

1 ENGROSSED SENATE  
2 BILL NO. 606

By: Rader of the Senate

3 and

4 Pfeiffer of the House

5  
6 An Act relating to development incentives; amending  
7 62 O.S. 2011, Sections 841, 844 and 845, which relate  
8 to the Oklahoma Local Development and Enterprise Zone  
9 Incentive Leverage Act; modifying definition;  
10 requiring matching payment to equal the net benefit  
11 rate multiplied by the actual gross sales; requiring  
12 computation by the Oklahoma Department of Commerce;  
13 converting fund to special account; eliminating fund  
14 name; conforming language; eliminating certain limit  
15 on liability for payments; and providing an effective  
16 date.

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

18 SECTION 1. AMENDATORY 62 O.S. 2011, Section 841, is  
19 amended to read as follows:

20 Section 841. As used in the Oklahoma Local Development and  
21 Enterprise Zone Incentive Leverage Act:

22 1. "Enterprise" means any form of business organization  
23 including, but not limited to, any partnership, sole proprietorship,  
24 corporation, limited liability company or other legally constituted  
business entity;

2. "Enterprise zone" means an area as defined pursuant to  
paragraph 5 of Section 690.2 of this title;

1           3. "Estimated direct state benefits" means the total  
2 incremental state tax revenues new to the state estimated by the  
3 Oklahoma Department of Commerce to accrue to the state from new  
4 investments and new employment during the period of apportionment of  
5 local sales taxes as a result of the project and/or projects  
6 described in the related project plan. For purposes of projecting  
7 state benefits for a military growth impact project, the military  
8 growth impacts shall be used in lieu of the project and/or projects  
9 described in the related project plan. In projecting such benefits,  
10 the Oklahoma Department of Commerce shall consider, if practicable,  
11 whether or not the project plan involves an enterprise:

- 12           a. relocating from within the state,
- 13           b. subject to or in the process of recruitment by two or  
14           more governmental entities within the state, or
- 15           c. which will be in direct competition with an existing  
16           enterprise located in the state;

17           4. "Estimated direct state costs" means the costs projected by  
18 the Oklahoma Department of Commerce to be incurred by the state  
19 during the period of apportionment of local sales taxes, as a result  
20 of the project and/or projects described in the related project  
21 plan. For purposes of projecting state costs for a military growth  
22 impact project, the military growth impacts shall be used in lieu of  
23 the project and/or projects described in the related project plan;

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1           5. "Estimated net direct state benefits" means the estimated  
2 direct state benefits less the estimated direct state costs;

3           6. "Facility" means the definition contained in paragraph 8 of  
4 Section 690.2 of this title;

5           7. "Governing body" means the governing board of a local  
6 governmental entity in the case of a single incentive district or  
7 increment district when the boundaries of the district are  
8 coextensive with or contained within the jurisdiction of any such  
9 single local governmental entity or the governing boards of a  
10 combination of counties, cities, or towns forming an incentive  
11 district or an increment district pursuant to the provisions of the  
12 Local Development Act;

13           8. "Incentive district" means an area created pursuant to the  
14 provisions of the Local Development Act, including Section 856 of  
15 this title;

16           9. "Increment district" means an area created pursuant to the  
17 provisions of the Local Development Act;

18           10. "Local governmental entity" means a county, city or town  
19 forming an incentive district or an increment district pursuant to  
20 the provisions of the Local Development Act;

21           11. "Local sales taxes" means amounts payable to or for the  
22 benefit of a local governmental entity calculated as a percentage,  
23 which, except on transient lodgings, shall not exceed four and one-

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1 half percent (4.5%) of gross sales whether imposed by ordinance,  
2 resolution, covenant, or agreement;

3 12. "Major tourism destination project" means a project which:

4 a. meets the definition of a "tourism attraction" as set  
5 forth in subparagraph a of paragraph ~~10~~ 12 of Section  
6 ~~2357.36~~ 2393 of Title 68 of the Oklahoma Statutes,  
7 subject only to the restrictions of divisions (1), (3)  
8 and (6) of subparagraph b of paragraph ~~10~~ 12 of  
9 Section ~~2357.36~~ 2393 of Title 68 of the Oklahoma  
10 Statutes,

11 b. is projected to meet the following qualifications  
12 within three (3) years of the date of substantial  
13 completion of the project based upon the findings of  
14 the Oklahoma Department of Commerce:

15 (1) at least Fifty Million Dollars (\$50,000,000.00)  
16 in capital investment,

17 (2) at least Fifty Million Dollars (\$50,000,000.00)  
18 in projected annual gross sales revenues or at  
19 least Ten Million Dollars (\$10,000,000.00) in  
20 annual gross sales revenues to out-of-state  
21 visitors,

22 (3) a number of out-of-state visitors of at least:

23 (a) twenty percent (20%) of the number of total  
24 visitors, or

1 (b) twenty thousand (20,000) visitors per year,  
2 and

3 (4) a number of visitors traveling at least one  
4 hundred (100) miles of at least:

