

State of Oklahoma

Incentive Evaluation Commission

Evaluation: Computer Services, Data Processing and Research and Development Tax Exemption

November 17, 2023

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Key Findings and Recommendations



Overview

The Computer Services, Data Processing, and Research and Development Tax Exemption was established by two different additions to Oklahoma state statute. One section, § 68-54001 - 54006, was repealed effective November 1, 2022. This section provided a refund of state and local sales and use taxes to qualified purchasers primarily engaged in computer services and data processing or research and development. Qualified purchasers were defined as new or expanding businesses that added at least 10 new full time employees who received at least \$35,000 annually in compensation and maintained them for at least 36 months.

The other section of the computer services and data processing sales tax exemption, § 68 -1357v2 - 21, is still active but has not been used. This program exempts state sales and use taxes on the purchase of machinery and equipment by persons and establishments primarily engaged in computer services and data processing. These entities must derive at least 50 percent of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer if they are defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification Manual, or, if they are defined by Industrial Group Number 7374 and derive at least eighty percent of their annual gross revenues of a product or service to an out-of-state buyer or consumer. Notably, unlike § 68-54001 – 54006, this sales tax exemption does not include the research and development industries.

Recommendation: Retain

Key Findings

- **Current demand for the program is low.** The program has not been used over the previous five years, despite the number of data centers increasing nationwide.
- **Oklahoma has a relatively low cost of electricity.** Compared to the surrounding benchmark states, Oklahoma has the second lowest cost of electricity.
- **The number of data centers nationwide is increasing.** The number of data center establishments in the US increased by 217 percent between 2012 and 2022.

Recommendations

- **Retain § 68 -1357v2 – 21 to allow for its potential use for larger data centers and other computer services companies.** Given the low cost of electricity in Oklahoma relative to benchmark states and the increasing number of data centers nationwide, retaining the program could allow for companies to potentially relocate to or expand in the state, as it is a competitive location.



Introduction



Oklahoma Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma’s wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State’s economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission’s inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive’s goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator’s findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Computer Services, Data Processing, and Research and Development Tax Exemption was first reviewed by the Commission in 2019.¹ Significant findings and recommendations from PFM’s evaluation of the program are summarized in the following table:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	This initiative has become unnecessary due to the availability of more generous and easier to use incentives.
Fiscal and Economic Impact	As the program had not been used in the previous study period, the previous report did not include an economic impact analysis.
Future Fiscal Impact Protections	Oklahoma ranks highly among states in terms of affordable electricity, but ranks low among states in broadband coverage, which are two important factors in data center location decisions.
Administrative Effectiveness	It is difficult for data centers to meet new job creation requirements.
Retain, Reconfigure or Repeal	Repeal due to lack of use.
Other Recommendations	None.

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

¹ The 2019 Tax Incentive Evaluation Report is available on the Commission’s website at <https://iec.ok.gov/sites/g/files/gmc216/f/IEC2019FinalReport.pdf>



Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to repeal the program.

The research and development incentive portion of this incentive was repealed by Laws 2022, c. 146, § 1, which went into effect November 1, 2022.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Computer Services, Data Processing, and Research and Development Tax Exemption, the program incentivizes the creation of new employment in the computer services and data processing industry.

In addition to this goal and the general evaluation factors discussed in the preceding section, the Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Changes to industry measures (e.g. size sector GDP, employment compared to other sectors)
- Comparisons of changes in sector versus states with/without similar exemptions
- Changes in Oklahoma industry employment
- Changes in Oklahoma industry capital investment
- State return on investment

To conduct its 2023 review of the Computer Services, Data Processing, and Research and Development Tax Exemption (based on the criteria described in the preceding), the PFM project team conducted the following activities:

- Submitted a data request to the Oklahoma Tax Commission (OTC), with the OTC responding that there was no available data;
- Completed subject matter expert/internal stakeholder interviews with representatives from the OTC and the State, Oklahoma City, and Tulsa Chambers of Commerce; and
- Benchmarked Oklahoma to other states.



