

1 **SENATE FLOOR VERSION**

2 February 9, 2021

3 SENATE BILL NO. 71

By: Bergstrom

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5  
6 An Act relating to the Oklahoma Local Development and  
7 Enterprise Zone Incentive Leverage Act; amending 62  
8 O.S. 2011, Sections 842, as last amended by Section  
9 1, Chapter 69, O.S.L. 2020 and 847 (62 O.S. Supp.  
10 2020, Section 842), which relate to program  
11 administration; modifying required content of  
12 specified rules promulgated by Oklahoma Department of  
13 Commerce; deleting obsolete reference; requiring  
14 certain information be included in specified Oklahoma  
15 Tax Commission report; 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 842, as last  
19 amended by Section 1, Chapter 69, O.S.L. 2020 (62 O.S. Supp. 2020,  
20 Section 842), is amended to read as follows:

21 Section 842. A. An enterprise which locates its facility  
22 within an enterprise zone or which expands its existing facility  
23 after the designation of an enterprise zone as authorized by law and  
24 which is located in an incentive district as authorized pursuant to  
the provisions of the Local Development Act shall be eligible for  
the state local enterprise matching payment authorized pursuant to  
subsection A of Section 844 of this title.

1 B. 1. A local governmental entity which approves a project  
2 plan pursuant to the provisions of the Local Development Act within  
3 an enterprise zone or in support of a major tourism destination  
4 project which the local governmental entity determines is likely to  
5 significantly benefit contiguous or nearby enterprise zone census  
6 tracts shall be eligible for the state local government matching  
7 payment authorized pursuant to subsection D of Section 844 of this  
8 title; provided, no state local government matching payment shall be  
9 made for project costs in relation to:

10 a. any gambling establishment, or

11 b. any development within a project plan that provides  
12 for more than fifty percent (50%) of the net leasable  
13 space of such development to be used for retail  
14 purposes except for such portions of a development  
15 which includes grocery or specialty food store  
16 enterprises defined under NAICS Manual Industry Group  
17 No. 4451 or 4452 that provide healthy nutrition  
18 options including fresh fruits, vegetables, whole  
19 grains, seeds, nuts and healthy protein and that  
20 improve access within one-half (1/2) mile of any low  
21 income and low access geographies identified by the  
22 United States Department of Agriculture.

1 State local government matching payments shall not be used to  
2 supplant local revenue currently being expended within the increment  
3 district boundaries.

4 2. In order to be eligible for state local government matching  
5 payments for approving a project within an enterprise zone, a local  
6 governmental entity shall provide to the Oklahoma Department of  
7 Commerce as part of the application provided for in subsection J of  
8 this section:

9 a. an estimate of incremental revenues likely to be  
10 derived from the project, and

11 b. certification that all projects described within the  
12 related project plan will generate, in the aggregate,  
13 a minimum of either One Million Dollars  
14 (\$1,000,000.00) in payroll, exclusive of payroll for  
15 construction, or Five Million Dollars (\$5,000,000.00)  
16 in investment.

17 3. In order to be eligible for state local government matching  
18 payments in support of a major tourism destination project, a local  
19 governmental entity shall provide to the Oklahoma Department of  
20 Commerce as part of the application provided for in subsection J of  
21 this section:

22 a. an estimate of incremental revenues new to the state  
23 likely to be derived from the project,

24

1           b.    certification that the major tourism destination meets  
2                    the applicable criteria described in paragraph 12 of  
3                    Section 841 of this title, and

4           c.    an agreement to provide payment to the Oklahoma  
5                    Department of Commerce to defray the costs of the  
6                    study required by paragraph 4 of this subsection.

7           4.    To determine if a project qualifies as a major tourism  
8 destination project pursuant to subparagraph b of paragraph 12 of  
9 Section 841 of this title and to assist in other required  
10 determinations, the Oklahoma Department of Commerce shall cause a  
11 market and feasibility study to be conducted by an independent  
12 consultant with experience in the conduct of such studies. Upon  
13 review of the feasibility report, the Oklahoma Department of  
14 Commerce shall make its finding as to the reasonable probability  
15 that the proposed project is a major tourism destination project as  
16 provided in subparagraph b of paragraph 12 of Section 841 of this  
17 title.

18           C.    For purposes of the Oklahoma Local Development and  
19 Enterprise Zone Incentive Leverage Act, an enterprise engaged in a  
20 retail activity, where otherwise prohibited by the Oklahoma  
21 Enterprise Zone Act for purposes of the benefits and incentives  
22 extended pursuant to the Oklahoma Enterprise Zone Act, shall be  
23 considered an eligible enterprise for purposes of the state local  
24

1 enterprise matching payment authorized by the Oklahoma Local  
2 Development and Enterprise Zone Incentive Leverage Act.

