

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1282

By: Jolley of the Senate

and

Echols of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2011, Section 1359, as amended by Section 4,
13 Chapter 334, O.S.L. 2013 (68 O.S. Supp. 2015, Section
14 1359), which relates to exemptions for manufacturers;
15 mandating enhanced agency efforts to discover and
16 reduce fraudulent activities; providing exemption for
17 certain materials used to manufacture commercial
18 printed material; clarifying term; amending 68 O.S.
19 2011, Section 2902, as last amended by Section 2,
20 Chapter 335, O.S.L. 2015 (68 O.S. Supp. 2015, Section
21 2902), which relates to an exemption for qualifying
22 manufacturing facilities; modifying provisions
23 related to certain computer services and data
24 processing activities; providing for noncodification;
 and providing effective dates.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

1 The Oklahoma Tax Commission is hereby directed to enhance agency
2 efforts to discover and reduce fraud and abuse of sales tax
3 exemptions provided pursuant to the Sales Tax Code.

4 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1359, as
5 amended by Section 4, Chapter 334, O.S.L. 2013 (68 O.S. Supp. 2015,
6 Section 1359), is amended to read as follows:

7 Section 1359. Exemptions - Manufacturing.

8 There are hereby specifically exempted from the tax levied by
9 Section 1350 et seq. of this title:

10 1. Sales of goods, wares, merchandise, tangible personal
11 property, machinery and equipment to a manufacturer for use in a
12 manufacturing operation. Goods, wares, merchandise, property,
13 machinery and equipment used in a nonmanufacturing activity or
14 process as set forth in paragraph 14 of Section 1352 of this title
15 shall not be eligible for the exemption provided for in this
16 subsection by virtue of the activity or process being performed in
17 conjunction with or integrated into a manufacturing operation.

18 For the purposes of this paragraph, sales made to any person,
19 firm or entity that has entered into a contractual relationship for
20 the construction and improvement of manufacturing goods, wares,
21 merchandise, property, machinery and equipment for use in a
22 manufacturing operation shall be considered sales made to a
23 manufacturer which is defined or classified in the North American
24 Industry Classification System (NAICS) Manual under Industry Group

1 No. 324110. Such purchase shall be evidenced by a copy of the sales
2 ticket or invoice to be retained by the vendor indicating that the
3 purchases are made for and on behalf of such manufacturer and set
4 out the name of such manufacturer as well as include a copy of the
5 Manufacturing Exemption Permit of the manufacturer. Any person who
6 wrongfully or erroneously certifies that purchases are being made on
7 behalf of such manufacturer or who otherwise violates this paragraph
8 shall be guilty of a misdemeanor and upon conviction thereof shall
9 be fined an amount equal to double the amount of sales tax involved
10 or incarcerated for not more than sixty (60) days or both;

11 2. Ethyl alcohol when sold and used for the purpose of blending
12 same with motor fuel on which motor fuel tax is levied by Section
13 500.4 of this title;

14 3. Sales of containers when sold to a person regularly engaged
15 in the business of reselling empty or filled containers or when
16 purchased for the purpose of packaging raw products of farm, garden,
17 or orchard for resale to the consumer or processor. This exemption
18 shall not apply to the sale of any containers used more than once
19 and which are ordinarily known as returnable containers, except
20 returnable soft drink bottles and the cartons, crates, pallets, and
21 containers used to transport returnable soft drink bottles. Each
22 and every transfer of title or possession of such returnable
23 containers in this state to any person who is not regularly engaged
24 in the business of selling, reselling or otherwise transferring

1 empty or filled containers shall be taxable under this Code.
2 Additionally, this exemption shall not apply to the sale of labels
3 or other materials delivered along with items sold but which are not
4 necessary or absolutely essential to the sale of the sold
5 merchandise;

6 4. Sales of or transfers of title to or possession of any
7 containers, after June 30, 1987, used or to be used more than once
8 and which are ordinarily known as returnable containers and which do
9 or will contain beverages defined by paragraphs 4 and 14 of Section
10 506 of Title 37 of the Oklahoma Statutes, or water for human
11 consumption and the cartons, crates, pallets, and containers used to
12 transport such returnable containers;

