

OKLAHOMA STATE SENATE  
GENERAL CONFERENCE COMMITTEE ON APPROPRIATIONS  
COMMITTEE REPORT

May 10, 2021

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB609

By: Coleman et al of the Senate and Hilbert of the House

Title: Taxation; Local Development Act; project plans; incentives; exemptions; modifying definition of manufacturing facilities; removing exceptions for failure to meet certain payroll requirements. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

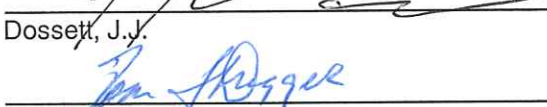
Respectfully submitted,

SENATE CONFEREES:

  
Thompson

  
Hall

  
Brooks

  
Dossett, J.J.

  
Dugger

  
Floyd


  
Haste

Kirt

Matthews

  
Montgomery

Newhouse

  
Pederson

Pemberton

  
Rader

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

Brent Howard  
Howard  
Jech  
Kidd

Rosino  
Simpson  
Weaver

HOUSE CONFEREES:

General Conference Committee on Appropriations

## SB609 CCR (A)

**HOUSE CONFEREES**

Baker, Rhonda



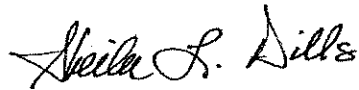
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Blancett, Meloyde

Boatman, Jeff



Dills, Sheila

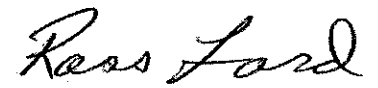


Echols, Jon

Fetgatter, Scott



Ford, Ross

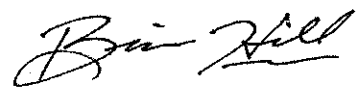


Goodwin, Regina

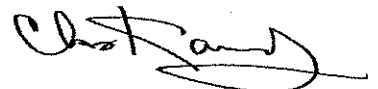
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Hill, Brian



Kannady, Chris



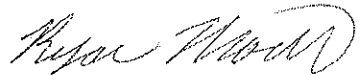
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Lepak, Mark



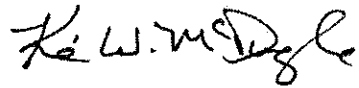
Martinez, Ryan



McBride, Mark



McDugle, Kevin



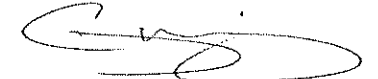
McEntire, Marcus



Miller, Nicole



Mize, Garry



Munson, Cyndi

Newton, Carl

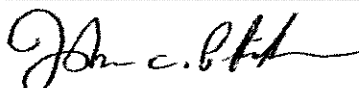


Nichols, Monroe

Osburn, Mike



Pfeiffer, John



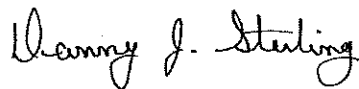
Roberts, Dustin



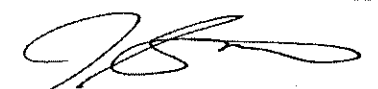
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Russ, Todd

Sterling, Danny



Strom, Judd



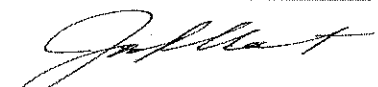
Virgin, Emily

Walke, Collin

Wallace, Kevin



West, Josh



West, Tammy



STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED

SENATE BILL NO. 609

By: Coleman, Hall and Kirt of  
the Senate

and

Hilbert of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to incentives and exemptions;  
amending 62 O.S. 2011, Sections 856, 860 and 866,  
which relate to the Local Development Act; providing  
exception to required content of project plans;  
modifying provisions related to duration of certain  
districts based on certain industry description;  
modifying requirements for certain written agreement;  
amending 68 O.S. 2011, Section 2902, as last amended  
by Section 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp.  
2020, Section 2902), which relates to exemption for  
manufacturing facilities; modifying definitions;  
modifying eligibility for exemption based on certain  
industry description; providing exception for certain  
personal 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; providing  
application for personal property exemption for  
certain industries that have been granted certain  
real property exemption; providing waiver of certain  
payroll requirement; requiring the Commission use  
certain approach when performing assessment; and  
providing an effective date.

