

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 694 By: Schulz of the Senate  
3 and  
4 Wright of the House  
5  
6

7 [ ad valorem tax - ad valorem exemption for certain  
8 manufacturers - fair cash value - effective date ]  
9

10 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
11 entire bill and insert  
12

13 "[ revenue and taxation - procedures for determination  
14 of fair cash value and determinations by county  
15 board of equalization and district court -  
16 effective date ]  
17  
18

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

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 2902.5 of Title 68, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. For all qualifying manufacturing concerns that become  
24 eligible for the exemption authorized by Section 6B of Article X of

1 the Oklahoma Constitution and pursuant to Section 2902 of Title 68  
2 of the Oklahoma Statutes for the first time on or after January 1,  
3 2016, or the assets of a qualifying manufacturing concern which  
4 become eligible for the exemption for the first time on or after  
5 January 1, 2016, the Oklahoma Tax Commission, the county assessor of  
6 the county or counties in which the real or personal property of the  
7 qualifying manufacturing concern is located (or both such real and  
8 personal property), and the qualifying manufacturing concern shall  
9 mutually agree upon a valuation method for the real and personal  
10 property which is eligible for the exemption, including a method for  
11 depreciation.

12 B. The agreement among the parties described in subsection A of  
13 this section shall be in writing upon such form as the Tax  
14 Commission may prescribe for such purpose or contained in an  
15 agreement as mutually agreed to by the parties. The agreement shall  
16 contain a description of the valuation method to be used with  
17 respect to the assets described in the agreement for the period of  
18 time the exemption described in subsection A of this section is in  
19 effect, including any method for the depreciation of such property.  
20 Such agreement shall be binding upon successors in public office and  
21 upon any successor in interest if the entity which owns the assets  
22 is acquired by any other entity pursuant to purchase of its equity  
23 interests.

24

1 C. The agreement shall be signed by authorized representatives  
2 of the parties or by the parties in their official capacities. The  
3 agreement shall be kept in the records of the Tax Commission for the  
4 period of time the qualifying manufacturing concern is eligible for  
5 the exemption described in subsection A of this section and for such  
6 additional period of time as the Commission shall determine. The  
7 agreement shall also be kept in the records of the applicable county  
8 assessor for the period of time the qualifying manufacturing concern  
9 is eligible for the exemption described in subsection A of this  
10 section and for such additional period of time as the assessor shall  
11 determine.

12 D. If the county assessor, the Tax Commission and the  
13 qualifying manufacturing concern cannot reach a mutual agreement  
14 regarding valuation methods or depreciation methods or any other  
15 matter relevant to the agreement prior to the time the exemption  
16 period begins or not later than the date prescribed by Section 2902  
17 of Title 68 of the Oklahoma Statutes for filing an application for  
18 the exempt treatment, the Tax Commission shall have the authority to  
19 select a valuation method, including a method for depreciation,  
20 which is consistent with the provisions of the Ad Valorem Tax Code  
21 regarding determinations of fair cash value and such method shall be  
22 binding on the county assessor and the qualifying manufacturing  
23 concern for the duration of the exemption.

24

1 E. With respect to the valuation method described in the  
2 agreement or selected by the Tax Commission pursuant to subsection D  
3 of this section, the Tax Commission shall perform the valuation of  
4 the real or personal property or both such real and personal  
5 property using the valuation method described in the agreement,  
6 including the depreciation method, and shall not use any other  
7 method for valuation or depreciation.

8 F. Except as provided by subsection G of this section, after  
9 the expiration of the exemption period, the valuation method as  
10 memorialized in the agreement among the parties or the valuation  
11 method selected by the Tax Commission if the parties were not able  
12 to reach a mutual agreement or a valuation method agreed to by both  
13 the county assessor and the qualifying manufacturing concern shall  
14 continue to be the valuation method used to establish the fair cash  
15 value of the real or personal property or both such real and  
16 personal property for all assessment years after the expiration of  
17 the period of exemption.