3 D. The maximum amount of state local enterprise matching  
4 payments for an enterprise per fiscal year shall not exceed Two  
5 Hundred Thousand Dollars (\$200,000.00).

6 E. Except as provided in subsection H of this section, for  
7 purposes of the Oklahoma Local Development and Enterprise Zone  
8 Incentive Leverage Act, the maximum amount of aggregate investment  
9 in all qualifying facilities located in any single county which can  
10 qualify for a state local enterprise matching payment pursuant to  
11 subsection A of Section 844 of this title shall be computed for each  
12 county of the state by multiplying Two Hundred Dollars (\$200.00)  
13 times the population of the county according to the most recent  
14 estimate provided by the United States Bureau of the Census prior to  
15 the date an application is made.

16 F. The computation required by subsection E of this section  
17 shall be the maximum amount of aggregated investment qualifying for  
18 the purposes of all enterprises for the duration of the Oklahoma  
19 Local Development and Enterprise Zone Incentive Leverage Act.

20 G. The aggregate investment limit for all facilities located  
21 within a county which may qualify for the state local enterprise  
22 matching payments pursuant to subsection A of Section 844 of this  
23 title shall:

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1 1. Not be less than Twenty Million Dollars (\$20,000,000.00) for  
2 counties with a population of less than one hundred thousand  
3 (100,000) persons; and

4 2. Not be greater than Forty Million Dollars (\$40,000,000.00)  
5 for all other counties of the state.

6 H. The aggregate limit for all state local government matching  
7 payments made to any public entity on behalf of any local  
8 governmental entity within a single county pursuant to subsection D  
9 of Section 844 of this title for the duration of the Oklahoma Local  
10 Development and Enterprise Zone Incentive Leverage Act shall be an  
11 amount equal to the net benefit rate multiplied by the taxable gross  
12 sales derived from the project over the period of apportionment of  
13 local sales taxes, as certified by the Secretary of Commerce.

14 I. The payments authorized by Section 844 of this title shall  
15 be available for business and governmental entities qualifying  
16 pursuant to the Local Development Act for investments made within an  
17 incentive district or for improvements made within an increment  
18 district prior to December 31, 2007, or for which an incentive  
19 district or an increment district has been created prior to December  
20 31, 2028, if the investments or improvements are begun not later  
21 than December 31, 2029.

22 J. The Oklahoma Department of Commerce shall promulgate rules  
23 ~~to establish~~ for administration of the Oklahoma Local Development  
24 and Enterprise Zone Incentive Leverage Act. Such rules shall:

- 1        1. Include a procedure for an enterprise or local governmental  
2 entity to make application for state local enterprise and state  
3 local government matching payments pursuant to this section. ~~Such~~  
4 ~~rules shall reflect;~~
- 5        2. Reflect the intent that the Oklahoma Local Development and  
6 Enterprise Zone Incentive Leverage Act be fiscally neutral to the  
7 state; and
- 8        3. Establish reporting requirements for successful applicants  
9 which allow data collection and analysis by the Department on  
10 employment, capital investment, changes in assessed value of a  
11 project and other impacts resulting from payments and reporting of  
12 such data by the Department to the Oklahoma Tax Commission for the  
13 purposes of subsection B of Section 847 of this title.

14        SECTION 2.        AMENDATORY        62 O.S. 2011, Section 847, is  
15 amended to read as follows:

16        Section 847. A. The Oklahoma Tax Commission shall maintain a  
17 record of state local enterprise matching payments and state local  
18 government matching payments made pursuant to Section 844 of this  
19 title ~~and a record of income tax credits claimed pursuant to Section~~  
20 ~~2357.81 of Title 68 of the Oklahoma Statutes.~~ Local sales taxes  
21 apportioned under the applicable project plan shall be reported,  
22 collected, remitted, and disbursed in the same manner as other local  
23 sales taxes under Title 68 of the Oklahoma Statutes.

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1 B. The Tax Commission shall prepare a report separately  
2 identifying the amounts described in subsection A of this section  
3 and data collection and analysis prepared by the Oklahoma Department  
4 of Commerce pursuant to subsection J of Section 842 of this title.  
5 The Commission shall submit the report prior to April 1 each year to  
6 the Governor, the Speaker of the House of Representatives and the  
7 President Pro Tempore of the Senate.

8 SECTION 3. This act shall become effective November 1, 2021.

9 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
10 February 9, 2021 - DO PASS

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