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

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

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

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

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

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

22 3. Assigns a name to the district for identification purposes.  
23 The first district created shall be known as either an Incentive  
24 District or Increment District Number One, City, Town or County of

\_\_\_\_\_, whichever is applicable. Each subsequently created district shall be appropriately named and shall be assigned the next consecutive number; and

4. Contains findings that:

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

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

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

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

d. the aggregate net assessed value of the taxable property in all districts as determined pursuant to Section 862 of this title within the city or town shall not exceed twenty-five percent (25%) of the total net assessed value of taxable property within the city or town for cities or towns having a

1 population of fifty thousand (50,000) or more or shall  
2 not exceed thirty-five percent (35%) of the total net  
3 assessed value of taxable property within the city or  
4 town for cities or towns having a population of less  
5 than fifty thousand (50,000),

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

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

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

22 For districts that are wholly or partially comprised or become  
23 comprised of industries operating under NAICS code 518210, the  
24

1 provisions of subparagraphs d through g of this paragraph shall not  
2 apply.

3 C. It is the intention of the Legislature in adopting the Local  
4 Development Act that no long-term contractual obligation be created  
5 by the mere adoption of an ordinance or resolution establishing an  
6 increment district. Notwithstanding any provision contained in an  
7 ordinance, resolution or project plan, an ordinance or resolution  
8 establishing an increment district shall constitute a legislative  
9 act and may be repealed, modified or amended at any time during the  
10 term of the increment district, by subsequent action of the  
11 governing body except as otherwise authorized pursuant to Sections  
12 854 and 863 of this title; provided, however, that no such ordinance  
13 shall be repealed, modified or amended during the time that any  
14 bonds payable from incremental revenues are outstanding without the  
15 consent of the bondholders, if such bonds are issued pursuant to the  
16 provisions of Article X, Section 35 of the Oklahoma Constitution  
17 following its amendment by State Question No. 693.

18 D. However, nothing in the Local Development Act shall restrict  
19 the ability of:

20 1. Any city, town or county to:

21 a. issue debt in accordance with the applicable  
22 provisions of Article X of the Oklahoma Constitution,  
23 and any statutes enacted in connection therewith, and  
24



1           b.    use incremental revenues derived from an increment  
2                district to pay principal, interest or premium  
3                associated with such indebtedness; or

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

5           a.    issue tax apportionment bonds or notes in accordance  
6                with Section 863 of this title or to issue other types  
7                of revenue bonds or notes in accordance with other  
8                applicable provisions of Oklahoma law, and

9           b.    use incremental revenues derived from an increment  
10                district to pay principal, interest or premium  
11                associated with such indebtedness.

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

14       Section 860.   A.   A project plan may contain a provision that  
15   certain local taxes may be subject to incentives or may be exempted  
16   in reinvestment areas, historic preservation areas or enterprise  
17   areas.

18       B.   The governing body may grant incentives or exemptions from  
19   local taxation only on the new investment made.   No ad valorem tax  
20   incentives or exemptions may be granted on the value of property  
21   which has been assessed or which is subject to assessment prior to  
22   the adoption of the project plan.   No ad valorem tax incentives or  
23   exemptions authorized in this section may be granted for retail  
24   establishments.   If a retail establishment is located in property

1 | which otherwise qualifies for an incentive or exemption pursuant to  
2 | this section, the incentive or exemption shall not be allowed for  
3 | that portion of the property used for such retail establishment. As  
4 | used in this subsection, "retail establishment" shall not include an  
5 | establishment that provides lodging, including but not limited to a  
6 | hotel, apartment hotel, public rooming house or motel. No ad  
7 | valorem tax incentives or exemptions authorized in this section may  
8 | be granted if the property is located in an increment district or as  
9 | long as the property is subject to the ad valorem tax exemption for  
10 | new or expanding manufacturing facilities as authorized by Section  
11 | 6B of Article X of the Oklahoma Constitution. In the event of  
12 | disposition by lease or sublease to a lessee not entitled to an ad  
13 | valorem tax exemption, the improvements placed thereon shall not be  
14 | entitled to an ad valorem tax exemption provided for in Section 850  
15 | et seq. of this title. The Except as otherwise provided by this  
16 | subsection, the incentives or exemptions, which may be full or  
17 | partial, may be granted for a period not to exceed five (5) years,  
18 | ~~however, in enterprise zones incentives or exemptions may be granted~~  
19 | ~~for a period not to exceed six (6) years.~~ With respect to an  
20 | establishment, the business of which is described by U.S. Industry  
21 | Number 518210 of the North American Industry Classification System  
22 | (NAICS) Manual, 2017 revision, such incentives or exemptions may be  
23 | granted for a period not to exceed twenty-five (25) years.  
24 |