Industry Background

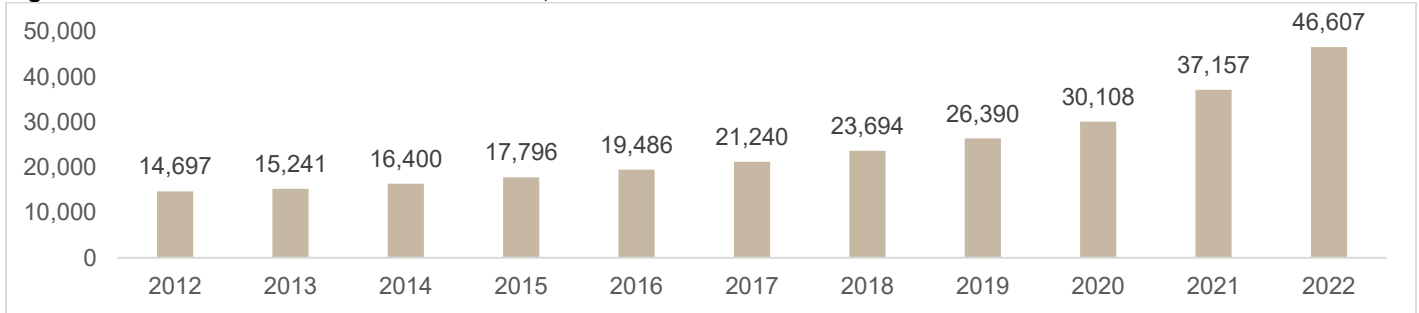


Background and History

Data Centers

The data center industry has experienced significant growth in recent years, especially since 2012. The number of data center establishments in the US increased by 217 percent between 2012 and 2022, representing compound annual growth of 12.2 percent. Improvements in technology during this period and the growth in cloud computing are notable factors driving this growth.²

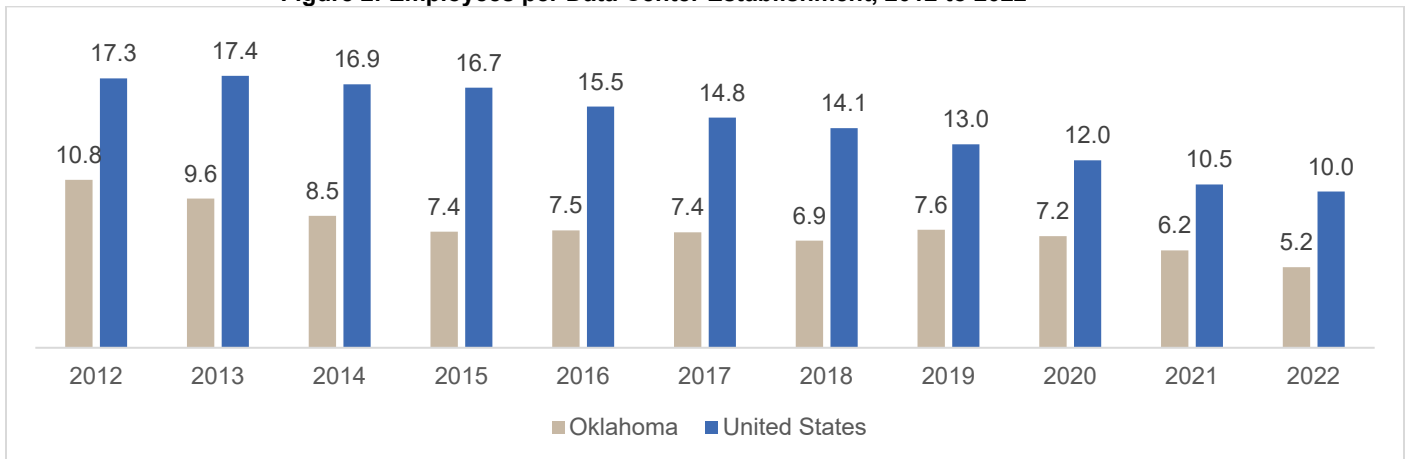
Figure 1: Data Center Establishments in the US, 2012 to 2022



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages

The data center industry is highly capital-intensive, and much of the investment associated with these facilities consist of purchasing land, constructing the facility, and equipping it. The capital-intensive nature of the industry is illustrated by the decline in employees per establishment both in the US overall and Oklahoma, even as the industry has grown rapidly from 2012 to 2022.