13 5. Sale of tangible personal property when sold by the
14 manufacturer to a person who transports it to a state other than
15 Oklahoma for immediate and exclusive use in a state other than
16 Oklahoma. Provided, no sales at a retail outlet shall qualify for
17 the exemption under this paragraph;

18 6. Machinery, equipment, fuels and chemicals or other materials
19 incorporated into and directly used or consumed in the process of
20 treatment to substantially reduce the volume or harmful properties
21 of hazardous waste at treatment facilities specifically permitted
22 pursuant to the Oklahoma Hazardous Waste Management Act and operated
23 at the place of waste generation, or facilities approved by the
24 Department of Environmental Quality for the cleanup of a site of

1 contamination. The term "hazardous" waste may include low-level
2 radioactive waste for the purpose of this paragraph;

3 7. Except as otherwise provided by subsection I of Section 3658
4 of this title pursuant to which the exemption authorized by this
5 paragraph may not be claimed, sales of tangible personal property to
6 a qualified manufacturer or distributor to be consumed or
7 incorporated in a new manufacturing or distribution facility or to
8 expand an existing manufacturing or distribution facility. For
9 purposes of this paragraph, sales made to a contractor or
10 subcontractor that has previously entered into a contractual
11 relationship with a qualified manufacturer or distributor for
12 construction or expansion of a manufacturing or distribution
13 facility shall be considered sales made to a qualified manufacturer
14 or distributor. For the purposes of this paragraph, "qualified
15 manufacturer or distributor" means:

16 a. any manufacturing enterprise whose total cost of
17 construction of a new or expanded facility exceeds the
18 sum of Five Million Dollars (\$5,000,000.00) and in
19 which at least one hundred (100) new full-time-
20 equivalent employees, as certified by the Oklahoma
21 Employment Security Commission, are added and
22 maintained for a period of at least thirty-six (36)
23 months as a direct result of the new or expanded
24 facility,

- 1 b. any manufacturing enterprise whose total cost of
2 construction of a new or expanded facility exceeds the
3 sum of Ten Million Dollars (\$10,000,000.00) and the
4 combined cost of construction material, machinery,
5 equipment and other tangible personal property exempt
6 from sales tax under the provisions of this paragraph
7 exceeds the sum of Fifty Million Dollars
8 (\$50,000,000.00) and in which at least seventy-five
9 (75) new full-time-equivalent employees, as certified
10 by the Oklahoma Employment Security Commission, are
11 added and maintained for a period of at least thirty-
12 six (36) months as a direct result of the new or
13 expanded facility,
- 14 c. any manufacturing enterprise whose total cost of
15 construction of an expanded facility exceeds the sum
16 of Three Hundred Million Dollars (\$300,000,000.00) and
17 in which the manufacturer has and maintains an average
18 employment level of at least one thousand seven
19 hundred fifty (1,750) full-time-equivalent employees,
20 as certified by the Employment Security Commission, or
- 21 d. any enterprise primarily engaged in the general
22 wholesale distribution of groceries defined or
23 classified in the North American Industry
24 Classification System (NAICS) Manual under Industry

1 Groups No. 4244 and 4245 and which has at least
2 seventy-five percent (75%) of its total sales to in-
3 state customers or buyers and whose total cost of
4 construction of a new or expanded facility exceeds the
5 sum of Forty Million Dollars (\$40,000,000.00) with
6 such construction commencing on or after July 1, 2005,
7 and before December 31, 2005, and which at least fifty
8 new full-time-equivalent employees, as certified by
9 the Oklahoma Employment Security Commission, are added
10 and maintained for a period of at least thirty-six
11 (36) months as a direct result of the new or expanded
12 facility.