18 G. If a county assessor modifies the fair cash value of real or  
19 personal property or both such real and personal property in any  
20 assessment year subsequent to the last year of the exemption period  
21 in an amount which represents a significant increase or decrease  
22 from the fair cash value that would otherwise be determined  
23 according to the method described in the agreement or the method  
24 selected by the Tax Commission if the parties were not able to reach

1 a mutual agreement, the taxpayer may protest the fair cash value as  
2 determined by the county assessor and the valuation method,  
3 including any depreciation methods, used by the county assessor to  
4 make the determination in the manner authorized by the Ad Valorem  
5 Tax Code.

6 H. In any proceeding involving an issue regarding the method by  
7 which the fair cash value of the relevant assets is being determined  
8 as provided by subsection G of this section, there shall be an  
9 evidentiary presumption, which may only be overcome by clear and  
10 convincing evidence to the contrary, that the fair cash value which  
11 would be determined using the valuation methodology in the agreement  
12 or the valuation methodology as selected by the Tax Commission if  
13 the parties were unable to reach agreement is the correct fair cash  
14 value for the real or personal property or both such real and  
15 personal property.

16 I. The evidentiary presumption described by subsection H of  
17 this section shall govern any proceedings in district court in  
18 appeals from final determinations of the county board of  
19 equalization.

20 J. Upon the appeal of a judgment of a district court in cases  
21 arising as a result of modifications to fair cash value of assets by  
22 a county assessor after the expiration of the exemption period, the  
23 findings and conclusions or judgment of the district court shall  
24 only be reversed if the appellate court finds that the evidentiary

1 presumption described by subsection H of this section was rebutted  
2 by the presentation of relevant and admissible evidence and that the  
3 evidence was clear and convincing.

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

7 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2902, as  
8 last amended by Section 1 of Enrolled Senate Bill No. 387 of the 1st  
9 Session of the 55th Oklahoma Legislature, is amended to read as  
10 follows:

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

1 following the initial year for which the exemption was granted.  
2 Such facilities are hereby classified for the purposes of taxation  
3 as provided in Section 22 of Article X of the Oklahoma Constitution.

4 B. For purposes of this section, the following definitions  
5 shall apply:

6 1. "Manufacturing facilities" means facilities engaged in the  
7 mechanical or chemical transformation of materials or substances  
8 into new products and shall include:

- 9 a. establishments which have received a manufacturer  
10 exemption permit pursuant to the provisions of Section  
11 1359.2 of this title,
- 12 b. facilities, including repair and replacement parts,  
13 primarily engaged in aircraft repair, building and  
14 rebuilding whether or not on a factory basis,
- 15 c. establishments primarily engaged in computer services  
16 and data processing as defined under Industrial Group  
17 Numbers 5112 and 5415, and U.S. Industry Number 334611  
18 and 519130 of the NAICS Manual, latest revision, and  
19 which derive at least fifty percent (50%) of their  
20 annual gross revenues from the sale of a product or  
21 service to an out-of-state buyer or consumer, and as  
22 defined under Industrial Group Number 5142 of the  
23 NAICS Manual, latest revision, which derive at least  
24 eighty percent (80%) of their annual gross revenues

1 from the sale of a product or service to an out-of-  
2 state buyer or consumer. Eligibility as a  
3 manufacturing facility pursuant to this subparagraph  
4 shall be established, subject to review by the  
5 Oklahoma Tax Commission, by annually filing an  
6 affidavit with the Tax Commission stating that the  
7 facility so qualifies and such other information as  
8 required by the Tax Commission. For purposes of  
9 determining whether annual gross revenues are derived  
10 from sales to out-of-state buyers, all sales to the  
11 federal government shall be considered to be an out-  
12 of-state buyer,