Figure 2: Employees per Data Center Establishment, 2012 to 2022



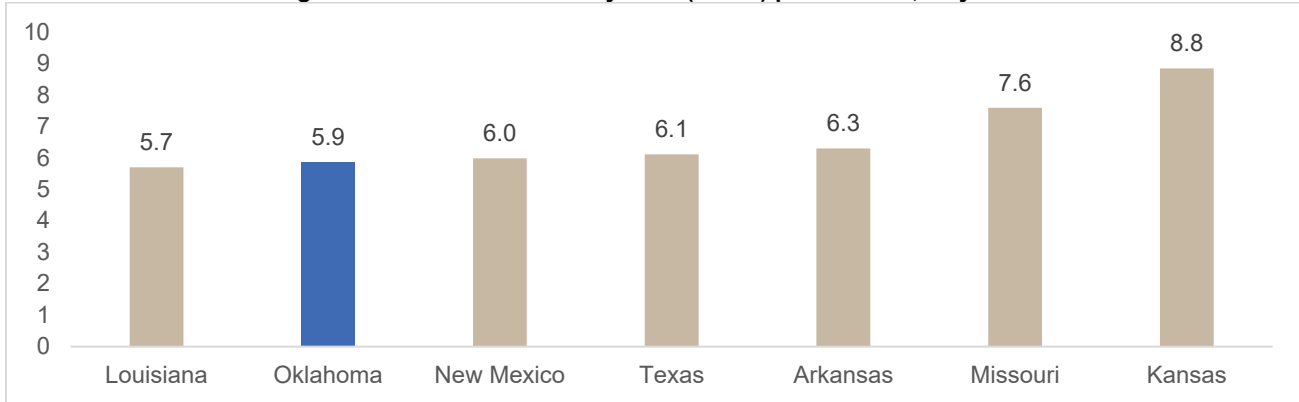
Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages

² Cloud computing is generally defined as a means of storing and accessing applications and data via the internet instead of local hard drives and file servers.



As previously noted, the cost of energy is an important location decision factor for data centers. Among nearby states, Oklahoma has the second most affordable industrial electricity and ranks as the second most affordable in the nation.

Figure 3: Industrial Electricity Cost (Cents) per Kilowatt, May 2023

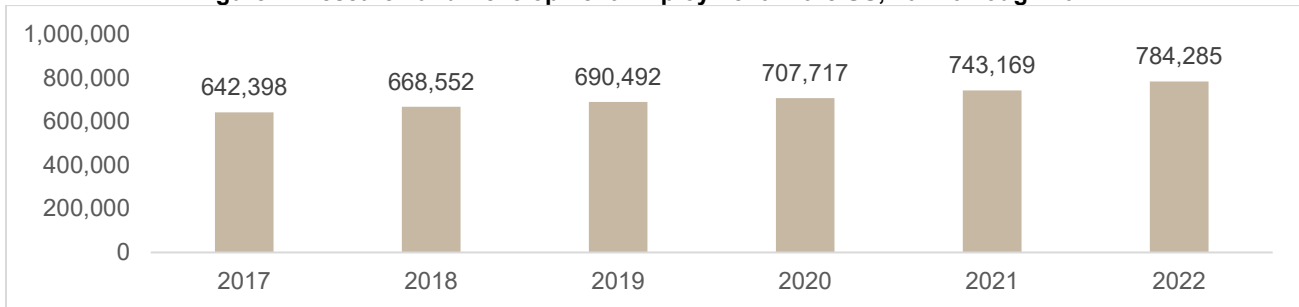


Source: US Energy Information Administration

Research and Development

Four specific North American Industrial Classification System (NAICS) codes may benefit from the exemption, including Testing Laboratories (541380), Research and Development in Nanotechnology (541713), Research and Development in the Physical, Engineering and Life Sciences (541715) and Social Science and Humanities Research (541720). Nationally, firms in these areas have shown more modest growth compared to data centers. Since 2017, establishments have shown compound annual growth (CAGR) of 8.5 percent while employment has had a CAGR of 4.1 percent.