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

19 D. A project plan may contain a provision that ad valorem taxes  
20 may be exempted in a commercial historic preservation area that is  
21 adjacent to and serves designated historical residential areas for  
22 neighborhood commercial preservation purposes in order for the  
23 neighborhood to retain its basic character and scale. No ad valorem  
24 tax exemption may be granted on the value of property which has been

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

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

13 Section 866. A. There shall be a written agreement between the  
14 governing body and the property owners who are granted tax  
15 incentives or exemptions pursuant to Section 860 of this title. The  
16 written agreement may include, but shall not be limited to, the  
17 following:

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

20 2. Provide access to and authorize inspection of the property  
21 by city, town or county employees to ensure that the improvements or  
22 repairs are made according to the specifications and conditions of  
23 the agreement;

24

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

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

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

10       B. There shall be a written agreement between the governing  
11 body and the property owners in historic preservation areas who are  
12 granted ad valorem tax exemptions pursuant to subsection D of  
13 Section 860 of this title. The written agreement shall include the  
14 following:

15       1. List the location of the property;

16       2. Provide access to and authorize inspection of the property  
17 by city, town or county employees to ensure that the property is  
18 being maintained according to the specifications and conditions of  
19 the agreement;

20       3. Limit the uses of the property consistent with the general  
21 purpose of encouraging neighborhood commercial preservation of the  
22 area during the period that the ad valorem tax exemptions are in  
23 effect;

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

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

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

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

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

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

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

21 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2902, as  
22 last amended by Section 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp.  
23 2020, Section 2902), is amended to read as follows:  
24

1       Section 2902. A. Except as otherwise provided by subsection H  
2 of Section 3658 of this title pursuant to which the exemption  
3 authorized by this section may not be claimed, a qualifying  
4 manufacturing concern, as defined by Section 6B of Article X of the  
5 Oklahoma Constitution, and as further defined herein, shall be  
6 exempt from the levy of any ad valorem taxes upon new, expanded or  
7 acquired manufacturing facilities, including facilities engaged in  
8 research and development, for a period of five (5) years. The  
9 provisions of Section 6B of Article X of the Oklahoma Constitution  
10 requiring an existing facility to have been unoccupied for a period  
11 of twelve (12) months prior to acquisition shall be construed as a  
12 qualification for a facility to initially receive an exemption, and  
13 shall not be deemed to be a qualification for that facility to  
14 continue to receive an exemption in each of the four (4) years  
15 following the initial year for which the exemption was granted.  
16 Such facilities are hereby classified for the purposes of taxation  
17 as provided in Section 22 of Article X of the Oklahoma Constitution.

18       B. For purposes of this section, the following definitions  
19 shall apply:

20       1. "Manufacturing facilities" means facilities engaged in the  
21 mechanical or chemical transformation of materials or substances  
22 into new products and except as provided by paragraph & 6 of  
23 subsection C of this section shall include:  
24