- 13 d. for which the investment cost of the construction,  
14 acquisition or expansion of the manufacturing facility  
15 is Two Hundred Fifty Thousand Dollars (\$250,000.00) or  
16 more. Provided, "investment cost" shall not include  
17 the cost of direct replacement, refurbish, repair or  
18 maintenance of existing machinery or equipment, and  
19 e. establishments primarily engaged in distribution as  
20 defined under Industry Numbers 49311, 49312, 49313 and  
21 49319 and Industry Sector Number 42 of the NAICS  
22 Manual, latest revision, and which meet the following  
23 qualifications:  
24

- 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  
24

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

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

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

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

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

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

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

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

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

- 1                   i.    payments to sole proprietors, members  
2                   of a partnership, members of a limited  
3                   liability company who own at least ten  
4                   percent (10%) of the capital of the  
5                   limited liability company or  
6                   stockholder-employees of a corporation  
7                   who own at least ten percent (10%) of  
8                   the stock in the corporation, and  
9                   ii.   any nonrecurring bonuses, exercise of  
10                   stock option or stock rights or other  
11                   nonrecurring, extraordinary items  
12                   included in total payroll numbers as  
13                   reported by the Oklahoma Employment  
14                   Security Commission. A manufacturing  
15                   facility electing either option shall  
16                   indicate such election upon its  
17                   application for an exemption under this  
18                   section. Any manufacturing facility  
19                   electing either option shall submit  
20                   such information as the Tax Commission  
21                   may require in order to verify payroll  
22                   information. Payroll information  
23                   submitted pursuant to the provisions of  
24                   this paragraph shall be submitted to

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

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

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

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

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

23  
24

- 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  
24

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  
24

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. An entity engaged in electric power generation by means of  
13 wind, as described by the North American Industry Classification  
14 System, No. 221119, which does not meet the requirements of  
15 paragraph 4 of this subsection shall be granted an exemption only if  
16 all other requirements of this section are met and only if there is  
17 a net increase in annualized payroll at the facility of at least Two  
18 Hundred Fifty Thousand Dollars (\$250,000.00) or a net increase of  
19 Two Million Dollars (\$2,000,000.00) or more in capital improvements  
20 while maintaining or increasing payroll; and

21 9. An entity or applicant engaged in an industry as defined  
22 under U.S. Industry Number 324110 of the NAICS Manual, latest  
23 revision, which has applied for or been granted an exemption for a  
24 time period which began on or after calendar year 2012 and before

1 calendar year 2016 but which did not meet the payroll requirements  
2 of subparagraph a of paragraph 4 of this subsection because of  
3 nonrecurring bonuses, exercise of stock option or stock rights or  
4 other nonrecurring, extraordinary items included in total payroll in  
5 the previous year, shall be allowed an exemption, beginning with  
6 calendar year 2016, for the number of years, including the calendar  
7 year for which the exemption was denied, remaining in the entity's  
8 five-year exemption period, provided such entity attains or  
9 increases payroll at or above the initial or base payroll  
10 established for the exemption.

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

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

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. The agreement with respect to valuation methods or, in  
23 the absence of such a mutual agreement, the valuation method  
24 selected by the Tax Commission pursuant to the provisions of Section

1 1 of this act shall be deemed to satisfy the requirements of this  
2 subsection.

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 3. AMENDATORY 68 O.S. 2011, Section 2877, as  
7 last amended by Section 23 of Enrolled Senate Bill No. 831 of the  
8 1st Session of the 55th Oklahoma Legislature, is amended to read as  
9 follows:

10 Section 2877. A. Upon receipt of an appeal from action by the  
11 county assessor on the form prescribed by the Oklahoma Tax  
12 Commission, the secretary of the county board of equalization shall  
13 fix a date of hearing, at which time said board shall be authorized  
14 and empowered to take evidence pertinent to said appeal; and for  
15 that purpose, is authorized to compel the attendance of witnesses  
16 and the production of books, records, and papers by subpoena, and to  
17 confirm, correct, or adjust the valuation of real or personal  
18 property or to cancel an assessment of personal property added by  
19 the assessor not listed by the taxpayer if the personal property is  
20 not subject to taxation or if the taxpayer is not responsible for  
21 payment of ad valorem taxes upon such property. The evidentiary  
22 presumption required by subsection H of Section 1 of this act for  
23 purposes of determining the fair cash value of the real or personal  
24 property or both such real and personal property of a qualifying