Figure 4: Research and Development Employment in the US, 2017 through 2022³

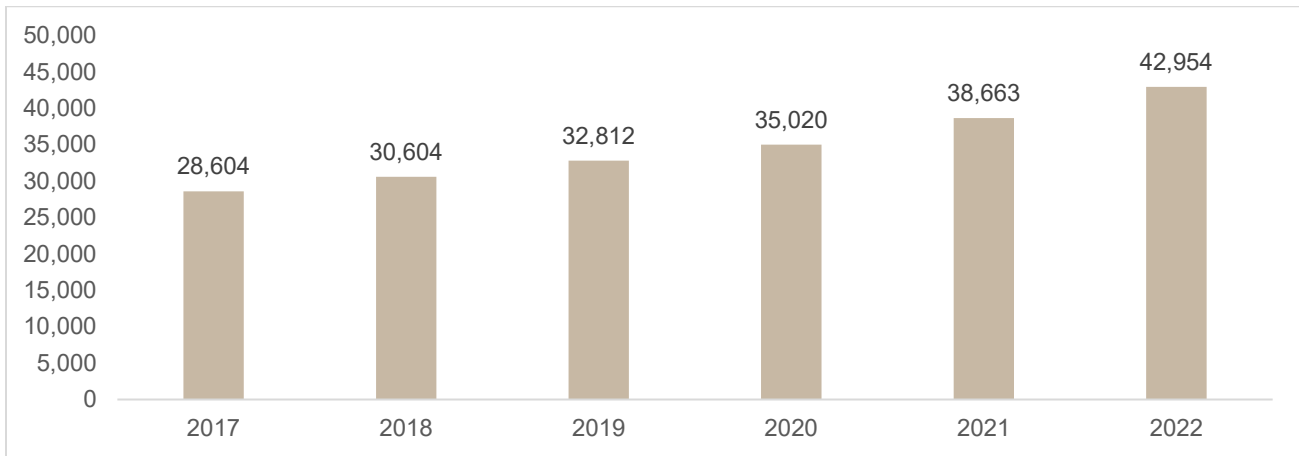


Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages

³ Sum of NAICS codes 541380, 541711, and 541720. In 2017, there were significant changes to the classifications of firms within the 54171 NAICS code involving NAICS 541713 and 541715, leading to the use of the broader classification for purposes of tracking trends over time.



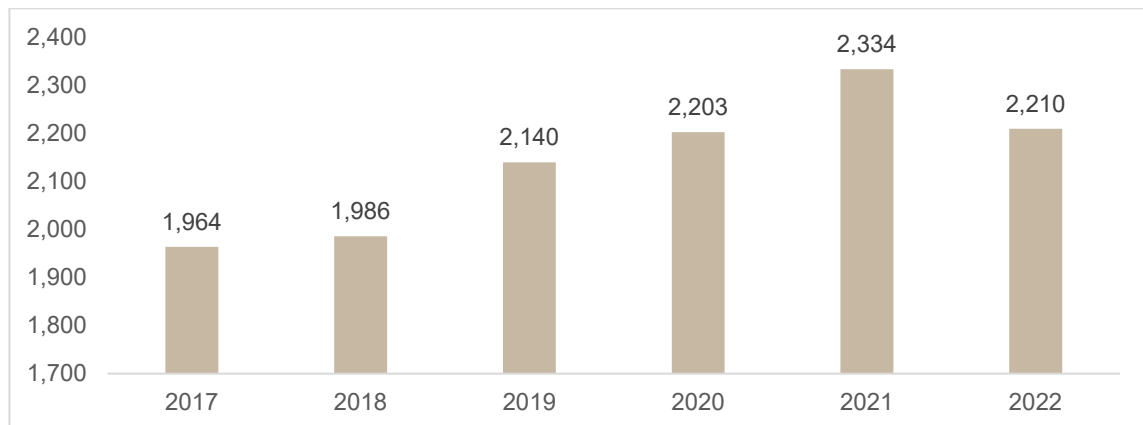
Figure 5: Research and Development Establishments in the US, 2017 through 2022



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages

In Oklahoma, growth in employees in the state has mostly followed the national trend, increasing by a CAGR of 2.4 percent.