- 1           a.    establishments which have received a manufacturer  
2                exemption permit pursuant to the provisions of Section  
3                1359.2 of this title,
- 4           b.    facilities, including repair and replacement parts,  
5                primarily engaged in aircraft repair, building and  
6                rebuilding whether or not on a factory basis,
- 7           c.    establishments primarily engaged in computer services  
8                and data processing as defined under Industrial Group  
9                Numbers 5112 and 5415, and U.S. Industry Number 334611  
10              and 519130 of the NAICS Manual, latest revision, and  
11              which derive at least fifty percent (50%) of their  
12              annual gross revenues from the sale of a product or  
13              service to an out-of-state buyer or consumer, and as  
14              defined under Industrial Group Number ~~5142~~ 5182 of the  
15              NAICS Manual, latest revision, which derive at least  
16              eighty percent (80%) of their annual gross revenues  
17              from the sale of a product or service to an out-of-  
18              state buyer or consumer. Eligibility as a  
19              manufacturing facility pursuant to this subparagraph  
20              shall be established, subject to review by the  
21              Oklahoma Tax Commission, by annually filing an  
22              affidavit with the Tax Commission stating that the  
23              facility so qualifies and such other information as  
24              required by the Tax Commission. For purposes of



1 determining whether annual gross revenues are derived  
2 from sales to out-of-state buyers, all sales to the  
3 federal government shall be considered to be an out-  
4 of-state buyer,

- 5 d. ~~for which facilities that~~ the investment cost of the  
6 construction, acquisition or expansion ~~of the~~  
7 ~~manufacturing facility is Two Hundred Fifty Thousand~~  
8 ~~Dollars (\$250,000.00)~~ Five Hundred Thousand Dollars  
9 (\$500,000.00) or more with respect to assets placed  
10 into service during calendar year 2022. For  
11 subsequent calendar years, the investment required  
12 shall be increased annually by a percentage equal to  
13 the previous year's increase in the Consumer Price  
14 Index-All Urban Consumers ("CPI-U") and such adjusted  
15 amount shall be the required investment cost in order  
16 to qualify for the exemption authorized by this  
17 section. The Oklahoma Department of Commerce shall  
18 determine the amount of the increase, if any, on  
19 January 1 of each year. The Oklahoma Tax Commission  
20 shall publish on its website at least annually the  
21 adjusted dollar amount in order to qualify for the  
22 exemption authorized by this section and shall include  
23 the adjusted dollar amount in any of its relevant  
24 forms or publications with respect to the exemption.

1            Provided, "investment cost" shall not include the cost  
2            of direct replacement, refurbishment, repair or  
3            maintenance of existing machinery or equipment, except  
4            that "investment cost" shall include capital  
5            expenditures for direct replacement, refurbishment,  
6            repair or maintenance of existing machinery or  
7            equipment that qualifies for depreciation and/or  
8            amortization pursuant to the Internal Revenue Code of  
9            1986, as amended, and such expenditures shall be  
10           eligible as a part of an "expansion" that otherwise  
11           qualifies under this section, and

12           e.    establishments primarily engaged in distribution as  
13           defined under Industry Numbers 49311, 49312, 49313 and  
14           49319 and Industry Sector Number 42 of the NAICS  
15           Manual, latest revision, and which meet the following  
16           qualifications:

- 17           (1)    construction with an initial capital investment  
18           of at least Five Million Dollars (\$5,000,000.00),  
19           (2)    employment of at least one hundred (100) full-  
20           time-equivalent employees, as certified by the  
21           Oklahoma Employment Security Commission,  
22           (3)    payment of wages or salaries to its employees at  
23           a wage which equals or exceeds ~~one hundred~~  
24           ~~seventy five percent (175%) of the federally~~

1                   ~~mandated minimum wage, as certified by the~~  
2                   ~~Oklahoma Employment Security Commission the~~  
3                   average wage requirements in the Oklahoma Quality  
4                   Jobs Program Act for the year in which the real  
5                   property was placed into service, and

6           (4) commencement of construction on or after November  
7               1, 2007, with construction to be completed within  
8               three (3) years from the date of the commencement  
9               of construction,

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

19       g. with respect to any entity making an application for  
20       the exemption authorized by this section on or after  
21       January 1, 2023, the establishment making application  
22       for exempt treatment of real or personal property  
23       acquired or improved beginning January 1, 2022, and  
24       for any calendar year thereafter, the entity shall be