1 manufacturing concern shall be applicable to proceedings involving  
2 the valuation of such property. The secretary of the board shall  
3 fix the dates of the hearings provided for in this section in such a  
4 manner as to ensure that the board is able to hear all complaints  
5 within the time provided for by law. In any county with a  
6 population less than three hundred thousand (300,000) according to  
7 the latest Federal Decennial Census, the county board of  
8 equalization shall provide at least three dates on which a taxpayer  
9 may personally appear and make a presentation of evidence. At least  
10 ten (10) days shall intervene between each such date. No final  
11 determination regarding valuation protests shall be made by a county  
12 board of equalization until the taxpayer shall have failed to appear  
13 for all three such dates. The county board of equalization shall be  
14 required to follow the procedures prescribed by the Ad Valorem Tax  
15 Code or administrative rules and regulations promulgated pursuant to  
16 such Code governing the valuation of real and personal property.  
17 The county board of equalization shall not modify a valuation of  
18 real or personal property as established by the county assessor  
19 unless such modification is explained in writing upon a form  
20 prescribed by the Oklahoma Tax Commission. The affidavits  
21 prescribed in subsection E of this section will be maintained by the  
22 county board of equalization as part of the hearing record. Each  
23 decision of the county board of equalization shall be explained in  
24 writing upon a form prescribed by the Oklahoma Tax Commission. The

1 county board of equalization shall make a record of each proceeding  
2 involving an appeal from action by the county assessor either in  
3 transcribed or tape recorded form.

4 B. In all cases where the county assessor has, without giving  
5 the notice required by law, increased the valuation of property as  
6 listed by the taxpayer, and the taxpayer has knowledge of such  
7 adjustment or addition, the taxpayer may at any time prior to the  
8 adjournment of the board, file an appeal in the form and manner  
9 provided for in Section 2876 of this title. Thereafter, the board  
10 shall fix a date of hearing, notify the taxpayer, and conduct the  
11 hearing as required by this section.

12 C. The taxpayer or agent may appear at the scheduled hearing  
13 either in person, by telephone or other electronic means, or by  
14 affidavit.

15 D. If the taxpayer or agent fails to appear before the county  
16 board of equalization at the scheduled hearing, unless advance  
17 notification is given for the reason of absence, the county shall be  
18 authorized to assess against the taxpayer the costs incurred by the  
19 county in preparation for the scheduled hearing. If such costs are  
20 assessed, payment of the costs shall be a prerequisite to the filing  
21 of an appeal to the district court. A taxpayer that gives advance  
22 notification of ~~their~~ his or her absence shall be given the  
23 opportunity to reschedule the hearing date.

24

1 E. 1. In order to increase taxpayer transparency, a member of  
2 the board of equalization shall not directly or indirectly  
3 communicate with the county assessor or any deputy assessor or  
4 designated agent on any matter relating to any pending appeal before  
5 the board of equalization prior to the actual hearing.

6 2. Prior to the presentation of any evidence at a county board  
7 of equalization hearing, each member of the board hearing the  
8 protest must sign an affidavit stating the member is not in  
9 violation of paragraph 1 of this subsection.

10 3. Prior to the presentation of any evidence at a county board  
11 of equalization hearing, all parties to the proceeding must sign an  
12 affidavit stating that the evidence being presented is true to the  
13 best of their belief and knowledge.

14 4. The provisions of paragraph 1 of this subsection shall not  
15 apply to a routine communication between the county assessor and the  
16 board of equalization that relates to the administration of an  
17 appraisal roll, including a communication made in connection with  
18 the certification, correction, or collection of an account that is  
19 not the subject of a pending appeal.