13 For purposes of this paragraph, the total cost of construction
14 shall include building and construction material and engineering and
15 architectural fees or charges directly associated with the
16 construction of a new or expanded facility. The total cost of
17 construction shall not include attorney fees. For purposes of
18 subparagraph c of this paragraph, the total cost of construction
19 shall also include the cost of qualified depreciable property as
20 defined in Section 2357.4 of this title and labor services performed
21 in the construction of an expanded facility. For the purpose of
22 subparagraph d of this paragraph, the total cost of construction
23 shall also include the cost of all parking, security and dock
24 structures or facilities necessary to manage, process or secure

1 vehicles used to receive and/or distribute groceries through such a
2 facility. The employment requirement of this paragraph can be
3 satisfied by the employment of a portion of the required number of
4 new full-time-equivalent employees at a manufacturing or
5 distribution facility that is related to or supported by the new or
6 expanded manufacturing or distribution facility as long as both
7 facilities are owned by one person or business entity. For purposes
8 of this section, "manufacturing facility" shall mean building and
9 land improvements used in manufacturing as defined in Section 1352
10 of this title and shall also mean building and land improvements
11 used for the purpose of packing, repackaging, labeling or assembling
12 for distribution to market, products at least seventy percent (70%)
13 of which are made in Oklahoma by the same company but at an off-
14 site, in-state manufacturing or distribution facility or facilities.
15 It shall not include a retail outlet unless the retail outlet is
16 operated in conjunction with and on the same site or premises as the
17 manufacturing facility. Up to ten percent (10%) of the square feet
18 of a manufacturing or distribution facility building may be devoted
19 to office space used to provide clerical support for the
20 manufacturing operation. Such ten percent (10%) may be in a
21 separate building as long as it is part of the same contiguous tract
22 of property on which the manufacturing or distribution facility is
23 located. Only sales of tangible personal property made after June
24 1, 1988, shall be eligible for the exemption provided by this

1 paragraph. The exemption authorized pursuant to subparagraph d of
2 this paragraph shall only become effective when the governing body
3 of the municipality in which the enterprise is located approves a
4 resolution expressing the municipality's support for the
5 construction for such new or expanded facility. Upon approval by
6 the municipality, the municipality shall forward a copy of such
7 resolution to the Oklahoma Tax Commission;

8 8. Sales of tangible personal property purchased and used by a
9 licensed radio or television station in broadcasting. This
10 exemption shall not apply unless such machinery and equipment is
11 used directly in the manufacturing process, is necessary for the
12 proper production of a broadcast signal or is such that the failure
13 of the machinery or equipment to operate would cause broadcasting to
14 cease. This exemption begins with the equipment used in producing
15 live programming or the electronic equipment directly behind the
16 satellite receiving dish or antenna, and ends with the transmission
17 of the broadcast signal from the broadcast antenna system. For
18 purposes of this paragraph, "proper production" shall include, but
19 not be limited to, machinery or equipment required by Federal
20 Communications Commission rules and regulations;

21 9. Sales of tangible personal property purchased or used by a
22 licensed cable television operator in cablecasting. This exemption
23 shall not apply unless such machinery and equipment is used directly
24 in the manufacturing process, is necessary for the proper production

1 of a cablecast signal or is such that the failure of the machinery
2 or equipment to operate would cause cablecasting to cease. This
3 exemption begins with the equipment used in producing local
4 programming or the electronic equipment behind the satellite
5 receiving dish, microwave tower or antenna, and ends with the
6 transmission of the signal from the cablecast head-end system. For
7 purposes of this paragraph, "proper production" shall include, but
8 not be limited to, machinery or equipment required by Federal
9 Communications Commission rules and regulations;

10 10. Sales of packaging materials for use in packing, shipping
11 or delivering tangible personal property for sale when sold to a
12 producer of agricultural products. This exemption shall not apply
13 to the sale of any packaging material which is ordinarily known as a
14 returnable container;

15 11. Sales of any pattern used in the process of manufacturing
16 iron, steel or other metal castings. The exemption provided by this
17 paragraph shall be applicable irrespective of ownership of the
18 pattern provided that such pattern is used in the commercial
19 production of metal castings;

