

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 609

By: Coleman and Hall of the
Senate

and

Hilbert of the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to tax; amending 62 O.S. 2011,
12 Sections 856, 860 and 866, which relate to the Local
13 Development Act; modifying required content of
14 project plans; modifying provisions related to
15 duration of certain districts based on certain
16 industry description; modifying requirements for
17 certain written agreement; amending 68 O.S. 2011,
18 Section 2902, as last amended by Section 1, Chapter
19 258, O.S.L. 2019 (68 O.S. Supp. 2020, Section 2902),
20 which relates to exemption for manufacturing
21 facilities; modifying definitions; modifying
22 eligibility for exemption based on certain industry
23 description; providing exception for certain personal
24 property; adjusting certain investment requirement to
inflation index; requiring the Oklahoma Tax
Commission to publish certain adjustments; adjusting
wage threshold; requiring wages exceed certain
Quality Jobs Program Act requirements; authorizing
the Oklahoma Tax Commission to request verification;
removing exceptions for failure to meet certain
payroll requirements; modifying certain
classification; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 856, is amended to read as follows:

Section 856. A. The governing body shall designate and adopt the proposed boundaries of any district and the proposed boundaries of any project area. Except as otherwise provided in this subsection, any districts created by a city or town shall be confined to that territory within the corporate limits of such city or town and any districts created by a county shall be confined to that territory within the unincorporated areas of the county. Any city, town or county may by agreement jointly create a district with another entity.

B. Upon the adoption and approval of the project plan, the governing body shall adopt an ordinance or resolution, whichever is applicable, which:

1. Describes the boundaries of districts and project areas sufficiently definite to identify with ordinary and reasonable certainty the territory included in them;

2. Creates the district as of a date provided in it or defers determination of such date, provided such date must be no more than ten (10) years after the date of approval of the project plan;

3. Assigns a name to the district for identification purposes. The first district created shall be known as either an Incentive District or Increment District Number One, City, Town or County of _____, whichever is applicable. Each subsequently created

1 district shall be appropriately named and shall be assigned the next
2 consecutive number; and

3 4. Contains findings that:

4 a. the project area or district meets at least one of the
5 following criteria:

- 6 (1) is a reinvestment area,
7 (2) is a historic preservation area,
8 (3) is an enterprise area, or
9 (4) is a combination of the areas specified in
10 divisions (1), (2) and (3) of this subparagraph,

11 b. the improvement of the area is likely to enhance the
12 value of other real property in the area and to
13 promote the general public interest. It shall not be
14 necessary to identify the specific parcels meeting the
15 criteria, and

16 c. the guidelines specified in paragraphs 1 and 2 of
17 Section 852 of this title shall be followed,

18 ~~d. the aggregate net assessed value of the taxable~~
19 ~~property in all districts as determined pursuant to~~
20 ~~Section 862 of this title within the city or town~~
21 ~~shall not exceed twenty five percent (25%) of the~~
22 ~~total net assessed value of taxable property within~~
23 ~~the city or town for cities or towns having a~~
24 ~~population of fifty thousand (50,000) or more or shall~~

~~not exceed thirty five percent (35%) of the total net assessed value of taxable property within the city or town for cities or towns having a population of less than fifty thousand (50,000),~~

~~e. for projects approved by a county, the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section 862 of this title within the county shall not exceed fifteen percent (15%) of the total net assessed value of the taxable property within the county,~~

~~f. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section 862 of this title within the city, the town or the county shall not exceed twenty-five percent (25%) of the total net assessed value of any affected school district located within the city, town or county, and~~

~~g. the land area of this district and all other districts within the city, the town or the county shall not exceed twenty five percent (25%) of the total land area of the city, the town or the county.~~

C. It is the intention of the Legislature in adopting the Local Development Act that no long-term contractual obligation be created by the mere adoption of an ordinance or resolution establishing an increment district. Notwithstanding any provision contained in an

1 ordinance, resolution or project plan, an ordinance or resolution
2 establishing an increment district shall constitute a legislative
3 act and may be repealed, modified or amended at any time during the
4 term of the increment district, by subsequent action of the
5 governing body except as otherwise authorized pursuant to Sections
6 854 and 863 of this title; provided, however, that no such ordinance
7 shall be repealed, modified or amended during the time that any
8 bonds payable from incremental revenues are outstanding without the
9 consent of the bondholders, if such bonds are issued pursuant to the
10 provisions of Article X, Section 35 of the Oklahoma Constitution
11 following its amendment by State Question No. 693.