20 5. The affidavit required in paragraph 2 of this subsection  
21 shall be in the following form: "My name is [insert name]. I have  
22 not communicated with another person in violation of subsection E of  
23 Section 2877 of Title 68 of the Oklahoma Statutes."  
24

1           6. The affidavit required in paragraph 3 of this subsection  
2 shall be in the following form: "My name is [insert name]. The  
3 information I will present today is true and correct to the best of  
4 my belief and knowledge."

5           SECTION 4.           AMENDATORY           68 O.S. 2011, Section 2880.1, is  
6 amended to read as follows:

7           Section 2880.1 A. Both the taxpayer and the county assessor  
8 shall have the right of appeal from any order of the county board of  
9 equalization to the district court of the same county, and right of  
10 appeal of either may be either upon questions of law or fact  
11 including value, or upon both questions of law and fact. In case of  
12 appeal the trial in the district court shall be de novo. The  
13 evidentiary presumption required by subsection H of Section 1 of  
14 this act for purposes of determining the fair cash value of the real  
15 or personal property or both such real and personal property of a  
16 qualifying manufacturing concern shall be applicable to proceedings  
17 involving the valuation of such property. Provided, the county  
18 assessor shall not be permitted to appeal an order of the county  
19 board of equalization upon a question of the constitutionality of a  
20 law upon which the board based its order, but the county assessor is  
21 hereby authorized in such instance to request a declaratory judgment  
22 to be rendered by the district court.

23           B. Notice of appeal shall be filed with the county clerk as  
24 secretary of the county board of equalization, which appeal shall be

1 filed in the district court within ten (10) days after the final  
2 adjournment of the board. It shall be the duty of the county clerk  
3 to preserve all complaints and to make a record of all orders of the  
4 board and both the complaint and orders shall be a part of the  
5 record in any case appealed to the district court from the county  
6 board of equalization.

7 C. Either the taxpayer or the county assessor may appeal from  
8 the district court to the Supreme Court, as provided for in the Code  
9 of Civil Procedure, but no matter shall be reviewed on such appeal  
10 which was not presented to the district court. The findings and  
11 conclusions or the judgment of the district court with respect to  
12 determinations of fair cash value of real or personal property or  
13 both such real and personal property of qualifying manufacturing  
14 concerns may only be reversed according to the standard of review as  
15 prescribed by subsection J of Section 1 of this act.

16 D. In such appeals to the district court and to the Supreme  
17 Court and in requests for declaratory judgment it shall be the duty  
18 of the district attorney to appear for and represent the county  
19 assessor. The General Counsel or an attorney for the Tax Commission  
20 may appear in such appeals or requests for declaratory judgment on  
21 behalf of the county assessor, either upon request of the district  
22 attorney for assistance, or upon request of the county assessor. It  
23 shall be the mandatory duty of the board of county commissioners and  
24 the county excise board to provide the necessary funds to enable the

1 county assessor to pay the costs necessary to be incurred in  
2 perfecting appeals and requests for declaratory judgment made by the  
3 county assessor to the courts.

4 E. In all appeals taken by the county assessor the presumption  
5 shall exist in favor of the correctness of the county assessor's  
6 valuation and the procedure followed by the county assessor.

7 SECTION 5. This act shall become effective January 1, 2016."

8 Passed the House of Representatives the 21st day of April, 2015.

9

10

11

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

12

13 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE  
2 BILL NO. 694

By: Schulz of the Senate

and

Wright of the House

3  
4  
5  
6 [ ad valorem tax - ad valorem exemption for certain  
7 manufacturers - fair cash value - effective date ]  
8

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

10 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2902, as  
11 amended by Section 1, Chapter 306, O.S.L. 2012 (68 O.S. Supp. 2014,  
12 Section 2902), is amended to read as follows:

13 Section 2902. A. Except as otherwise provided by subsection H  
14 of Section 3658 of this title pursuant to which the exemption  
15 authorized by this section may not be claimed, a qualifying  
16 manufacturing concern, as defined by Section 6B of Article X of the  
17 Oklahoma Constitution, and as further defined herein, shall be  
18 exempt from the levy of any ad valorem taxes upon new, expanded or  
19 acquired manufacturing facilities, including facilities engaged in  
20 research and development, for a period of five (5) years. The  
21 provisions of Section 6B of Article X of the Oklahoma Constitution  
22 requiring an existing facility to have been unoccupied for a period  
23 of twelve (12) months prior to acquisition shall be construed as a  
24 qualification for a facility to initially receive an exemption, and

1 shall not be deemed to be a qualification for that facility to  
2 continue to receive an exemption in each of the four (4) years  
3 following the initial year for which the exemption was granted.  
4 Such facilities are hereby classified for the purposes of taxation  
5 as provided in Section 22 of Article X of the Oklahoma Constitution.

6 B. For purposes of this section, the following definitions  
7 shall apply:

8 1. "Manufacturing facilities" means facilities engaged in the  
9 mechanical or chemical transformation of materials or substances  
10 into new products and shall include:

- 11 a. establishments which have received a manufacturer  
12 exemption permit pursuant to the provisions of Section  
13 1359.2 of this title,
- 14 b. facilities, including repair and replacement parts,  
15 primarily engaged in aircraft repair, building and  
16 rebuilding whether or not on a factory basis,
- 17 c. establishments primarily engaged in computer services  
18 and data processing as defined under Industrial Group  
19 Numbers 5112 and 5415, and U.S. Industry Number 334611  
20 and 519130 of the NAICS Manual, latest revision, and  
21 which derive at least fifty percent (50%) of their  
22 annual gross revenues from the sale of a product or  
23 service to an out-of-state buyer or consumer, and as  
24 defined under Industrial Group Number 5142 of the

1 NAICS Manual, latest revision, which derive at least  
2 eighty percent (80%) of their annual gross revenues  
3 from the sale of a product or service to an out-of-  
4 state buyer or consumer. Eligibility as a  
5 manufacturing facility pursuant to this subparagraph  
6 shall be established, subject to review by the  
7 Oklahoma Tax Commission, by annually filing an  
8 affidavit with the Tax Commission stating that the  
9 facility so qualifies and such other information as  
10 required by the Tax Commission. For purposes of  
11 determining whether annual gross revenues are derived  
12 from sales to out-of-state buyers, all sales to the  
13 federal government shall be considered to be an out-  
14 of-state buyer,

15 d. for which the investment cost of the construction,  
16 acquisition or expansion of the manufacturing facility  
17 is Two Hundred Fifty Thousand Dollars (\$250,000.00) or  
18 more. Provided, "investment cost" shall not include  
19 the cost of direct replacement, refurbish, repair or  
20 maintenance of existing machinery or equipment, and

21 e. establishments primarily engaged in distribution as  
22 defined under Industry Numbers 49311, 49312, 49313 and  
23 49319 and Industry Sector Number 42 of the NAICS  
24

1 Manual, latest revision, and which meet the following  
2 qualifications;

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

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

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

1 Eligibility as a manufacturing facility pursuant to this  
2 subparagraph shall be established, subject to review by the Tax  
3 Commission, by annually filing an application with the Tax  
4 Commission stating that the facility so qualifies and containing  
5 such other information as required by the Tax Commission;

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

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

14 C. The following provisions shall apply:

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

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

1 additional five-year exemption meets the requirements of paragraph 4  
2 of this subsection and the employment level established for any  
3 previous exemption is maintained;

