty-five (25)  
23 fiscal years thereafter or the period required for payment of  
24 project costs, whichever is less; provided, however, that for any

1 increment district established after November 1, 1992, such time  
2 period shall be tolled for a period of time equal to the pendency of  
3 any litigation directly or indirectly challenging the increment  
4 district or apportionment or disbursement:

5 1. That portion of the ad valorem taxes which are produced by  
6 the levy at the rate fixed each year by or for each such ad valorem  
7 taxing entity upon the base assessed value of the increment district  
8 determined pursuant to Section 862 of this title and as to an area  
9 later added to the increment district, the effective date of the  
10 addition to the increment district, shall be paid to each taxing  
11 entity and all or any portion of local sales taxes, other local  
12 taxes or local fees collected each year which are not subject to  
13 apportionment shall be paid or retained as otherwise provided by  
14 law; and

15 2. All or any portion of:

- 16 a. ad valorem taxes, in excess of such amount specified  
17 in paragraph 1 of this subsection,  
18 b. the increment of local sales taxes, other local taxes  
19 or local fees, or a combination thereof, paid to or  
20 for the benefit of the city, town, or county approving  
21 the plan, and  
22 c. with its consent, evidenced by agreement in writing,  
23 the increment of local sales tax, other local taxes or  
24

1           local fees, or combination thereof, payable to any  
2           other local public taxing entity,  
3 shall be apportioned to, and when collected, shall be paid into an  
4 apportionment fund established for the project pursuant to the  
5 project plan. Such revenues shall be used for the payment of the  
6 project costs and for the payment of the principal of, the interest  
7 on, and any premiums due in connection with the bonds of, loans,  
8 notes, or advances of money to, or indebtedness incurred to finance  
9 project costs, whether funded, refunded, assumed, or otherwise, for  
10 financing, in whole or in part, eligible project costs. For the  
11 purposes of this section, "local sales tax" means amounts payable to  
12 or for the benefit of a local governmental entity calculated as a  
13 percentage of gross sales whether imposed by ordinance, resolution,  
14 covenant, or agreement. Nothing shall prohibit the increments from  
15 being used to directly pay eligible project costs. When all  
16 eligible project costs and such bonds, loans, advances of money or  
17 indebtedness, if any, including interest thereon and any premiums  
18 due in connection with them, have been paid and the governing body  
19 adopts an ordinance or resolution dissolving the tax apportionment  
20 financing, all ad valorem taxes upon the taxable property within the  
21 boundary of such district shall be paid into the funds of the  
22 respective taxing entities.

23       B. If a project plan contains a provision for apportionment as  
24 provided in subsection A of this section, and notwithstanding any

1 other provision of law to the contrary, the governing body shall  
2 direct in the resolution or ordinance approving the plan which  
3 portion of the increments, including whether any or all, to be paid  
4 into the apportionment fund shall constitute a part of the general  
5 fund to be appropriated annually by the governing body, and which  
6 portion, including whether any or all, shall constitute funds of a  
7 public entity authorized to issue tax apportionment bonds or notes  
8 or to incur project costs.

9 C. To the extent that collections exceed project costs and the  
10 provisions for payment of principal and interest along with  
11 sufficient reserves on any bonds issued pursuant to the provisions  
12 of Section 863 of this title, the excess shall be paid into the  
13 funds of the respective taxing entities unless the taxing entity  
14 agrees to some other use of such collections.

15 D. Except as provided in subsection E of this section, for any  
16 year in which taxes or fees are apportioned in the manner specified  
17 in paragraph 2 of subsection A of this section, any increase in  
18 assessed valuation of taxable real property or taxable personal  
19 property within the boundaries of such district in excess of the  
20 base assessed value shall not be considered by any taxing entity in  
21 computing any debt limitation or for any other purpose except for  
22 the levy of taxes and in determining the amount to be apportioned.

23 E. In the event there is a change in the assessment ratio for  
24 ad valorem tax property valuations of property within the boundaries

1 of an increment district, the portions of valuations for assessment  
2 pursuant to paragraphs 1 and 2 of subsection A of this section shall  
3 be proportionately adjusted in accordance with such reassessment.

4 F. Nothing in this section shall be construed as relieving  
5 property in such project area from being assessed as provided in the  
6 Ad Valorem Tax Code of the Oklahoma Statutes, or as relieving owners  
7 of such property from paying a uniform rate of taxes, as required by  
8 Section 5 of Article X of the Oklahoma Constitution.

9 G. Subject to constitutional exemptions, if property in an  
10 increment district is owned by a public entity and is leased to or  
11 operated for a private use, including, without limitation, use by a  
12 not-for-profit corporation or trust, the portion of the property so  
13 leased or operated shall be assessed by the county assessor as if  
14 such portion of the property were taxable, and, during the term of  
15 the increment district, the public entity owning such property shall  
16 pay or require the user thereof to pay ad valorem taxes or an in  
17 lieu ad valorem tax payment in an amount not less than the amount  
18 that would have resulted if taxes had otherwise been levied on such  
19 portion of the property. If property subject to ad valorem tax in  
20 an increment district is acquired by a private not-for-profit  
21 corporation or public or private trust, it shall continue to be  
22 assessed and subject to ad valorem taxes or an in lieu ad valorem  
23 payment by the user thereof until termination of the increment

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1 district unless and only to the extent of the portion of the  
2 property and the use thereof that is:

- 3 1. Acquired to implement the project plan;
- 4 2. Converted to a new tax-exempt use by a tax-exempt user; or
- 5 3. Entitled to claim a constitutional exemption notwithstanding  
6 statutory provisions.

7 During the period of an increment district, such nonexempt uses and  
8 interests are severable for purposes of ad valorem and in lieu of ad  
9 valorem assessment and payments, notwithstanding any statutory  
10 provisions to the contrary.

11 H. The Oklahoma Tax Commission shall, in collaboration with the  
12 State Department of Education, State Board of Career and Technology  
13 Education and the Oklahoma Department of Commerce, create and  
14 publish a report by March 31 of each year documenting the amount of  
15 increments of local taxes and fees apportioned pursuant to the  
16 provisions of this section in the previous calendar year. The  
17 report shall include an estimate of the economic impact and an  
18 estimate of the amount funds benefiting public schools were  
19 decreased as a result of the apportionments provided pursuant to the  
20 provisions of this section.

21 SECTION 2. This act shall become effective November 1, 2021.

22 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
23 February 19, 2021 - DO PASS AS AMENDED  
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