20 12. Deposits or other charges made and which are subsequently
21 refunded for returnable cartons, crates, pallets, and containers
22 used to transport cement and cement products;

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1 13. Beginning January 1, 1998, machinery, electricity, fuels,
2 explosives and materials, excluding chemicals, used in the mining of
3 coal in this state;

4 14. Deposits, rent or other charges made for returnable
5 cartons, crates, pallets, and containers used to transport mushrooms
6 or mushroom products from a farm for resale to the consumer or
7 processor; ~~and~~

8 15. Sales of tangible personal property and services used or
9 consumed in all phases of the extraction and manufacturing of
10 crushed stone and sand, including but not limited to site
11 preparation, dredging, overburden removal, explosive placement and
12 detonation, onsite material hauling and/or transfer, material
13 washing, screening and/or crushing, product weighing and site
14 reclamation; and

15 16. Sale, use or consumption of paper stock and other raw
16 materials which are manufactured into commercial printed material in
17 this state primarily for use and delivery outside this state. For
18 the purposes of this section, "commercial printed material" shall
19 include magazines, catalogs, retail inserts and direct mail.

20 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2902, as
21 last amended by Section 2, Chapter 335, O.S.L. 2015 (68 O.S. Supp.
22 2015, Section 2902), is amended to read as follows:

23 Section 2902. A. Except as otherwise provided by subsection H
24 of Section 3658 of this title pursuant to which the exemption

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

16 B. For purposes of this section, the following definitions
17 shall apply:

18 1. "Manufacturing facilities" means facilities engaged in the
19 mechanical or chemical transformation of materials or substances
20 into new products and except as provided by paragraph 8 of
21 subsection C of this section shall include:

22 a. establishments which have received a manufacturer
23 exemption permit pursuant to the provisions of Section
24 1359.2 of this title,

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

- 3 d. for which the investment cost of the construction,
4 acquisition or expansion of the manufacturing facility
5 is Two Hundred Fifty Thousand Dollars (\$250,000.00) or
6 more. Provided, "investment cost" shall not include
7 the cost of direct replacement, ~~refurbish~~
8 refurbishment, repair or maintenance of existing
9 machinery or equipment, except that in the case of
10 establishments primarily engaged in computer services
11 and data processing and qualifying under subparagraph
12 c of this paragraph, "investment cost" shall include
13 facility upgrades, including any "qualified capital
14 expenditures" as originally defined under paragraph 2
15 of subsection A of Section 2357.201 of this title,
16 notwithstanding the sunset of the income tax credit
17 provided thereunder, and such expenditures shall be
18 eligible as a part of an "expansion" that otherwise
19 qualifies under this section, and
- 20 e. establishments primarily engaged in distribution as
21 defined under Industry Numbers 49311, 49312, 49313 and
22 49319 and Industry Sector Number 42 of the NAICS
23 Manual, latest revision, and which meet the following
24 qualifications:

- 1 (1) construction with an initial capital investment
2 of at least Five Million Dollars (\$5,000,000.00),
- 3 (2) employment of at least one hundred (100) full-
4 time-equivalent employees, as certified by the
5 Oklahoma Employment Security Commission,
- 6 (3) payment of wages or salaries to its employees at
7 a wage which equals or exceeds one hundred
8 seventy-five percent (175%) of the federally
9 mandated minimum wage, as certified by the
10 Oklahoma Employment Security Commission, and
- 11 (4) commencement of construction on or after November
12 1, 2007, with construction to be completed within
13 three (3) years from the date of the commencement
14 of construction.