5 (a) thirty percent (30%) of the number of total  
6 visitors, or

7 (b) twenty-five thousand (25,000) visitors per  
8 year, or

9 c. is a lake resort project, containing a hotel, a  
10 conference center, and an eighteen-hole golf course,  
11 located within twenty-five (25) linear miles of the  
12 state boundary on a lake containing at least forty-  
13 five thousand (45,000) surface acres of water, that is  
14 estimated to generate at least Fifty Million Dollars  
15 (\$50,000,000.00) in capital investment;

16 13. "Military growth impacts" means the increases in  
17 investment, employment, and residents resulting from military growth  
18 activities;

19 14. "Military growth impact community" means a city, town, or  
20 county experiencing and reasonably projected to experience a  
21 population growth of at least one thousand (1,000) persons and  
22 increased payrolls of at least Ten Million Dollars (\$10,000,000.00)  
23 within a five-year period directly resulting from federal military  
24 base activities;

1 15. "Military growth impact project" means a project pursuant  
2 to the Local Development Act which the governing body determines to  
3 be in support of the needs and quality of life issues resulting from  
4 the military growth impacts;

5 16. "Net benefit rate" means the estimated net direct state  
6 benefits computed as a percentage of gross taxable sales derived  
7 from the project during the period of apportionment of local sales  
8 taxes by the local governmental entity;

9 17. "Public entity" means those entities described in the Local  
10 Development Act;

11 18. "Retail purposes" means the objectives of selling tangible  
12 personal property, other than art, on the physical premises of an  
13 establishment. Retail purposes shall not mean a hotel, motel,  
14 entertainment facility, museum, cultural facility, art gallery,  
15 restaurant ~~supporting another establishment excluded herein,~~  
16 military growth impact project located within a military growth  
17 impact community, or a major tourism destination project;

18 19. "State local enterprise matching payment" means the payment  
19 authorized by subsection A of Section 844 of this title; and

20 20. "State local government matching payment" means the payment  
21 authorized by subsection D of Section 844 of this title.

22 SECTION 2. AMENDATORY 62 O.S. 2011, Section 844, is  
23 amended to read as follows:

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1 Section 844. A. If an enterprise is located within an  
2 incentive district pursuant to the provisions of Section 856 of this  
3 title, and the enterprise either constructs or expands a facility  
4 that is located within an enterprise zone designated pursuant to the  
5 provisions of Section 690.2 of this title, the enterprise shall be  
6 eligible for a state local enterprise matching payment equal to the  
7 amount of ~~sales tax exemption afforded to the enterprise pursuant to~~  
8 ~~Section 860 of this title~~ the net benefit rate, as computed by the  
9 Oklahoma Department of Commerce, as multiplied by the actual gross  
10 sales derived from the project.

11 B. The state local enterprise matching payment shall be made  
12 for the twelve-month period preceding March 1 of each calendar year.  
13 The state local government matching payment shall be made for the  
14 six-month periods preceding March 1 and September 1 of each calendar  
15 year.

16 C. The state local enterprise matching payment shall be made in  
17 an amount equal to the amount of sales tax for which the enterprise  
18 has received payment during the period prescribed by subsection B of  
19 this section pursuant to Section 860 of this title.

20 D. Beginning July 1, 2005, the state local government matching  
21 payment shall be made in an amount equal to the lesser of the amount  
22 of local sales taxes which have been apportioned under the  
23 applicable project plan during the period prescribed by subsection B  
24 of this section pursuant to Section 861 of this title or the net

1 benefit rate multiplied by the actual gross sales derived from the  
2 project, pursuant to the limits provided in Section 842 of this  
3 title.

4 SECTION 3. AMENDATORY 62 O.S. 2011, Section 845, is  
5 amended to read as follows:

6 Section 845. There is hereby created within the State Treasury  
7 ~~a special fund~~ an agency special account for the Oklahoma Tax  
8 Commission ~~to be designated the "Oklahoma Local Development and~~  
9 ~~Enterprise Zone Incentive Leverage Act Incentive Payment Fund".~~ The  
10 Oklahoma Tax Commission is hereby authorized and directed to  
11 withhold a portion of the taxes levied and collected pursuant to  
12 Section 2355 of Title 68 of the Oklahoma Statutes for deposit into  
13 the ~~fund~~ account in order to pay claims as they become due. All of  
14 the amounts deposited in ~~such fund~~ the account shall be used and  
15 expended by the Tax Commission solely for the purposes and in the  
16 amounts authorized by the Oklahoma Local Development and Enterprise  
17 Zone Incentive Leverage Act. ~~The liability of the State of Oklahoma~~  
18 ~~to make the incentive payments under this act shall be limited to~~  
19 ~~the balance contained in the fund created by this section.~~

20 SECTION 4. This act shall become effective November 1, 2021.  
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1 Passed the Senate the 11th day of March, 2021.

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\_\_\_\_\_  
Presiding Officer of the Senate

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5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

6 2021.

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Presiding Officer of the House  
of Representatives

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