Figure 6: Research and Development Employment in Oklahoma, 2017 through 2022

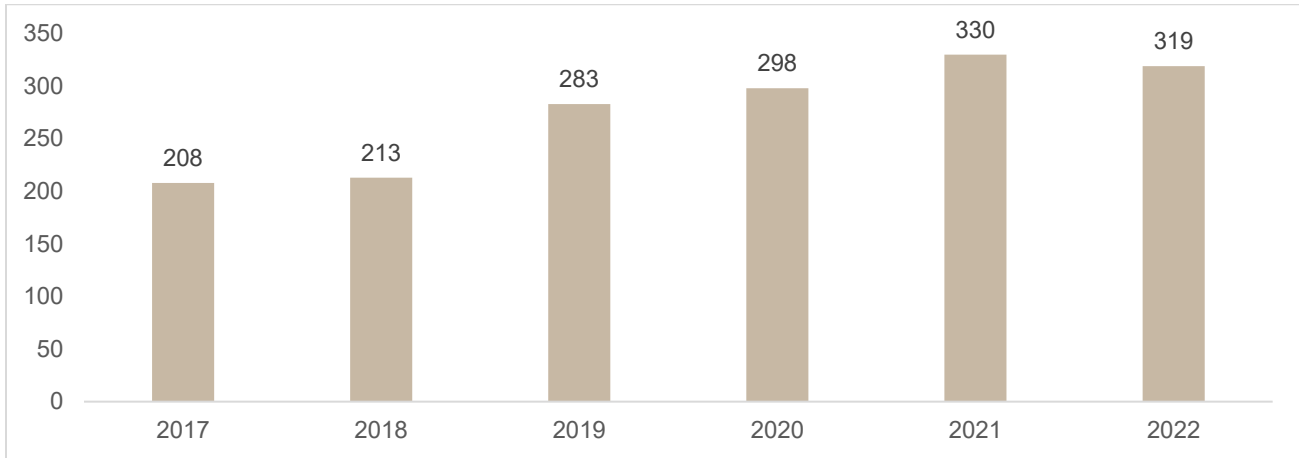


Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages

However, both Oklahoma research and development employment and establishments peaked in 2021 after climbing continuously since 2017. Both decreased slightly in 2022. Employment levels in 2022 matched those in 2020.



Figure 7: Research and Development Establishments in Oklahoma, 2017 through 2022



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages



Incentive Usage and Administration



Historic Use

According to the OTC, the Computer Services, Data Processing and Research and Development Tax Exemption has not been used in the last five fiscal years. The research and development incentive portion was ultimately repealed in 2022. During a 2019 interview with the project team, the Tax Commission stated that the tax exemption was not used because companies choose to participate in the Quality Jobs Incentive Program instead. Companies are prohibited from participating in the Computer Services, Data Processing and Research and Development Tax Exemption if they participate in that program. The Quality Jobs Incentive Program provides quarterly cash rebates to companies within certain industries, specifically targeting manufacturing and certain service companies.⁴

Incentive Administration

The Computer Services, Data Processing or Research and Development Tax Exemption is administered by the Oklahoma Tax Commission. It provided a sales tax refund on the purchase of computers, data processing equipment, related peripherals, telegraph or telecommunications services, and equipment. Qualified purchasers must derive at least 50 percent of its gross revenue from the sales of goods or services to out-of-state customers and create 10 new jobs at an average annual salary of \$35,000. Employment and salary level must be maintained for at least 36 months. Data processing firms must make qualified purchases of at least \$100,000 to qualify.⁵

⁴ Oklahoma Commerce. Oklahoma Quality Jobs Program: 2023 Guidelines. Accessible at <https://www.okcommerce.gov/wp-content/uploads/Quality-Jobs-Guidelines.pdf>

⁵ Oklahoma Commerce. 2022 Oklahoma Business Incentives & Tax Guide. Accessible at <https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Business-Incentives-and-Tax-Guide.pdf>



Economic and Fiscal Impact



Economic and Fiscal Impact

According to the OTC, this exemption has not been used in the last five fiscal years and therefore has had no economic or fiscal impact.



Incentive Benchmarking



Benchmarking

A detailed description of comparable state programs can be found in **Appendix A**.

For evaluation purposes, benchmarking provides information related to how peer states use and evaluate similar incentives. At the outset, it should be understood that no states are ‘perfect peers’ – there will be multiple differences in economic, demographic and political factors that will have to be considered in any analysis; likewise, it is exceedingly rare that any two state incentive programs will be exactly the same.⁶ These benchmarking realities must be taken into consideration when making comparisons – and, for the sake of brevity, the report will not continually re-make this point throughout the discussion.

The process of creating a comparison group for incentives typically begins with bordering states. This is generally the starting point, because proximity often leads states to compete for the same regional businesses or business/industry investments. Second, neighboring states often (but not always) have similar economic, demographic or political structures that lend themselves to comparison. In the case of the Computer Services, Data Processing, and Research and Development Tax Exemption, comparable programs were found in 15 additional states nationwide.

Minimum Investment

Of 15 comparable state programs, 12 have investment requirements comparable to Oklahoma. Other state programs generally require a data center to commit to a certain level of capital investment in order to qualify for an exemption. These investment minimums range from \$25 million to \$250 million, while Oklahoma only requires \$100,000 in qualified purchases in a given year to qualify. One state, North Dakota, requires a minimum square footage of at least 15,000 square feet.

Electricity Sales Tax Exemptions:

In addition to exempting equipment and construction purchases from sales and use tax, several states offer a sales tax exemption on the costs associated with power consumption. Considering the high usage of electricity by these facilities, this may be an attractive incentive. It is likely that these exemptions are costly to states as well, although there is often minimal reporting on the costs of exemptions. States offering electricity sales tax exemptions to data centers include Indiana, Iowa, North Carolina, South Carolina, and Tennessee.