12 D. However, nothing in the Local Development Act shall restrict
13 the ability of:

14 1. Any city, town or county to:

- 15 a. issue debt in accordance with the applicable
16 provisions of Article X of the Oklahoma Constitution,
17 and any statutes enacted in connection therewith, and
- 18 b. use incremental revenues derived from an increment
19 district to pay principal, interest or premium
20 associated with such indebtedness; or

21 2. Any public entity, other than a city, town or county, to:

- 22 a. issue tax apportionment bonds or notes in accordance
23 with Section 863 of this title or to issue other types
24

1 of revenue bonds or notes in accordance with other
2 applicable provisions of Oklahoma law, and
3 b. use incremental revenues derived from an increment
4 district to pay principal, interest or premium
5 associated with such indebtedness.

6 SECTION 2. AMENDATORY 62 O.S. 2011, Section 860, is
7 amended to read as follows:

8 Section 860. A. A project plan may contain a provision that
9 certain local taxes may be subject to incentives or may be exempted
10 in reinvestment areas, historic preservation areas or enterprise
11 areas.

12 B. The governing body may grant incentives or exemptions from
13 local taxation only on the new investment made. No ad valorem tax
14 incentives or exemptions may be granted on the value of property
15 which has been assessed or which is subject to assessment prior to
16 the adoption of the project plan. No ad valorem tax incentives or
17 exemptions authorized in this section may be granted for retail
18 establishments. If a retail establishment is located in property
19 which otherwise qualifies for an incentive or exemption pursuant to
20 this section, the incentive or exemption shall not be allowed for
21 that portion of the property used for such retail establishment. As
22 used in this subsection, "retail establishment" shall not include an
23 establishment that provides lodging, including but not limited to a
24 hotel, apartment hotel, public rooming house or motel. No ad

1 valorem tax incentives or exemptions authorized in this section may
2 be granted if the property is located in an increment district or as
3 long as the property is subject to the ad valorem tax exemption for
4 new or expanding manufacturing facilities as authorized by Section
5 6B of Article X of the Oklahoma Constitution. In the event of
6 disposition by lease or sublease to a lessee not entitled to an ad
7 valorem tax exemption, the improvements placed thereon shall not be
8 entitled to an ad valorem tax exemption provided for in Section 850
9 et seq. of this title. ~~The~~ Except as otherwise provided by this
10 subsection, the incentives or exemptions, which may be full or
11 partial, may be granted for a period not to exceed five (5) years~~;~~
12 ~~however, in enterprise zones incentives or exemptions may be granted~~
13 ~~for a period not to exceed six (6) years.~~ With respect to an
14 establishment the business of which is described by U.S. Industry
15 Number 518210 of the North American Industry Classification System
16 (NAICS) Manual, 2017 revision, such incentives or exemptions may be
17 granted for a period not to exceed twenty-five (25) years.

18 C. No incentives or exemptions may be granted to any business
19 or firm that is relocating from within the state and is subject to
20 or in the process of recruitment by two or more governmental
21 entities within the state unless the governmental entity in which
22 the business or firm does not locate adopts a resolution giving
23 their approval to the granting of incentives or exemptions to the
24 business or firm locating in the competing governmental entity. No

1 incentives or exemptions may be granted to an out-of-state business
2 or firm that is subject to or in the process of recruitment by two
3 or more governmental entities within the state except as otherwise
4 provided for in this subsection. The prohibition against incentives
5 or exemptions to a business or firm relocating within the state may
6 be waived upon application by the governing body to, and approval
7 of, the Director of the Oklahoma Department of Commerce. In order
8 for the Director to approve the waiver, the Director must find that
9 the incentives or exemptions are necessary and sufficient to attract
10 the business or firm and that the benefits generated by the business
11 location outweigh the costs of the business location.

12 D. A project plan may contain a provision that ad valorem taxes
13 may be exempted in a commercial historic preservation area that is
14 adjacent to and serves designated historical residential areas for
15 neighborhood commercial preservation purposes in order for the
16 neighborhood to retain its basic character and scale. No ad valorem
17 tax exemption may be granted on the value of property which has been
18 assessed or which is subject to assessment prior to the adoption of
19 the project plan. No ad valorem tax exemption shall be granted
20 pursuant to the provisions of this subsection for single-family
21 residences. The governing body may grant the exemption only on the
22 increase in value of the property. The exemptions may be granted
23 for a specific period of time as determined by a written agreement
24 between the property owners of the area and the governing body and

1 may be renewed. Uses of the property eligible for this exemption
2 may include but not be limited to commercial, office or multifamily
3 residential use.

