

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 500 By: Boren of the Senate  
3 and  
4 Lowe (Dick) of the House  
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7 An Act relating to development incentives; amending  
8 62 O.S. 2011, Section 861, which relates to the Local  
9 Development Act; requiring collaboration with certain  
10 Departments; requiring the Oklahoma Tax Commission to  
11 publish annual report on tax increment  
12 apportionments; specifying content of report; and  
13 providing an effective date.

14 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
15 and replace with:

16 "An Act relating to development incentives; amending  
17 62 O.S. 2011, Sections 860 and 861, which relate to  
18 the Local Development Act; requiring the  
19 municipalities and counties to publish annual report  
20 on tax increment and incentive financing districts;  
21 specifying content of report; and providing an  
22 effective date.

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

24 SECTION 1. AMENDATORY 62 O.S. 2011, Section 860, is  
amended to read as follows:

Section 860. A. A project plan may contain a provision that  
certain local taxes may be subject to incentives or may be exempted

1 in reinvestment areas, historic preservation areas or enterprise  
2 areas.

3 B. The governing body may grant incentives or exemptions from  
4 local taxation only on the new investment made. No ad valorem tax  
5 incentives or exemptions may be granted on the value of property  
6 which has been assessed or which is subject to assessment prior to  
7 the adoption of the project plan. No ad valorem tax incentives or  
8 exemptions authorized in this section may be granted for retail  
9 establishments. If a retail establishment is located in property  
10 which otherwise qualifies for an incentive or exemption pursuant to  
11 this section, the incentive or exemption shall not be allowed for  
12 that portion of the property used for such retail establishment. As  
13 used in this subsection, "retail establishment" shall not include an  
14 establishment that provides lodging, including but not limited to a  
15 hotel, apartment hotel, public rooming house or motel. No ad  
16 valorem tax incentives or exemptions authorized in this section may  
17 be granted if the property is located in an increment district or as  
18 long as the property is subject to the ad valorem tax exemption for  
19 new or expanding manufacturing facilities as authorized by Section  
20 6B of Article X of the Oklahoma Constitution. In the event of  
21 disposition by lease or sublease to a lessee not entitled to an ad  
22 valorem tax exemption, the improvements placed thereon shall not be  
23 entitled to an ad valorem tax exemption provided for in Section 850  
24 et seq. of this title. The incentives or exemptions, which may be

1 full or partial, may be granted for a period not to exceed five (5)  
2 years; however, in enterprise zones incentives or exemptions may be  
3 granted for a period not to exceed six (6) years.

4 C. No incentives or exemptions may be granted to any business  
5 or firm that is relocating from within the state and is subject to  
6 or in the process of recruitment by two or more governmental  
7 entities within the state unless the governmental entity in which  
8 the business or firm does not locate adopts a resolution giving  
9 their approval to the granting of incentives or exemptions to the  
10 business or firm locating in the competing governmental entity. No  
11 incentives or exemptions may be granted to an out-of-state business  
12 or firm that is subject to or in the process of recruitment by two  
13 or more governmental entities within the state except as otherwise  
14 provided for in this subsection. The prohibition against incentives  
15 or exemptions to a business or firm relocating within the state may  
16 be waived upon application by the governing body to, and approval  
17 of, the Director of the Oklahoma Department of Commerce. In order  
18 for the Director to approve the waiver, the Director must find that  
19 the incentives or exemptions are necessary and sufficient to attract  
20 the business or firm and that the benefits generated by the business  
21 location outweigh the costs of the business location.

22 D. A project plan may contain a provision that ad valorem taxes  
23 may be exempted in a commercial historic preservation area that is  
24 adjacent to and serves designated historical residential areas for

1 neighborhood commercial preservation purposes in order for the  
2 neighborhood to retain its basic character and scale. No ad valorem  
3 tax exemption may be granted on the value of property which has been  
4 assessed or which is subject to assessment prior to the adoption of  
5 the project plan. No ad valorem tax exemption shall be granted  
6 pursuant to the provisions of this subsection for single-family  
7 residences. The governing body may grant the exemption only on the  
8 increase in value of the property. The exemptions may be granted  
9 for a specific period of time as determined by a written agreement  
10 between the property owners of the area and the governing body and  
11 may be renewed. Uses of the property eligible for this exemption  
12 may include but not be limited to commercial, office or multifamily  
13 residential use.