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

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

23 Eligibility as a manufacturing facility pursuant to this
24 subparagraph shall be established, subject to review by the Tax

1 Commission, by annually filing an application with the Tax
2 Commission stating that the facility so qualifies and containing
3 such other information as required by the Tax Commission;

4 2. "Facility" and "facilities" means and includes the land,
5 buildings, structures, improvements, machinery, fixtures, equipment
6 and other personal property used directly and exclusively in the
7 manufacturing process; and

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

12 C. The following provisions shall apply:

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

19 2. Except as otherwise provided in paragraph 5 of this
20 subsection, no manufacturing concern shall receive more than one
21 five-year exemption for any one manufacturing facility unless the
22 expansion which qualifies the manufacturing facility for an
23 additional five-year exemption meets the requirements of paragraph 4
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1 of this subsection and the employment level established for any
2 previous exemption is maintained;

3 3. Any exemption as to the expansion of an existing
4 manufacturing facility shall be limited to the increase in ad
5 valorem taxes directly attributable to the expansion, except that in
6 the case of establishments primarily engaged in computer services
7 and data processing and qualifying under subparagraph c of paragraph
8 1 of subsection B of this section, existing machinery and equipment
9 for which replacement, refurbishment, repair or maintenance
10 expenditures are incurred as qualifying "investment cost" under
11 subparagraph d of paragraph 1 of subsection B of this section shall
12 be exempted along with the increased taxable value associated with
13 any such expenditures;

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

17 a. there is a net increase in annualized payroll of at
18 least Two Hundred Fifty Thousand Dollars (\$250,000.00)
19 if the facility is located in a county with a
20 population of fewer than seventy-five thousand
21 (75,000), according to the most recent Federal
22 Decennial Census, while maintaining or increasing
23 payroll in subsequent years, or at least One Million
24 Dollars (\$1,000,000.00) if the facility is located in

1 a county with a population of seventy-five thousand
2 (75,000) or more, according to the most recent Federal
3 Decennial Census, while maintaining or increasing
4 payroll in subsequent years; provided the payroll
5 requirement of this subparagraph shall be waived for
6 claims for exemptions, including claims previously
7 denied or on appeal on March 3, 2010, for all initial
8 applications for exemption filed on or after January
9 1, 2004, and on or before March 31, 2009, and all
10 subsequent annual exemption applications filed related
11 to the initial application for exemption, for an
12 applicant, if the facility has been located in
13 Oklahoma for at least fifteen (15) years engaged in
14 marine engine manufacturing as defined under U.S.
15 Industry Number 333618 of the NAICS Manual, latest
16 revision, and has maintained an average employment of
17 five hundred (500) or more full-time-equivalent
18 employees over a ten-year period. Any applicant that
19 qualifies for the payroll requirement waiver as
20 outlined in the previous sentence and subsequently
21 closes its Oklahoma manufacturing plant prior to
22 January 1, 2012, may be disqualified for exemption and
23 subject to recapture. For an applicant engaged in
24 paperboard manufacturing as defined under U.S.

1 Industry Number 322130 of the NAICS Manual, latest
2 revision, union master payouts paid by the buyer of
3 the facility to specified individuals employed by the
4 facility at the time of purchase, as specified under
5 the purchase agreement, shall be excluded from payroll
6 for purposes of this section.

7 The Tax Commission shall verify payroll information
8 through the Oklahoma Employment Security Commission by
9 using reports from the Oklahoma Employment Security
10 Commission for the calendar year immediately preceding
11 the year for which initial application is made for
12 base-line payroll, which must be maintained or
13 increased for each subsequent year; provided, a
14 manufacturing facility shall have the option of
15 excluding from its payroll, for purposes of this
16 section, payments to sole proprietors, members of a
17 partnership, members of a limited liability company
18 who own at least ten percent (10%) of the capital of
19 the limited liability company or stockholder-employees
20 of a corporation who own at least ten percent (10%) of
21 the stock in the corporation. A manufacturing
22 facility electing this option shall indicate such
23 election upon its application for an exemption under
24 this section. Any manufacturing facility electing

1 this option shall submit such information as the Tax
2 Commission may require in order to verify payroll
3 information. Payroll information submitted pursuant
4 to the provisions of this paragraph shall be submitted
5 to the Tax Commission and shall be subject to the
6 provisions of Section 205 of this title, and