4 SECTION 3. AMENDATORY 62 O.S. 2011, Section 866, is
5 amended to read as follows:

6 Section 866. A. There shall be a written agreement between the
7 governing body and the property owners who are granted tax
8 incentives or exemptions pursuant to Section 860 of this title. The
9 written agreement may include, but shall not be limited to, the
10 following:

11 1. ~~List the kind, number, and location~~ A description of all
12 proposed improvements to the property;

13 2. Provide access to and authorize inspection of the property
14 by city, town or county employees to ensure that the improvements or
15 repairs are made according to the specifications and conditions of
16 the agreement;

17 3. Limit the uses of the property consistent with the general
18 purpose of encouraging development or redevelopment of the area
19 during the period that the tax incentives or exemptions or the
20 increment financing are in effect;

21 4. Provide for recapturing the local tax revenue lost as a
22 result of the agreement if the owner of the property fails to make
23 the improvements or repairs as provided by the agreement; and
24

1 5. Include any other requirement deemed by the governing body
2 necessary to carry out the agreement.

3 B. There shall be a written agreement between the governing
4 body and the property owners in historic preservation areas who are
5 granted ad valorem tax exemptions pursuant to subsection D of
6 Section 860 of this title. The written agreement shall include the
7 following:

8 1. List the location of the property;

9 2. Provide access to and authorize inspection of the property
10 by city, town or county employees to ensure that the property is
11 being maintained according to the specifications and conditions of
12 the agreement;

13 3. Limit the uses of the property consistent with the general
14 purpose of encouraging neighborhood commercial preservation of the
15 area during the period that the ad valorem tax exemptions are in
16 effect;

17 4. Provide for recapturing the ad valorem tax revenue lost as a
18 result of the agreement if the owner of the property fails to
19 maintain the property as provided by the agreement;

20 5. Specify the time frame of the agreement including whether
21 renewals can occur, at what time such renewals can occur and under
22 what conditions renewals can occur;

1 6. Specify rehabilitations, preservation efforts and other
2 specific actions that should be taken by the property owners on an
3 individual or collective basis;

4 7. Provide for reciprocal actions by public entities to
5 protect, enhance and improve the commercial historic preservation
6 area and the surrounding residential areas served by such districts;

7 8. Provide review and approval procedures that may be used when
8 usage or ownership of the property changes; and

9 9. Include any other requirement deemed by the governing body
10 necessary to carry out the agreement.

11 C. The governing body shall enter into written agreements with
12 active project participants of increment projects. The written
13 agreement may include, but shall not be limited to, the provisions
14 specified in paragraphs 1 through 5 of subsection A of this section.

15 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2902, as
16 last amended by Section 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp.
17 2020, Section 2902), is amended to read as follows:

18 Section 2902. A. Except as otherwise provided by subsection H
19 of Section 3658 of this title pursuant to which the exemption
20 authorized by this section may not be claimed, a qualifying
21 manufacturing concern, as defined by Section 6B of Article X of the
22 Oklahoma Constitution, and as further defined herein, shall be
23 exempt from the levy of any ad valorem taxes upon new, expanded or
24 acquired manufacturing facilities, including facilities engaged in

1 research and development, for a period of five (5) years. The
2 provisions of Section 6B of Article X of the Oklahoma Constitution
3 requiring an existing facility to have been unoccupied for a period
4 of twelve (12) months prior to acquisition shall be construed as a
5 qualification for a facility to initially receive an exemption, and
6 shall not be deemed to be a qualification for that facility to
7 continue to receive an exemption in each of the four (4) years
8 following the initial year for which the exemption was granted.
9 Such facilities are hereby classified for the purposes of taxation
10 as provided in Section 22 of Article X of the Oklahoma Constitution.

11 B. For purposes of this section, the following definitions
12 shall apply:

13 1. "Manufacturing facilities" means facilities engaged in the
14 mechanical or chemical transformation of materials or substances
15 into new products and except as provided by paragraph ~~8~~ 6 of
16 subsection C of this section shall include:

- 17 a. establishments which have received a manufacturer
18 exemption permit pursuant to the provisions of Section
19 1359.2 of this title,
- 20 b. facilities, including repair and replacement parts,
21 primarily engaged in aircraft repair, building and
22 rebuilding whether or not on a factory basis,
- 23 c. establishments primarily engaged in computer services
24 and data processing as defined under Industrial Group

Numbers 5112 and 5415, and U.S. Industry Number 334611 and 519130 of the NAICS Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 5142 of the NAICS Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer,