1       required to pay new direct jobs, as defined by Section  
2       3603 of this title for purposes of the Oklahoma  
3       Quality Jobs Program Act, an average annualized wage  
4       which equals or exceeds the average wage requirement  
5       in the Oklahoma Quality Jobs Program Act for the year  
6       in which the real or personal property was placed into  
7       service. The Oklahoma Tax Commission may request  
8       verification from the Oklahoma Department of Commerce  
9       that an establishment seeking an exemption for real or  
10       personal property pays an average annualized wage that  
11       equals or exceeds the average wage requirement in  
12       effect for the year in which the real or personal  
13       property was placed into service. For purposes of  
14       this subparagraph, it shall not be necessary for the  
15       establishment to qualify for incentive payments  
16       pursuant to the Oklahoma Quality Jobs Program Act, but  
17       the establishment shall be subject to the wage  
18       requirements of the Oklahoma Quality Jobs Program Act  
19       with respect to new direct jobs in order to qualify  
20       for the exempt treatment authorized by this section.

21       Eligibility as a manufacturing facility pursuant to this  
22       subparagraph shall be established, subject to review by the Tax  
23       Commission, by annually filing an affidavit with the Tax Commission  
24

1 stating that the facility so qualifies and containing such other  
2 information as required by the Tax Commission.

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

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

11        2. "Facility" and "facilities", except as otherwise provided by  
12 this section, means and includes the land, buildings, structures,  
13 and improvements used directly and exclusively in the manufacturing  
14 process. Effective January 1, 2022, and for each calendar year  
15 thereafter, for establishments which have received a manufacturer  
16 exemption permit pursuant to the provisions of Section 1359.2 of  
17 this title, or facilities engaged in manufacturing activities  
18 defined or classified in the NAICS Manual under Industry Nos. 311111  
19 through 339999, inclusive, but for no other establishments, facility  
20 and facilities means and includes the land, buildings, structures,  
21 improvements, machinery, fixtures, equipment and other personal  
22 property used directly and exclusively in the manufacturing process;  
23 and  
24

1        3. "Research and development" means activities directly related  
2 to and conducted for the purpose of discovering, enhancing,  
3 increasing or improving future or existing products or processes or  
4 productivity.

5        C. The following provisions shall apply:

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

12        2. ~~Except as otherwise provided in paragraph 5 of this~~  
13 ~~subsection, no~~ No manufacturing concern shall receive more than one  
14 five-year exemption for any one manufacturing facility unless the  
15 expansion which qualifies the manufacturing facility for an  
16 additional five-year exemption meets the requirements of paragraph 4  
17 of this subsection and the employment level established for any  
18 previous exemption is maintained;

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

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

1       a.    there is a net increase in annualized base payroll  
2            over the initial payroll of at least Two Hundred Fifty  
3            Thousand Dollars (\$250,000.00) if the facility is  
4            located in a county with a population of fewer than  
5            seventy-five thousand (75,000), according to the most  
6            recent Federal Decennial Census, while maintaining or  
7            increasing base payroll in subsequent years, or at  
8            least One Million Dollars (\$1,000,000.00) if the  
9            facility is located in a county with a population of  
10           seventy-five thousand (75,000) or more, according to  
11           the most recent Federal Decennial Census, while  
12           maintaining or increasing base payroll in subsequent  
13           years; provided the payroll requirement of this  
14           subparagraph shall be waived for claims for  
15           exemptions, including claims previously denied or on  
16           appeal on March 3, 2010, for all initial applications  
17           for exemption filed on or after January 1, 2004, and  
18           on or before March 31, 2009, and all subsequent annual  
19           exemption applications filed related to the initial  
20           application for exemption, for an applicant, if the  
21           facility has been located in Oklahoma for at least  
22           fifteen (15) years engaged in marine engine  
23           manufacturing as defined under U.S. Industry Number  
24           333618 of the NAICS Manual, latest revision, and has

1 maintained an average employment of five hundred (500)  
2 or more full-time-equivalent employees over a ten-year  
3 period. Any applicant that qualifies for the payroll  
4 requirement waiver as outlined in the previous  
5 sentence and subsequently closes its Oklahoma  
6 manufacturing plant prior to January 1, 2012, may be  
7 disqualified for exemption and subject to recapture.  
8 For an applicant engaged in paperboard manufacturing  
9 as defined under U.S. Industry Number 322130 of the  
10 NAICS Manual, latest revision, union master payouts  
11 paid by the buyer of the facility to specified  
12 individuals employed by the facility at the time of  
13 purchase, as specified under the purchase agreement,  
14 shall be excluded from payroll for purposes of this  
15 section.