Exemption Duration

Several states limit the number of years a facility can qualify for an exemption, while Oklahoma does not. These states include Arizona, Illinois, Minnesota, Missouri, Nevada, South Carolina, and Tennessee. Duration limits in this group range from 3 to 20 years.

Job Creation and Wage Requirements

In the comparison group, new job or payroll creation is required by 7 states. Requirements range from 5 to 50 new jobs. Minimum wage requirements are imposed by 6 states. Most of these states require wages to be at least 150 percent of the state or county average. All states with a minimum wage requirement were found to tie the requirement to a state, county or other area average. Oklahoma’s exemption requires a wage of at least \$35,000, with no adjustments relative to area averages. Nevada and North Carolina require the tax exemption recipients to provide health insurance.

⁶ The primary instances of exactly alike state incentive programs occur when states choose to ‘piggyback’ onto federal programs.



Square Footage Requirements

Iowa, Minnesota, North Dakota, and Washington include the square footage of the data center facility as part of qualification requirements. This is another way to target a certain level of investment and commitment. The square footage requirements range between 5,000 and 25,000 square feet.



Appendices



Appendix A: Comparable State Programs, Data Center Incentives

State	Name	Benefit	Minimum Investment	Job Creation Requirement	Benefit Duration	Other Qualifications
Oklahoma	Computer Services, Data Processing, and Research Development Tax Exemption	Refund of state and local sales taxes on purchases of computers, data processing equipment, related peripherals, telegraph or telecommunications services, and equipment	Must purchase \$100,000 of exempt items	Must add 10 new full time employees with an average salary of \$35,000 who are employed for at least 6 months	Unspecified	Must be a new or expanding business
Arizona	Computer Data Center Program	Provides Transaction Privilege Tax (TPT) and Use Tax exemptions at all government levels on qualifying CDC Equipment to encourage computer data center operation and expansion	In Maricopa or Pima County - \$50 million within 5 years of the date of CDC Cert. Any other County \$25 million minimum investment within 5 years of the date of CDC Cert	None	10 full calendar years - if project is a Sustainable Redevelopment Project exemptions up to 20 full calendar years	If CDC Facility is Greenfield SRP - 200 million investment must be made
Georgia	Data Center Sales and Use Tax Exemption	Full sales and use tax exemption on eligible expenses like equipment, computers, energy infrastructure, etc.	Invest \$100-\$250 million in a new facility. Full sales and use exemption on certain computer equipment for investment of at least \$15 million.	None	Department can only approve 6 applications in first calendar year of exemption. - no max duration specified	The minimum required investment in the new facility is tied to the population of the county in which the data center locates
Idaho	Data Center Sales Tax Exemption	Sales tax exemption on server equipment, construction materials, and energy infrastructure.	At least \$250 million within 5 years after construction begins	Create and maintain at least 30 jobs within first 2 years. Salary must be above the county average wage	None	None



State	Name	Benefit	Minimum Investment	Job Creation Requirement	Benefit Duration	Other Qualifications
Illinois	Data Center Investment Tax Exemption and Credit	State and local tax exemptions for centers as well as a tax credit of 20% of wages paid to construction workers in underserved areas.	\$250 million over a 60 month period	20 full time jobs with compensation equal to or exceed 120% of median wage in county where center is.	5 year increment certificates are renewed up to 20 years	Must be carbon neutral or attain certification under one or more green building standards.
Iowa	Data Center Business Property tax Exemption	Tax exemption for certain property purchased by data center businesses. Includes computers and equipment.	\$200 million over first 6 years of operation - can receive 100% abatement of the sales and use tax on infrastructure, equipment, etc.	None	No limit specified	Minimum size of 5,000 sq feet. Smaller facilities can apply for 50% reduction.
Minnesota	Data Center Incentive	Tax breaks for data centers of at least 25,000 sq ft.	For new centers \$30 million in first 4 years - qualifying projects receive tax exemptions for 20 years on computers, servers, software, etc. Refurbished data centers require a \$50 million investment	None	20 years	None
Missouri	Data Center Sales Tax Exemption	Incentivize expansion of data centers by providing an exemption of sales and use taxes associated with building, maintaining, and expanding data centers. 100% exemption of state,	\$25 million for new centers over 36 months. \$5 million for refurbishments over 12 months.	10 jobs for new centers or 5 new jobs for existing centers with compensation of 150% of the local county wage	15 years for new center and 10 years for existing center	None