- d. ~~for which facilities that~~ the investment cost of the construction, acquisition or expansion ~~of the manufacturing facility is Two Hundred Fifty Thousand Dollars (\$250,000.00)~~ Five Hundred Thousand Dollars

1 (\$500,000.00) or more with respect to assets placed
2 into service during calendar year 2022. For
3 subsequent calendar years, the investment required
4 shall be increased annually by a percentage equal to
5 the previous year's increase in the Consumer Price
6 Index-All Urban Consumers ("CPI-U") and such adjusted
7 amount shall be the required investment cost in order
8 to qualify for the exemption authorized by this
9 section. The Oklahoma Department of Commerce shall
10 determine the amount of the increase, if any, on
11 January 1 of each year. The Oklahoma Tax Commission
12 shall publish on its website at least annually the
13 adjusted dollar amount in order to qualify for the
14 exemption authorized by this section and shall include
15 the adjusted dollar amount in any of its relevant
16 forms or publications with respect to the exemption.
17 Provided, "investment cost" shall not include the cost
18 of direct replacement, refurbishment, repair or
19 maintenance of existing machinery or equipment, except
20 that "investment cost" shall include capital
21 expenditures for direct replacement, refurbishment,
22 repair or maintenance of existing machinery or
23 equipment that qualifies for depreciation and/or
24 amortization pursuant to the Internal Revenue Code of

1 1986, as amended, and such expenditures shall be
2 eligible as a part of an "expansion" that otherwise
3 qualifies under this section, ~~and~~

4 e. establishments primarily engaged in distribution as
5 defined under Industry Numbers 49311, 49312, 49313 and
6 49319 and Industry Sector Number 42 of the NAICS
7 Manual, latest revision, and which meet the following
8 qualifications:

9 (1) construction with an initial capital investment
10 of at least Five Million Dollars (\$5,000,000.00),

11 (2) employment of at least one hundred (100) full-
12 time-equivalent employees, as certified by the
13 Oklahoma Employment Security Commission,

14 (3) payment of wages or salaries to its employees at
15 a wage which equals or exceeds ~~one hundred~~
16 ~~seventy-five percent (175%) of the federally~~
17 ~~mandated minimum wage, as certified by the~~
18 ~~Oklahoma Employment Security Commission the~~
19 average wage requirements in the Oklahoma Quality
20 Jobs Program Act for the year in which the real
21 property was placed into service, and

22 (4) commencement of construction on or after November
23 1, 2007, with construction to be completed within
24

three (3) years from the date of the commencement
of construction,

f. facilities engaged in the manufacturing, compounding,
processing or fabrication of materials into articles
of tangible personal property according to the special
order of a customer (custom order manufacturing) by
manufacturers classified as operating in North
American Industry Classification System (NAICS)
Sectors 32 and 33, but does not include such custom
order manufacturing by manufacturers classified in
other NAICS code sectors, and

g. with respect to any entity making an application for
the exemption authorized by this section on or after
January 1, 2022, the establishment making application
for exempt treatment of real or personal property
acquired or improved beginning January 1, 2022, and
for any calendar year thereafter, the entity shall be
required to pay new direct jobs, as defined by Section
3603 of this title for purposes of the Oklahoma
Quality Jobs Program Act, an average annualized wage
which equals or exceeds the average wage requirement
in the Oklahoma Quality Jobs Program Act for the year
in which the real or personal property was placed into
service. The Oklahoma Tax Commission may request

1 verification from the Oklahoma Department of Commerce
2 that an establishment seeking an exemption for real or
3 personal property pays an average annualized wage that
4 equals or exceeds the average wage requirement in
5 effect for the year in which the real or personal
6 property was placed into service.

7 Eligibility as a manufacturing facility pursuant to this
8 subparagraph shall be established, subject to review by the Tax
9 Commission, by annually filing an affidavit with the Tax Commission
10 stating that the facility so qualifies and containing such other
11 information as required by the Tax Commission.

12 Provided, eating and drinking places, as well as other retail
13 establishments, shall not qualify as manufacturing facilities for
14 purposes of this section, nor shall centrally assessed properties.