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

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

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

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

1 The Tax Commission shall verify payroll information  
2 through the Oklahoma Employment Security Commission by  
3 using reports from the Oklahoma Employment Security  
4 Commission for the calendar year immediately preceding  
5 the year for which initial application is made for  
6 base-line payroll, which must be maintained or  
7 increased for each subsequent year; provided, a  
8 manufacturing facility shall have the option of  
9 excluding from its payroll, for purposes of this  
10 section, payments to sole proprietors, members of a  
11 partnership, members of a limited liability company  
12 who own at least ten percent (10%) of the capital of  
13 the limited liability company or stockholder-employees  
14 of a corporation who own at least ten percent (10%) of  
15 the stock in the corporation. A manufacturing  
16 facility electing this option shall indicate such  
17 election upon its application for an exemption under  
18 this section. Any manufacturing facility electing  
19 this option shall submit such information as the Tax  
20 Commission may require in order to verify payroll  
21 information. Payroll information submitted pursuant  
22 to the provisions of this paragraph shall be submitted  
23 to the Tax Commission and shall be subject to the  
24 provisions of Section 205 of this title, and

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

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

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

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

- 19 a. has been located for at least five (5) years as of  
20 March 31, 2009, in a county in Oklahoma with a  
21 population of six hundred thousand (600,000) or more;
- 22 b. is owned by an applicant that has been engaged in  
23 manufacturing as defined under U.S. Industry Numbers  
24

1 323110, 323111, 323121 and 323122 of the NAICS Manual,  
2 latest revision;

3 c. is owned by an applicant that maintains a workforce of  
4 at least three hundred (300) employees on June 1,  
5 2009;

6 d. is owned by an applicant that has filed multiple  
7 applications for exemption pursuant to this section;  
8 and

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

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

21 6. Any new, acquired or expanded automotive final assembly  
22 manufacturing facility which does not meet the requirements of  
23 paragraph 4 of this subsection shall be granted an exemption only if  
24 all other requirements of this section are met and only if the

1 investment cost of the construction, acquisition or expansion of the  
2 manufacturing facility is Three Hundred Million Dollars  
3 (\$300,000,000.00) or more and the manufacturing facility retains an  
4 average employment of one thousand seven hundred fifty (1,750) or  
5 more full-time-equivalent employees in the year in which the  
6 exemption is initially granted and in each of the four (4)  
7 subsequent years only if an average employment of one thousand seven  
8 hundred fifty (1,750) or more full-time-equivalent employees is  
9 maintained in the subsequent year. Any property installed to  
10 replace property damaged by the tornado or natural disaster that  
11 occurred May 8, 2003, may continue to receive the exemption provided  
12 in this paragraph for the full five-year period based on the value  
13 of the previously qualifying assets as of January 1, 2003. The  
14 exemption shall continue in effect as long as all other  
15 qualifications in this paragraph are met. If the average employment  
16 of one thousand seven hundred fifty (1,750) or more full-time-  
17 equivalent employees is reduced as a result of temporary layoffs  
18 because of a tornado or natural disaster on May 8, 2003, then the  
19 average employment requirement shall be waived for year 2003 of the  
20 exemption period. Calculation of the number of employees shall be  
21 made in the same manner as required under Section 2357.4 of this  
22 title for an investment tax credit. As used in this paragraph,  
23 "expand" and "expansion" shall mean and include any increase to the  
24 size or scope of a facility as well as any renovation, restoration,

1 replacement or remodeling of a facility which permits the  
2 manufacturing of a new or redesigned product;

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

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

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

1 Department of Commerce to consist of the elements  
2 specified in subparagraph b of paragraph 1 of  
3 subsection A of Section 3603 of this title or elements  
4 substantially equivalent thereto; and

5 8. An entity engaged in electric power generation by means of  
6 wind, as described by the North American Industry Classification  
7 System, No. 221119, which does not meet the requirements of  
8 paragraph 4 of this subsection shall be granted an exemption only if  
9 all other requirements of this section are met and only if there is  
10 a net increase in annualized payroll at the facility of at least Two  
11 Hundred Fifty Thousand Dollars (\$250,000.00) or a net increase of  
12 Two Million Dollars (\$2,000,000.00) or more in capital improvements  
13 while maintaining or increasing payroll.

