

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

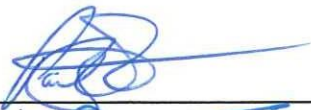


Newhouse

Pederson

Pemberton

Rader


Howard

Jech

Kidd


Rosino

Simpson

Weaver

HOUSE CONFEREES:

General Conference Committee on Appropriations

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~~7~~ 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 ~~8~~ 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

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 (\$500,000.00) or more with respect to assets placed into service during calendar year 2022. For subsequent calendar years, the investment required shall be increased annually by a percentage equal to the previous year's increase in the Consumer Price Index-All Urban Consumers ("CPI-U") and such adjusted amount shall be the required investment cost in order to qualify for the exemption authorized by this section. The Oklahoma Department of Commerce shall determine the amount of the increase, if any, on January 1 of each year. The Oklahoma Tax Commission shall publish on its website at least annually the adjusted dollar amount in order to qualify for the exemption authorized by this section and shall include the adjusted dollar amount in any of its relevant 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

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
verification from the Oklahoma Department of Commerce
that an establishment seeking an exemption for real or
personal property pays an average annualized wage that
equals or exceeds the average wage requirement in
effect for the year in which the real or personal
property was placed into service. For purposes of
this subparagraph, it shall not be necessary for the
establishment to qualify for incentive payments
pursuant to the Oklahoma Quality Jobs Program Act, but
the establishment shall be subject to the wage
requirements of the Oklahoma Quality Jobs Program Act
with respect to new direct jobs in order to qualify
for the exempt treatment authorized by this section.

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

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~~7~~ 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,~~

1 d. ~~is owned by an applicant that has filed multiple~~
2 ~~applications for exemption pursuant to this section,~~
3 ~~and~~

4 e. ~~is owned by an applicant that operates at least one~~
5 ~~facility in this state of at least seven hundred~~
6 ~~thirty thousand (730,000) square feet on June 1, 2009.~~

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

16 6. ~~Any new, acquired or expanded automotive final assembly~~
17 ~~manufacturing facility which does not meet the requirements of~~
18 ~~paragraph 4 of this subsection shall be granted an exemption only if~~
19 ~~all other requirements of this section are met and only if the~~
20 ~~investment cost of the construction, acquisition or expansion of the~~
21 ~~manufacturing facility is Three Hundred Million Dollars~~
22 ~~(\$300,000,000.00) or more and the manufacturing facility retains an~~
23 ~~average employment of one thousand seven hundred fifty (1,750) or~~
24 ~~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 years⁷ 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.

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