15 Eligibility as a manufacturing facility pursuant to this
16 subparagraph shall be established, subject to review by the Tax
17 Commission, by annually filing an application with the Tax
18 Commission stating that the facility so qualifies and containing
19 such other information as required by the Tax Commission;

20 2. "Facility" and "facilities", except as otherwise provided by
21 this section, means and includes the land, buildings, structures,
22 and improvements used directly and exclusively in the manufacturing
23 process. Effective January 1, 2022, and for each calendar year
24 thereafter, for establishments which have received a manufacturer

1 exemption permit pursuant to the provisions of Section 1359.2 of
2 this title, or facilities engaged in manufacturing activities
3 defined or classified in the NAICS Manual under Industry Nos. 311111
4 through 339999, inclusive, but for no other establishments, facility
5 and facilities means and includes the land, buildings, structures,
6 improvements, machinery, fixtures, equipment and other personal
7 property used directly and exclusively in the manufacturing process;
8 and

9 3. "Research and development" means activities directly related
10 to and conducted for the purpose of discovering, enhancing,
11 increasing or improving future or existing products or processes or
12 productivity.

13 C. The following provisions shall apply:

14 1. A manufacturing concern shall be entitled to the exemption
15 herein provided for each new manufacturing facility constructed,
16 each existing manufacturing facility acquired and the expansion of
17 existing manufacturing facilities on the same site, as such terms
18 are defined by Section 6B of Article X of the Oklahoma Constitution
19 and by this section;

20 2. ~~Except as otherwise provided in paragraph 5 of this~~
21 ~~subsection, no~~ No manufacturing concern shall receive more than one
22 five-year exemption for any one manufacturing facility unless the
23 expansion which qualifies the manufacturing facility for an
24 additional five-year exemption meets the requirements of paragraph 4

1 of this subsection and the employment level established for any
2 previous exemption is maintained;

3 3. Any exemption as to the expansion of an existing
4 manufacturing facility shall be limited to the increase in ad
5 valorem taxes directly attributable to the expansion;

6 4. ~~Except as provided in paragraphs 5 and 6 of this subsection,~~
7 ~~all~~ All initial applications for any exemption for a new, acquired
8 or expanded manufacturing facility shall be granted only if:

- 9 a. there is a net increase in annualized base payroll
10 over the initial payroll of at least Two Hundred Fifty
11 Thousand Dollars (\$250,000.00) if the facility is
12 located in a county with a population of fewer than
13 seventy-five thousand (75,000), according to the most
14 recent Federal Decennial Census, while maintaining or
15 increasing base payroll in subsequent years, or at
16 least One Million Dollars (\$1,000,000.00) if the
17 facility is located in a county with a population of
18 seventy-five thousand (75,000) or more, according to
19 the most recent Federal Decennial Census, while
20 maintaining or increasing base payroll in subsequent
21 years; provided the payroll requirement of this
22 subparagraph shall be waived for claims for
23 exemptions, including claims previously denied or on
24 appeal on March 3, 2010, for all initial applications

1 for exemption filed on or after January 1, 2004, and
2 on or before March 31, 2009, and all subsequent annual
3 exemption applications filed related to the initial
4 application for exemption, for an applicant, if the
5 facility has been located in Oklahoma for at least
6 fifteen (15) years engaged in marine engine
7 manufacturing as defined under U.S. Industry Number
8 333618 of the NAICS Manual, latest revision, and has
9 maintained an average employment of five hundred (500)
10 or more full-time-equivalent employees over a ten-year
11 period. Any applicant that qualifies for the payroll
12 requirement waiver as outlined in the previous
13 sentence and subsequently closes its Oklahoma
14 manufacturing plant prior to January 1, 2012, may be
15 disqualified for exemption and subject to recapture.
16 For an applicant engaged in paperboard manufacturing
17 as defined under U.S. Industry Number 322130 of the
18 NAICS Manual, latest revision, union master payouts
19 paid by the buyer of the facility to specified
20 individuals employed by the facility at the time of
21 purchase, as specified under the purchase agreement,
22 shall be excluded from payroll for purposes of this
23 section.
24

1 In order to provide certainty with respect to
2 investments in manufacturing facilities pertaining to
3 all initial applications for exemption filed on or
4 after January 1, 2016, the following definitions shall
5 apply:

6 (1) "base payroll" shall mean total payroll adjusted
7 for any nonrecurring bonuses, exercise of stock
8 option or stock rights and other nonrecurring,
9 extraordinary items included in total payroll,
10 and

11 (2) "initial payroll" shall mean base payroll for the
12 year immediately preceding the initial
13 construction, acquisition or expansion.