14 9. An entity which has been granted an exemption for a time  
15 period which included calendar year 2009 but which did not meet the  
16 base-line payroll requirements of subparagraph a of paragraph 4 of  
17 this subsection during calendar year 2009, shall be allowed an  
18 exemption, to begin on January 1 of the first calendar year after  
19 January 1, 2012, for the number of years, including calendar year  
20 2009, remaining in the entity's five-year exemption period, provided  
21 such entity attains or increases payroll at or above the base-line  
22 payroll established for the exemption which was in force during  
23 calendar year 2009.

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

6 2. The five-year period of exemption from ad valorem taxes for  
7 any qualifying manufacturing facility, as defined in subparagraph c  
8 of paragraph 1 of subsection B of this section which is located  
9 within a tax incentive district created pursuant to the Local  
10 Development Act by a county having a population of at least five  
11 hundred thousand (500,000), according to the most recent federal  
12 decennial census, shall begin on January 1 following the expiration  
13 or termination of the ad valorem exemption, abatement, or other  
14 incentive provided through the tax incentive district.

15 E. Any person, firm or corporation claiming the exemption  
16 herein provided for shall file each year for which exemption is  
17 claimed, an application therefor with the county assessor of the  
18 county in which the new, expanded or acquired facility is located.  
19 The application shall be on a form or forms prescribed by the Tax  
20 Commission, and shall be filed on or before March 15, except as  
21 provided in Section 2902.1 of this title, of each year in which the  
22 facility desires to take the exemption or within thirty (30) days  
23 from and after receipt by such person, firm or corporation of notice  
24 of valuation increase, whichever is later. In a case where

1 completion of the facility or facilities will occur after January 1  
2 of a given year, a facility may apply to claim the ad valorem tax  
3 exemption for that year. If such facility is found to be qualified  
4 for exemption, the ad valorem tax exemption provided for herein  
5 shall be granted for that entire year and shall apply to the ad  
6 valorem valuation as of January 1 of that given year. For  
7 applicants which qualify under the provisions of subparagraph b of  
8 paragraph 1 of subsection B of this section, the application shall  
9 include a copy of the affidavit and any other information required  
10 to be filed with the Tax Commission.

11 F. The application shall be examined by the county assessor and  
12 approved or rejected in the same manner as provided by law for  
13 approval or rejection of claims for homestead exemptions. The  
14 taxpayer shall have the same right of review by and appeal from the  
15 county board of equalization, in the same manner and subject to the  
16 same requirements as provided by law for review and appeals  
17 concerning homestead exemption claims. Approved applications shall  
18 be filed by the county assessor with the Tax Commission no later  
19 than June 15, except as provided in Section 2902.1 of this title, of  
20 the year in which the facility desires to take the exemption.  
21 Incomplete applications and applications filed after June 15 will be  
22 declared null and void by the Tax Commission. In the event that a  
23 taxpayer qualified to receive an exemption pursuant to the  
24 provisions of this section shall make payment of ad valorem taxes in

1 excess of the amount due, the county treasurer shall have the  
2 authority to credit the taxpayer's real or personal property tax  
3 overpayment against current taxes due. The county treasurer may  
4 establish a schedule of up to five (5) years of credit to resolve  
5 the overpayment.

6 G. Nothing herein shall in any manner affect, alter or impair  
7 any law relating to the assessment of property, and all property,  
8 real or personal, which may be entitled to exemption hereunder shall  
9 be valued and assessed ~~as is other like property and as provided by~~  
10 ~~law~~ utilizing the income and expense approach to estimate fair cash  
11 value. The valuation and assessment of property for which an  
12 exemption is granted hereunder shall be performed by the Tax  
13 Commission.

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

17 SECTION 7. This act shall become effective January 1, 2016.

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