16 In order to provide certainty with respect to  
17 investments in manufacturing facilities pertaining to  
18 all initial applications for exemption filed on or  
19 after January 1, 2016, the following definitions shall  
20 apply:

- 21 (1) "base payroll" shall mean total payroll adjusted  
22 for any nonrecurring bonuses, exercise of stock  
23 option or stock rights and other nonrecurring,  
24



1 extraordinary items included in total payroll,  
2 and

3 (2) "initial payroll" shall mean base payroll for the  
4 year immediately preceding the initial  
5 construction, acquisition or expansion.

6 The Tax Commission shall verify payroll information  
7 through the Oklahoma Employment Security Commission by  
8 using reports from the Oklahoma Employment Security  
9 Commission for the calendar year immediately preceding  
10 the year for which initial application is made for  
11 base-line payroll, which must be maintained or  
12 increased for each subsequent year; provided, a  
13 manufacturing facility shall have the option of  
14 excluding from its payroll, for purposes of this  
15 section:

- 16 i. payments to sole proprietors, members  
17 of a partnership, members of a limited  
18 liability company who own at least ten  
19 percent (10%) of the capital of the  
20 limited liability company or  
21 stockholder-employees of a corporation  
22 who own at least ten percent (10%) of  
23 the stock in the corporation, and  
24

1                   ii.    any nonrecurring bonuses, exercise of  
2                            stock option or stock rights or other  
3                            nonrecurring, extraordinary items  
4                            included in total payroll numbers as  
5                            reported by the Oklahoma Employment  
6                            Security Commission. A manufacturing  
7                            facility electing either option shall  
8                            indicate such election upon its  
9                            application for an exemption under this  
10                          section. Any manufacturing facility  
11                          electing either option shall submit  
12                          such information as the Tax Commission  
13                          may require in order to verify payroll  
14                          information. Payroll information  
15                          submitted pursuant to the provisions of  
16                          this paragraph shall be submitted to  
17                          the Tax Commission and shall be subject  
18                          to the provisions of Section 205 of  
19                          this title, and

20           b.    the facility offers, or will offer within one hundred  
21                    eighty (180) days of the date of employment, a basic  
22                    health benefits plan to the full-time-equivalent  
23                    employees of the facility, which is determined by the  
24                    Department of Commerce to consist of the elements

1 specified in subparagraph b of paragraph 1 of  
2 subsection A of Section 3603 of this title or elements  
3 substantially equivalent thereto.

4 For purposes of this section, calculation of the amount of  
5 increased base payroll shall be measured from the start of initial  
6 construction or expansion to the completion of such construction or  
7 expansion or for three (3) years from the start of initial  
8 construction or expansion, whichever occurs first. The amount of  
9 increased base payroll shall include payroll for full-time-  
10 equivalent employees in this state who are employed by an entity  
11 other than the facility which has previously or is currently  
12 qualified to receive an exemption pursuant to the provisions of this  
13 section and who are leased or otherwise provided to the facility, if  
14 such employment did not exist in this state prior to the start of  
15 initial construction or expansion of the facility. The  
16 manufacturing concern shall submit an affidavit to the Tax  
17 Commission, signed by an officer, stating that the construction,  
18 acquisition or expansion of the facility will result in a net  
19 increase in the annualized base payroll as required by this  
20 paragraph and that full-time-equivalent employees of the facility  
21 are or will be offered a basic health benefits plan as required by  
22 this paragraph. If, after the completion of such construction or  
23 expansion or after three (3) years from the start of initial  
24 construction or expansion, whichever occurs first, the construction,

1 acquisition or expansion has not resulted in a net increase in the  
2 amount of annualized base payroll, if required, or any other  
3 qualification specified in this paragraph has not been met, the  
4 manufacturing concern shall pay an amount equal to the amount of any  
5 exemption granted, including penalties and interest thereon, to the  
6 Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