14 The Tax Commission shall verify payroll information
15 through the Oklahoma Employment Security Commission by
16 using reports from the Oklahoma Employment Security
17 Commission for the calendar year immediately preceding
18 the year for which initial application is made for
19 base-line payroll, which must be maintained or
20 increased for each subsequent year; provided, a
21 manufacturing facility shall have the option of
22 excluding from its payroll, for purposes of this
23 section:
24

- i. payments to sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or stockholder-employees of a corporation who own at least ten percent (10%) of the stock in the corporation, and
- ii. any nonrecurring bonuses, exercise of stock option or stock rights or other nonrecurring, extraordinary items included in total payroll numbers as reported by the Oklahoma Employment Security Commission. A manufacturing facility electing either option shall indicate such election upon its application for an exemption under this section. Any manufacturing facility electing either option shall submit such information as the Tax Commission may require in order to verify payroll information. Payroll information submitted pursuant to the provisions of this paragraph shall be submitted to

1 the Tax Commission and shall be subject
2 to the provisions of Section 205 of
3 this title, and

4 b. the facility offers, or will offer within one hundred
5 eighty (180) days of the date of employment, a basic
6 health benefits plan to the full-time-equivalent
7 employees of the facility, which is determined by the
8 Department of Commerce to consist of the elements
9 specified in subparagraph b of paragraph 1 of
10 subsection A of Section 3603 of this title or elements
11 substantially equivalent thereto.

12 For purposes of this section, calculation of the amount of
13 increased base payroll shall be measured from the start of initial
14 construction or expansion to the completion of such construction or
15 expansion or for three (3) years from the start of initial
16 construction or expansion, whichever occurs first. The amount of
17 increased base payroll shall include payroll for full-time-
18 equivalent employees in this state who are employed by an entity
19 other than the facility which has previously or is currently
20 qualified to receive an exemption pursuant to the provisions of this
21 section and who are leased or otherwise provided to the facility, if
22 such employment did not exist in this state prior to the start of
23 initial construction or expansion of the facility. The
24 manufacturing concern shall submit an affidavit to the Tax

1 Commission, signed by an officer, stating that the construction,
2 acquisition or expansion of the facility will result in a net
3 increase in the annualized base payroll as required by this
4 paragraph and that full-time-equivalent employees of the facility
5 are or will be offered a basic health benefits plan as required by
6 this paragraph. If, after the completion of such construction or
7 expansion or after three (3) years from the start of initial
8 construction or expansion, whichever occurs first, the construction,
9 acquisition or expansion has not resulted in a net increase in the
10 amount of annualized base payroll, if required, or any other
11 qualification specified in this paragraph has not been met, the
12 manufacturing concern shall pay an amount equal to the amount of any
13 exemption granted, including penalties and interest thereon, to the
14 Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

15 ~~5. If a facility fails to meet the base payroll requirement of~~
16 ~~subparagraph a of paragraph 4 of this subsection, the payroll~~
17 ~~requirement shall be waived for claims for exemptions, including~~
18 ~~claims previously denied or on appeal on June 1, 2009, for all~~
19 ~~initial applications for exemption filed on or after January 1,~~
20 ~~2004, and on or before March 31, 2009, and all subsequent annual~~
21 ~~exemption applications filed related to such initial application for~~
22 ~~exemption, for an applicant, if the facility:~~

23

24

- ~~a. has been located for at least five (5) years as of March 31, 2009, in a county in Oklahoma with a population of six hundred thousand (600,000) or more,~~
- ~~b. is owned by an applicant that has been engaged in manufacturing as defined under U.S. Industry Numbers 323110, 323111, 323121 and 323122 of the NAICS Manual, latest revision,~~
- ~~c. is owned by an applicant that maintains a workforce of at least three hundred (300) employees on June 1, 2009,~~
- ~~d. is owned by an applicant that has filed multiple applications for exemption pursuant to this section, and~~
- ~~e. is owned by an applicant that operates at least one facility in this state of at least seven hundred thirty thousand (730,000) square feet on June 1, 2009.~~

~~In the event that any applicant obtaining a waiver of the payroll requirement pursuant to this paragraph ceases to operate all of its facilities in this state on or before a date that is four (4) years after any initial application for an exemption is filed by such applicant, all sums of property taxes exempted under this paragraph through a waiver of the payroll requirement that relate to such application shall become due and payable as if such sums were~~

1 ~~assessed in the year in which the applicant ceases to operate all of~~
2 ~~its facilities in the state;~~