State	Name	Benefit	Minimum Investment	Job Creation Requirement	Benefit Duration	Other Qualifications
		local, and use taxes for new facilities.				
Nevada	Partial Tax Abatement	A company and co-located tenants that create a new or expand a data center in Nevada may qualify for a personal property tax abatement of 75% for 10 or 20 years and/or a sales and use tax abatement that reduces the rate to 2% for 10 or 20 years	10 year abatement \$25 million in cumulative capital expenditures between applicant and tenants. 20 year abatements invest \$100 million in cumulative capital investment	10 year abatements - within 5 years must employ 10 full time employees who are Nevada residents 20 year abatements - within 5 years must employ 50 full time employees	10 or 20 years	Must maintain the business in Nevada for 10 years, ensure that at least 50% of construction workers are Nevada residents, and offer medical insurance and pay at least 65% of the premium costs
North Carolina	Data Center Sales and Use Tax Exemption	3 sales and use tax exemptions for purchases in electricity and support equipment, electricity and business property purchased for Internet Data Center, or computer software	\$75 million within 5 years (Data Centers) \$250 million within 5 years (Internet Data Centers)	None	Not specified	Must meet county wage standard and health insurance requirements
North Dakota	Sale and Use Tax Exemption for Primary	Sales tax exemption for enterprise information technology	15,000 sq ft of space with at least 50% of the area used for data processing	None	Not specified	None



State	Name	Benefit	Minimum Investment	Job Creation Requirement	Benefit Duration	Other Qualifications
	Sector Businesses (Data Centers)	equipment and computer software purchased in newly constructed or refurbished data center.				
Ohio	Data Center Tax Abatement	Total or partial exemption on all sales taxes on construction material, mechanical and electrical equipment, cooling systems, and power infrastructure.	\$100 million in a 3 year time period and annual payroll greater than \$1.5 million	Pay annual minimum compensation of at least \$1.5 to employees at project site	Not specified	None
South Carolina	Data Center Materials Sales Tax Exemption	Tax exemptions for the purchase of raw materials, electricity, construction, etc. for data centers.	\$50 million over a 5 year period. If more than one tax payer, investment of \$75 million over 5 years.	25 employees in well paying jobs. Compensation level of 150% of the pr capita income in SC - required for at least 3 consecutive years.	10 years	None
Tennessee	Data Center Tax Credit	Qualified data centers can make sales tax exempt purchases on qualified items and electricity at the 1.5% reduced rate.	\$100 million in 3 year period	15 net new full time employee jobs paying at least 150% of the stats' average occupational wage	3 years maximum - may be extended up to 4 years for "good cause shown"	None
Washington	Data Center Sales and Use Tax Exemption	Construct, renovate, or expand a data center. Sales/use tax exemption for purchases of server equipment and power infrastructure.	Not specified	35 family wage employment positions - 3 family wage positions for each 20,000 sq ft. or less of newly dedicated server space at data center.	Not specified	No limit on number of exemption certificates for new data centers. Dept. is limited to 6 certificates each year for refurbishing data centers





Appendix B: Oklahoma State Statute §68-54001 - §68-54006.

§68-54001. Short title. Sections 5 through 10 of this act shall be known and may be cited as the "Oklahoma Research and Development Incentives Act".

Added by Laws 1992, c. 225, § 5, eff. July 1, 1992.

§68-54002. Definitions. As used in the Oklahoma Research and Development Incentives Act: 1. "Qualified purchaser" means any new or expanding business which adds and maintains for a period of at least thirty-six (36) months at least ten (10) new full-time-equivalent in-state employees at an average annual salary of Thirty-five Thousand Dollars (\$35,000.00) per employee, as certified by the Employment Security Commission and is a business which derives at least fifty percent (50%) of its annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer; 2. "Qualified purchases" means computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment; and 3. "Primarily engaged in" means that not less than seventy-five percent (75%) of the combined annual gross revenues of the original business and the expanding business or not less than seventy-five percent (75%) of the annual gross revenues of the new business result from such activities. Added by Laws 1992, c. 225, § 6, eff. July 1, 1992.