7 ~~5. If a facility fails to meet the base payroll requirement of~~  
8 ~~subparagraph a of paragraph 4 of this subsection, the payroll~~  
9 ~~requirement shall be waived for claims for exemptions, including~~  
10 ~~claims previously denied or on appeal on June 1, 2009, for all~~  
11 ~~initial applications for exemption filed on or after January 1,~~  
12 ~~2004, and on or before March 31, 2009, and all subsequent annual~~  
13 ~~exemption applications filed related to such initial application for~~  
14 ~~exemption, for an applicant, if the facility:~~

15 a. ~~has been located for at least five (5) years as of~~  
16 ~~March 31, 2009, in a county in Oklahoma with a~~  
17 ~~population of six hundred thousand (600,000) or more,~~

18 b. ~~is owned by an applicant that has been engaged in~~  
19 ~~manufacturing as defined under U.S. Industry Numbers~~  
20 ~~323110, 323111, 323121 and 323122 of the NAICS Manual,~~  
21 ~~latest revision,~~

22 c. ~~is owned by an applicant that maintains a workforce of~~  
23 ~~at least three hundred (300) employees on June 1,~~  
24 ~~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 assessed in the year in which the applicant ceases to operate all of its facilities in the state;~~

~~6. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars (\$300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) or more full time equivalent employees in the year in which the~~

1 ~~exemption is initially granted and in each of the four (4)~~  
2 ~~subsequent years only if an average employment of one thousand seven~~  
3 ~~hundred fifty (1,750) or more full time equivalent employees is~~  
4 ~~maintained in the subsequent year. Any property installed to~~  
5 ~~replace property damaged by the tornado or natural disaster that~~  
6 ~~occurred May 8, 2003, may continue to receive the exemption provided~~  
7 ~~in this paragraph for the full five year period based on the value~~  
8 ~~of the previously qualifying assets as of January 1, 2003. The~~  
9 ~~exemption shall continue in effect as long as all other~~  
10 ~~qualifications in this paragraph are met. If the average employment~~  
11 ~~of one thousand seven hundred fifty (1,750) or more full time~~  
12 ~~equivalent employees is reduced as a result of temporary layoffs~~  
13 ~~because of a tornado or natural disaster on May 8, 2003, then the~~  
14 ~~average employment requirement shall be waived for year 2003 of the~~  
15 ~~exemption period. Calculation of the number of employees shall be~~  
16 ~~made in the same manner as required under Section 2357.4 of this~~  
17 ~~title for an investment tax credit. As used in this paragraph,~~  
18 ~~"expand" and "expansion" shall mean and include any increase to the~~  
19 ~~size or scope of a facility as well as any renovation, restoration,~~  
20 ~~replacement or remodeling of a facility which permits the~~  
21 ~~manufacturing of a new or redesigned product,~~

22 7. Any Except as otherwise provided by this paragraph, any new,  
23 acquired, or expanded computer data processing, data preparation, or  
24 information processing services provider classified in Industrial

1 ~~Group Number 7374 of the SIC Manual, latest revision, and U.S.~~  
2 Industry Number ~~514210~~ 518210 of the North American Industrial  
3 Classification System (NAICS) Manual, ~~latest~~ 2017 revision, may  
4 apply for exemptions under this section for each year in which new,  
5 acquired, or expanded capital improvements to the facility are made  
6 for assets placed in service not later than December 31, 2021, if:

7       a.   there is a net increase in annualized payroll of the  
8            applicant at any facility or facilities of the  
9            applicant in this state of at least Two Hundred Fifty  
10           Thousand Dollars (\$250,000.00), which is attributable  
11           to the capital improvements, or a net increase of  
12           Seven Million Dollars (\$7,000,000.00) or more in  
13           capital improvements, while maintaining or increasing  
14           payroll at the facility or facilities in this state  
15           which are included in the application, and

16       b.   the facility offers, or will offer within one hundred  
17            eighty (180) days of the date of employment of new  
18            employees attributable to the capital improvements, a  
19            basic health benefits plan to the full-time-equivalent  
20            employees of the facility, which is determined by the  
21            Department of Commerce to consist of the elements  
22            specified in subparagraph b of paragraph 1 of  
23            subsection A of Section 3603 of this title or elements  
24            substantially equivalent thereto.