3 ~~6. Any new, acquired or expanded automotive final assembly~~
4 ~~manufacturing facility which does not meet the requirements of~~
5 ~~paragraph 4 of this subsection shall be granted an exemption only if~~
6 ~~all other requirements of this section are met and only if the~~
7 ~~investment cost of the construction, acquisition or expansion of the~~
8 ~~manufacturing facility is Three Hundred Million Dollars~~
9 ~~(\$300,000,000.00) or more and the manufacturing facility retains an~~
10 ~~average employment of one thousand seven hundred fifty (1,750) or~~
11 ~~more full-time-equivalent employees in the year in which the~~
12 ~~exemption is initially granted and in each of the four (4)~~
13 ~~subsequent years only if an average employment of one thousand seven~~
14 ~~hundred fifty (1,750) or more full-time-equivalent employees is~~
15 ~~maintained in the subsequent year. Any property installed to~~
16 ~~replace property damaged by the tornado or natural disaster that~~
17 ~~occurred May 8, 2003, may continue to receive the exemption provided~~
18 ~~in this paragraph for the full five-year period based on the value~~
19 ~~of the previously qualifying assets as of January 1, 2003. The~~
20 ~~exemption shall continue in effect as long as all other~~
21 ~~qualifications in this paragraph are met. If the average employment~~
22 ~~of one thousand seven hundred fifty (1,750) or more full-time-~~
23 ~~equivalent employees is reduced as a result of temporary layoffs~~
24 ~~because of a tornado or natural disaster on May 8, 2003, then the~~

1 ~~average employment requirement shall be waived for year 2003 of the~~
2 ~~exemption period. Calculation of the number of employees shall be~~
3 ~~made in the same manner as required under Section 2357.4 of this~~
4 ~~title for an investment tax credit. As used in this paragraph,~~
5 ~~"expand" and "expansion" shall mean and include any increase to the~~
6 ~~size or scope of a facility as well as any renovation, restoration,~~
7 ~~replacement or remodeling of a facility which permits the~~
8 ~~manufacturing of a new or redesigned product;~~

9 ~~7. Any~~ Except as otherwise provided by this paragraph, any new,
10 acquired, or expanded computer data processing, data preparation, or
11 information processing services provider classified in Industrial
12 Group Number 7374 of the SIC Manual, latest revision, and U.S.
13 Industry Number 514210 518210 of the North American Industrial
14 Classification System (NAICS) Manual, latest 2017 revision, may
15 apply for exemptions under this section for each year in which new,
16 acquired, or expanded capital improvements to the facility are made
17 for assets placed in service not later than December 31, 2021, if:

- 18 a. there is a net increase in annualized payroll of the
19 applicant at any facility or facilities of the
20 applicant in this state of at least Two Hundred Fifty
21 Thousand Dollars (\$250,000.00), which is attributable
22 to the capital improvements, or a net increase of
23 Seven Million Dollars (\$7,000,000.00) or more in
24 capital improvements, while maintaining or increasing

1 payroll at the facility or facilities in this state
2 which are included in the application, and
3 b. the facility offers, or will offer within one hundred
4 eighty (180) days of the date of employment of new
5 employees attributable to the capital improvements, a
6 basic health benefits plan to the full-time-equivalent
7 employees of the facility, which is determined by the
8 Department of Commerce to consist of the elements
9 specified in subparagraph b of paragraph 1 of
10 subsection A of Section 3603 of this title or elements
11 substantially equivalent thereto.

12 An establishment described by this paragraph, the primary
13 business activity of which is described by Industry No. 518210 of
14 the North American Industry Classification System (NAICS) Manual,
15 2017 revision, that has applied for and been granted an exemption
16 for personal property at any time within five (5) years prior to the
17 effective date of this act, may apply for exemptions for items of
18 personal property to be located within improvements to real property
19 owned by the establishment and such real property and improvements
20 having been exempt from ad valorem taxation prior to the effective
21 date of this act pursuant to the provisions of this section if such
22 personal property is placed in service not later than December 31,
23 2036. No additional personal property of such establishment placed
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1 in service after such date shall qualify for the exempt treatment
2 otherwise authorized pursuant to this paragraph;

3 ~~8.~~ 6. Effective January 1, 2017, an entity engaged in electric
4 power generation by means of wind, as described by the North
5 American Industry Classification System, No. 221119, shall not be
6 defined as a qualifying manufacturing concern for purposes of the
7 exemption otherwise authorized pursuant to Section 6B of Article X
8 of the Oklahoma Constitution or qualify as a "manufacturing
9 facility" as defined in this section. No initial application for
10 exemption shall be filed by or accepted from an entity engaged in
11 electric power generation by means of wind on or after January 1,
12 2018; and

13 ~~9.~~ 7. An entity or applicant engaged in an industry as defined
14 under U.S. Industry Number 324110 of the NAICS Manual, latest
15 revision, which has applied for or been granted an exemption for a
16 time period which began on or after calendar year 2012 and before
17 calendar year 2016 but which did not meet the payroll requirements
18 of subparagraph a of paragraph 4 of this subsection because of
19 nonrecurring bonuses, exercise of stock option or stock rights or
20 other nonrecurring, extraordinary items included in total payroll in
21 the previous year, shall be allowed an exemption, beginning with
22 calendar year 2016, for the number of years, including the calendar
23 year for which the exemption was denied, remaining in the entity's
24 five-year exemption period, provided such entity attains or

1 increases payroll at or above the initial or base payroll
2 established for the exemption.