14 E. The governing body of a city, town or county of this state  
15 shall prepare a disclosure report for any tax incentives financing  
16 district established by the governing body if the district has been  
17 in operation for at least twelve (12) months. Beginning January 1,  
18 2022, and for each year thereafter, the disclosure report shall be  
19 published on or before sixty (60) business days, excluding  
20 recognized federal holidays, following the end of each fiscal year  
21 on the website of the city, town or county if such a website exists.  
22 Copies of the report shall be made available to any requesting  
23 member of the public. The disclosure report shall include the

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1 following information for the prior fiscal year preceding the fiscal  
2 year the report is due:

3 1. The parties receiving incentives or exemptions;

4 2. A general description of the property and the improvements  
5 to be made;

6 3. The portion and fair market value of the property to be  
7 exempted or that portion of the local taxes to be subject to  
8 incentives or to be exempted;

9 4. The duration of the incentives or exemptions;

10 5. Any additional information necessary to demonstrate  
11 compliance with the tax incentives or exemptions;

12 6. The name of the person who is currently in charge of the  
13 implementation of the plan; and

14 7. The names of the persons who have disclosed an interest as  
15 required pursuant to Section 857 of this title and the interest  
16 disclosed.

17 SECTION 2. AMENDATORY 62 O.S. 2011, Section 861, is  
18 amended to read as follows:

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

1 fiscal years thereafter or the period required for payment of  
2 project costs, whichever is less; provided, however, that for any  
3 increment district established after November 1, 1992, such time  
4 period shall be tolled for a period of time equal to the pendency of  
5 any litigation directly or indirectly challenging the increment  
6 district or apportionment or disbursement:

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

17 2. All or any portion of:

- 18 a. ad valorem taxes, in excess of such amount specified  
19 in paragraph 1 of this subsection,
- 20 b. the increment of local sales taxes, other local taxes  
21 or local fees, or a combination thereof, paid to or  
22 for the benefit of the city, town, or county approving  
23 the plan, and

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

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

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

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



1 E. In the event there is a change in the assessment ratio for  
2 ad valorem tax property valuations of property within the boundaries  
3 of an increment district, the portions of valuations for assessment  
4 pursuant to paragraphs 1 and 2 of subsection A of this section shall  
5 be proportionately adjusted in accordance with such reassessment.

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

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

1 payment by the user thereof until termination of the increment  
2 district unless and only to the extent of the portion of the  
3 property and the use thereof that is:

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

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

12 H. The governing body of a city, town or county of this state  
13 shall prepare a disclosure report for any tax increment financing  
14 district established by the governing body if the district has been  
15 in operation for at least twelve (12) months. Beginning January 1,  
16 2022, and for each year thereafter, the disclosure report shall be  
17 published on or before sixty (60) business days, excluding  
18 recognized federal holidays, following the end of each fiscal year  
19 on the website of the city, town or county if such a website exists.  
20 Copies of the report shall be made available to any requesting  
21 member of the public. The disclosure report shall include the  
22 following information for the prior fiscal year preceding the fiscal  
23 year the report is due:

- 1        1. The amount and source of revenue captured and apportioned  
2 pursuant to the project plan;
- 3        2. The amount and purpose of expenditures;
- 4        3. The amount of principal and interest due on outstanding  
5 bonded indebtedness;
- 6        4. The tax increment base and current captured appraised value  
7 or the other local tax or fee collections retained by the area;
- 8        5. The captured appraised value or the other local tax or fee  
9 collections shared by the city, town or county and other taxing  
10 entities, the total amount of tax increments received and any  
11 additional information necessary to demonstrate compliance with the  
12 plan adopted by the city, town or county;
- 13        6. The name of the person who is currently in charge of the  
14 implementation of the plan; and
- 15        7. The names of the persons who have disclosed an interest as  
16 required pursuant to Section 857 of this title and the interest  
17 disclosed.

18        SECTION 3. This act shall become effective November 1, 2021."  
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1 ENGROSSED SENATE  
2 BILL NO. 500

By: Boren of the Senate

and

Lowe (Dick) of the House

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

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

15 SECTION 4. 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  
increment district established after November 1, 1992, such time

1 period shall be tolled for a period of time equal to the pendency of  
2 any litigation directly or indirectly challenging the increment  
3 district or apportionment or disbursement:

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

14 2. All or any portion of:

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

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

21 B. If a project plan contains a provision for apportionment as  
22 provided in subsection A of this section, and notwithstanding any  
23 other provision of law to the contrary, the governing body shall  
24 direct in the resolution or ordinance approving the plan which

1 portion of the increments, including whether any or all, to be paid  
2 into the apportionment fund shall constitute a part of the general  
3 fund to be appropriated annually by the governing body, and which  
4 portion, including whether any or all, shall constitute funds of a  
5 public entity authorized to issue tax apportionment bonds or notes  
6 or to incur project costs.

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

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

21 E. In the event there is a change in the assessment ratio for  
22 ad valorem tax property valuations of property within the boundaries  
23 of an increment district, the portions of valuations for assessment  
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1 pursuant to paragraphs 1 and 2 of subsection A of this section shall  
2 be proportionately adjusted in accordance with such reassessment.

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

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

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

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

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

19 SECTION 5. This act shall become effective November 1, 2021.

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1 Passed the Senate the 8th day of March, 2021.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2021.

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9 Presiding Officer of the House  
10 of Representatives