§68-54003. Purchaser primarily engaged in computer services and data processing or research and development - Sales and use tax exemption. A. There are hereby specifically exempted from the taxes levied by Section 1354 and Section 1402 of Title 68 of the Oklahoma Statutes sales of qualified purchases to a qualified purchaser which is primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372, 7373, 7374 and 7375 of the SIC Manual, latest revision, or a qualified purchaser which is primarily Oklahoma Statutes - Title 68. Revenue and Taxation Page 1296 engaged in research and development as defined under Industrial Group Numbers 8731, 8732, 8733 and 8734 of the SIC Manual, latest revision. B. A qualified purchaser which is primarily engaged in computer services and data processing as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, shall be required to have a minimum of One Hundred Thousand Dollars (\$100,000.00) in qualified purchases in order to be eligible to receive the exemption provided for in this section. C. In order to be eligible to receive the exemption provided for in this section, a new or expanding business shall not include the existing employee positions of any business enterprise that is directly or beneficially owned by a corporation, trust, joint venture, proprietorship, or partnership doing business in this state as of January 1, 1992. D. Eligibility to receive the exemption provided for in this subsection pursuant to the requirement to derive fifty percent (50%) of revenues from out-of-state buyers or consumers and pursuant to the requirement that the business be primarily engaged in computer services and data processing or in research and development shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the business so qualifies and such other information as required by the Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be sales to an out-of-state buyer or consumer. Added by Laws 1992, c. 225, § 7, eff. July 1, 1992.

§68-54004. Purchaser primarily engaged in computer services and data processing or research and development - Refund of state and local sales taxes. A. In order to administer the exemption for sales to a qualified computer services, data processing or research and development facility as provided by Section 7 of this act, there shall be made a sales tax refund for state and local sales taxes paid by the account created by this section to such qualified facility. B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines. C. Any



refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified computer services, data processing or research and development facility upon the principal amount of any refund made to such qualified facility Oklahoma Statutes - Title 68. Revenue and Taxation Page 1297 for purposes of administering the exemption provided by Section 7 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts. D. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for qualified purchases as defined in Section 6 of this act, purchased by that contractor or subcontractor pursuant to a contract with a qualified computer services, data processing or research and development facility shall, upon proper showing, be refunded to such qualified facility. E. The qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission the following documentation for any refund claimed: 1. Invoices indicating the amount of state and local sales tax billed; 2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to such qualified facility but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and 3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission. F. In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified facility is based on state and local sales tax paid by the contractor or subcontractor on qualified purchases as defined in Section 6 of this act, purchased and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor. Oklahoma Statutes - Title 68. Revenue and Taxation Page 1298 G. Only sales of qualified purchases as defined in Section 6 of this act, made after July 1, 1992, shall be eligible for the refund established by this section. H. The qualified computer services, data processing or research and development facility shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of Section 7 of this act, with the Oklahoma Tax Commission a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section. I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of new full-time-equivalent employees drops below the number prescribed in Section 6 of this act, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission. Added by Laws 1992, c. 225, § 8, eff. July 1, 1992.

§68-54005. Purchaser primarily engaged in computer services and data processing or research and development - Refund of state and local use taxes. A. In order to administer the exemption for sales to a qualified computer services, data processing or research and development facility as provided by Section 7 of this act, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by qualified facilities for qualified purchases as defined in Section 6 of this act, from the account created by this section. B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines. C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the



Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified computer services, data processing or research and development facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by Section 7 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon Oklahoma Statutes - Title 68. Revenue and Taxation Page 1299 the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts. D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for qualified purchases as defined in Section 6 of this act, purchased by that contractor or subcontractor pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to such qualified facility. E. The qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission the following documentation for any refund claimed: 1. Invoices indicating the amount of state and local use tax billed; 2. Affidavit of each vendor that state and local use tax billed has not been audited, rebated, or refunded to such qualified facility but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and 3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission. F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified facility shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the use tax refund of the qualified manufacturer is based on state and local use tax, paid by the contractor or subcontractor on qualified purchases as defined in Section 6 of this act, purchased and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor. G. Only sales of tangible personal property made after July 1, 1992, shall be eligible for the refund established by this section. H. The qualified computer services, data processing or research and development facility shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of Section 7 of this act, with the Oklahoma Tax Commission, a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section. I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of new full-time-equivalent employees drops below the number prescribed Oklahoma Statutes - Title 68. Revenue and Taxation Page 1300 in Section 6 of this act, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission. Added by Laws 1992, c. 225, § 9, eff. July 1, 1992.

§68-54006. Repealed by Laws 2013, c. 363, § 20, eff. Jan. 1, 2014.

Appendix C: Oklahoma State Statute §68-1357v2



There are hereby specifically exempted from the tax levied by the Oklahoma Sales Tax Code:

21. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

- a.as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and
- b.as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;