3 D. 1. Except as provided in paragraph 2 of this subsection,
4 the five-year period of exemption from ad valorem taxes for any
5 qualifying manufacturing facility property shall begin on January 1
6 following the initial qualifying use of the property in the
7 manufacturing process.

8 2. The five-year period of exemption from ad valorem taxes for
9 any qualifying manufacturing facility, as specified in subparagraphs
10 a and b of this paragraph, which is located within a tax incentive
11 district created pursuant to the Local Development Act by a county
12 having a population of at least five hundred thousand (500,000),
13 according to the most recent Federal Decennial Census, shall begin
14 on January 1 following the expiration or termination of the ad
15 valorem exemption, abatement, or other incentive provided through
16 the tax incentive district. Facilities qualifying pursuant to this
17 subsection shall include:

- 18 a. a manufacturing facility as defined in subparagraph c
19 of paragraph 1 of subsection B of this section, and
20 b. an establishment primarily engaged in distribution as
21 defined under Industry Number 49311 of the North
22 American Industry Classification System for which the
23 initial capital investment was at least One Hundred
24 Eighty Million Dollars (\$180,000,000.00); provided,

1 that the qualifying job creation and depreciable
2 property investment occurred prior to calendar year
3 2017 but not earlier than calendar year 2013.

4 E. Any person, firm or corporation claiming the exemption
5 herein provided for shall file each year for which exemption is
6 claimed, an application therefor with the county assessor of the
7 county in which the new, expanded or acquired facility is located.
8 The application shall be on a form or forms prescribed by the Tax
9 Commission, and shall be filed on or before March 15, except as
10 provided in Section 2902.1 of this title, of each year in which the
11 facility desires to take the exemption or within thirty (30) days
12 from and after receipt by such person, firm or corporation of notice
13 of valuation increase, whichever is later. In a case where
14 completion of the facility or facilities will occur after January 1
15 of a given year, a facility may apply to claim the ad valorem tax
16 exemption for that year. If such facility is found to be qualified
17 for exemption, the ad valorem tax exemption provided for herein
18 shall be granted for that entire year and shall apply to the ad
19 valorem valuation as of January 1 of that given year. For
20 applicants which qualify under the provisions of subparagraph b of
21 paragraph 1 of subsection B of this section, the application shall
22 include a copy of the affidavit and any other information required
23 to be filed with the Tax Commission.

1 F. The application shall be examined by the county assessor and
2 approved or rejected in the same manner as provided by law for
3 approval or rejection of claims for homestead exemptions. The
4 taxpayer shall have the same right of review by and appeal from the
5 county board of equalization, in the same manner and subject to the
6 same requirements as provided by law for review and appeals
7 concerning homestead exemption claims. Approved applications shall
8 be filed by the county assessor with the Tax Commission no later
9 than June 15, except as provided in Section 2902.1 of this title, of
10 the year in which the facility desires to take the exemption.
11 Incomplete applications and applications filed after June 15 will be
12 declared null and void by the Tax Commission. In the event that a
13 taxpayer qualified to receive an exemption pursuant to the
14 provisions of this section shall make payment of ad valorem taxes in
15 excess of the amount due, the county treasurer shall have the
16 authority to credit the taxpayer's real or personal property tax
17 overpayment against current taxes due. The county treasurer may
18 establish a schedule of up to five (5) years of credit to resolve
19 the overpayment.

20 G. Nothing herein shall in any manner affect, alter or impair
21 any law relating to the assessment of property, and all property,
22 real or personal, which may be entitled to exemption hereunder shall
23 be valued and assessed as is other like property and as provided by
24 law. The valuation and assessment of property for which an

1 exemption is granted hereunder shall be performed by the Tax
2 Commission using one or more of the cost, income and expense and
3 sales comparison approaches to estimate fair cash value in
4 accordance with the Uniform Standards of Professional Appraisal
5 Practice.

6 H. The Tax Commission shall have the authority and duty to
7 prescribe forms and to promulgate rules as may be necessary to carry
8 out and administer the terms and provisions of this section.

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

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