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

15 For purposes of this section, calculation of the amount of
16 increased payroll shall be measured from the start of initial
17 construction or expansion to the completion of such construction or
18 expansion or for three (3) years from the start of initial
19 construction or expansion, whichever occurs first. The amount of
20 increased payroll shall include payroll for full-time-equivalent
21 employees in this state who are employed by an entity other than the
22 facility which has previously or is currently qualified to receive
23 an exemption pursuant to the provisions of this section and who are
24 leased or otherwise provided to the facility, if such employment did

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

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

- 1 a. has been located for at least five (5) years as of
2 March 31, 2009, in a county in Oklahoma with a
3 population of six hundred thousand (600,000) or more,
4 b. is owned by an applicant that has been engaged in
5 manufacturing as defined under U.S. Industry Numbers
6 323110, 323111, 323121 and 323122 of the NAICS Manual,
7 latest revision,
8 c. is owned by an applicant that maintains a workforce of
9 at least three hundred (300) employees on June 1,
10 2009,
11 d. is owned by an applicant that has filed multiple
12 applications for exemption pursuant to this section,
13 and
14 e. is owned by an applicant that operates at least one
15 facility in this state of at least seven hundred
16 thirty thousand (730,000) square feet on June 1, 2009.

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

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

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

9 7. Any new, acquired, or expanded computer data processing,
10 data preparation, or information processing services provider
11 classified in Industrial Group Number 7374 of the SIC Manual, latest
12 revision, and U.S. Industry Number 514210 of the North American
13 Industrial Classification System (NAICS) Manual, latest revision,
14 may apply for exemptions under this section for each year in which
15 new, acquired, or expanded capital improvements to the facility are
16 made if:

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

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

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

22 9. An entity which has been granted an exemption for a time
23 period which included calendar year 2009 but which did not meet the
24 base-line payroll requirements of subparagraph a of paragraph 4 of

1 this subsection during calendar year 2009, shall be allowed an
2 exemption, to begin on January 1 of the first calendar year after
3 January 1, 2012, for the number of years, including calendar year
4 2009, remaining in the entity's five-year exemption period, provided
5 such entity attains or increases payroll at or above the base-line
6 payroll established for the exemption which was in force during
7 calendar year 2009.

8 D. 1. Except as provided in paragraph 2 of this subsection,
9 the five-year period of exemption from ad valorem taxes for any
10 qualifying manufacturing facility property shall begin on January 1
11 following the initial qualifying use of the property in the
12 manufacturing process.

13 2. The five-year period of exemption from ad valorem taxes for
14 any qualifying manufacturing facility, as defined in subparagraph c
15 of paragraph 1 of subsection B of this section which is located
16 within a tax incentive district created pursuant to the Local
17 Development Act by a county having a population of at least five
18 hundred thousand (500,000), according to the most recent Federal
19 Decennial Census, shall begin on January 1 following the expiration
20 or termination of the ad valorem exemption, abatement, or other
21 incentive provided through the tax incentive district.

22 E. Any person, firm or corporation claiming the exemption
23 herein provided for shall file each year for which exemption is
24 claimed, an application therefor with the county assessor of the

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

18 F. The application shall be examined by the county assessor and
19 approved or rejected in the same manner as provided by law for
20 approval or rejection of claims for homestead exemptions. The
21 taxpayer shall have the same right of review by and appeal from the
22 county board of equalization, in the same manner and subject to the
23 same requirements as provided by law for review and appeals
24 concerning homestead exemption claims. Approved applications shall

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

13 G. Nothing herein shall in any manner affect, alter or impair
14 any law relating to the assessment of property, and all property,
15 real or personal, which may be entitled to exemption hereunder shall
16 be valued and assessed as is other like property and as provided by
17 law. The valuation and assessment of property for which an
18 exemption is granted hereunder shall be performed by the Tax
19 Commission.

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

23 SECTION 4. Sections 1 and 2 of this act shall become effective
24 November 1, 2016.

1 SECTION 5. Section 3 of this act shall become effective January
2 1, 2016.

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4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
5 04/07/2016 - DO PASS, As Amended.

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