1     An establishment described by this paragraph, the primary  
2 business activity of which is described by Industry No. 518210 of  
3 the North American Industry Classification System (NAICS) Manual,  
4 2017 revision, that has applied for and been granted an exemption  
5 for personal property at any time within five (5) years prior to the  
6 effective date of this act, may apply for exemptions for items of  
7 eligible personal property to be located within improvements to real  
8 property and such real property and improvements having been exempt  
9 from ad valorem taxation prior to the effective date of this act  
10 pursuant to the provisions of this section if such personal property  
11 is placed in service not later than December 31, 2036. No  
12 additional personal property of such establishment placed in service  
13 after such date shall qualify for the exempt treatment otherwise  
14 authorized pursuant to this paragraph;

15     ~~8-~~ 6. Effective January 1, 2017, an entity engaged in electric  
16 power generation by means of wind, as described by the North  
17 American Industry Classification System, No. 221119, shall not be  
18 defined as a qualifying manufacturing concern for purposes of the  
19 exemption otherwise authorized pursuant to Section 6B of Article X  
20 of the Oklahoma Constitution or qualify as a "manufacturing  
21 facility" as defined in this section. No initial application for  
22 exemption shall be filed by or accepted from an entity engaged in  
23 electric power generation by means of wind on or after January 1,  
24 2018; and



1        ~~9.~~ 7. An entity or applicant engaged in an industry as defined  
2 under U.S. Industry Number 324110 of the NAICS Manual, latest  
3 revision, which has applied for or been granted an exemption for a  
4 time period which began on or after calendar year 2012 and before  
5 calendar year 2016 but which did not meet the payroll requirements  
6 of subparagraph a of paragraph 4 of this subsection because of  
7 nonrecurring bonuses, exercise of stock option or stock rights or  
8 other nonrecurring, extraordinary items included in total payroll in  
9 the previous year, shall be allowed an exemption, beginning with  
10 calendar year 2016, for the number of years, including the calendar  
11 year for which the exemption was denied, remaining in the entity's  
12 five-year exemption period, provided such entity attains or  
13 increases payroll at or above the initial or base payroll  
14 established for the exemption; and

15        8. A facility engaged in manufacturing defined under U.S.  
16 Industry Number 327310 of the NAICS Manual shall have the payroll  
17 requirements of paragraph 4 of this subsection waived for tax year  
18 2021, which is based in part on the 2020 calendar year payroll  
19 reported to the Oklahoma Employment Security Commission, and may  
20 continue to receive the exemption for the five-year period provided  
21 in this section only if all other requirements of this section are  
22 met.

23        D. 1. Except as provided in paragraph 2 of this subsection,  
24 the five-year period of exemption from ad valorem taxes for any

1 qualifying manufacturing facility property shall begin on January 1  
2 following the initial qualifying use of the property in the  
3 manufacturing process.

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

- 14 a. a manufacturing facility as defined in subparagraph c  
15 of paragraph 1 of subsection B of this section, and
- 16 b. an establishment primarily engaged in distribution as  
17 defined under Industry Number 49311 of the North  
18 American Industry Classification System for which the  
19 initial capital investment was at least One Hundred  
20 Eighty Million Dollars (\$180,000,000.00); provided,  
21 that the qualifying job creation and depreciable  
22 property investment occurred prior to calendar year  
23 2017 but not earlier than calendar year 2013.

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

21       F. The application shall be examined by the county assessor and  
22 approved or rejected in the same manner as provided by law for  
23 approval or rejection of claims for homestead exemptions. The  
24 taxpayer shall have the same right of review by and appeal from the

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

16 G. Nothing herein shall in any manner affect, alter or impair  
17 any law relating to the assessment of property, and all property,  
18 real or personal, which may be entitled to exemption hereunder shall  
19 be valued and assessed as is other like property and as provided by  
20 law. The valuation and assessment of property for which an  
21 exemption is granted hereunder shall be performed by the Tax  
22 Commission using one or more of the cost, income and expense and  
23 sales comparison approaches to estimate fair cash value in  
24

1 accordance with the Uniform Standards of Professional Appraisal  
2 Practice.

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

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

7  
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