

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 609 By: Coleman and Hall of the
Senate
3
and
4
Hilbert of the House
5
6

7 An Act relating to ad valorem tax; amending 68 O.S.
2011, Section 2902, as last amended by Section 1,
8 Chapter 258, O.S.L. 2019 (68 O.S. Supp. 2020, Section
2902), which relates to exemption for manufacturing
9 facilities; modifying definitions; adjusting certain
investment requirement to inflation index; requiring
10 the Oklahoma Tax Commission to publish certain
adjustments; adjusting wage threshold; requiring
11 wages exceed certain Quality Jobs Program Act
requirements; authorizing the Oklahoma Tax Commission
12 to request verification; removing exceptions for
failure to meet certain payroll requirements;
13 modifying certain classification; and providing an
effective date.
14

15 AUTHOR: Add the following Senate Coauthor: Kirt

16 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
and replace with:
17

18 "An Act relating to tax; amending 62 O.S. 2011,
Sections 856, 860 and 866, which relate to the Local
19 Development Act; modifying required content of
project plans; modifying provisions related to
20 duration of certain districts based on certain
industry description; modifying requirements for
certain written agreement; amending 68 O.S. 2011,
21 Section 2902, as last amended by Section 1, Chapter
258, O.S.L. 2019 (68 O.S. Supp. 2020, Section 2902),
22 which relates to exemption for manufacturing
facilities; modifying definitions; modifying
23 eligibility for exemption based on certain industry
description; providing exception for certain
24

1 personal property; adjusting certain investment
2 requirement to inflation index; requiring the
3 Oklahoma Tax Commission to publish certain
4 adjustments; adjusting wage threshold; requiring
5 wages exceed certain Quality Jobs Program Act
6 requirements; authorizing the Oklahoma Tax
7 Commission to request verification; removing
8 exceptions for failure to meet certain payroll
9 requirements; modifying certain classification; and
10 providing an effective date.

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

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

14 Section 856. A. The governing body shall designate and adopt
15 the proposed boundaries of any district and the proposed boundaries
16 of any project area. Except as otherwise provided in this
17 subsection, any districts created by a city or town shall be
18 confined to that territory within the corporate limits of such city
19 or town and any districts created by a county shall be confined to
20 that territory within the unincorporated areas of the county. Any
21 city, town or county may by agreement jointly create a district with
22 another entity.

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

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

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

7 3. Assigns a name to the district for identification purposes.
8 The first district created shall be known as either an Incentive
9 District or Increment District Number One, City, Town or County of
10 _____, whichever is applicable. Each subsequently created
11 district shall be appropriately named and shall be assigned the next
12 consecutive number; and

13 4. Contains findings that:

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

16 (1) is a reinvestment area,

17 (2) is a historic preservation area,

18 (3) is an enterprise area, or

19 (4) is a combination of the areas specified in

20 divisions (1), (2) and (3) of this subparagraph,

21 b. the improvement of the area is likely to enhance the
22 value of other real property in the area and to

23 promote the general public interest. It shall not be
24

1 necessary to identify the specific parcels meeting the
2 criteria, and

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

5 ~~d. the aggregate net assessed value of the taxable~~
6 ~~property in all districts as determined pursuant to~~
7 ~~Section 862 of this title within the city or town~~
8 ~~shall not exceed twenty-five percent (25%) of the~~
9 ~~total net assessed value of taxable property within~~
10 ~~the city or town for cities or towns having a~~
11 ~~population of fifty thousand (50,000) or more or shall~~
12 ~~not exceed thirty-five percent (35%) of the total net~~
13 ~~assessed value of taxable property within the city or~~
14 ~~town for cities or towns having a population of less~~
15 ~~than fifty thousand (50,000),~~

16 ~~e. for projects approved by a county, the aggregate net~~
17 ~~assessed value of the taxable property in all~~
18 ~~districts as determined pursuant to Section 862 of~~
19 ~~this title within the county shall not exceed fifteen~~
20 ~~percent (15%) of the total net assessed value of the~~
21 ~~taxable property within the county,~~

22 ~~f. the aggregate net assessed value of the taxable~~
23 ~~property in all districts as determined pursuant to~~
24 ~~Section 862 of this title within the city, the town or~~

1 ~~the county shall not exceed twenty-five percent (25%)~~
2 ~~of the total net assessed value of any affected school~~
3 ~~district located within the city, town or county, and~~
4 g. ~~the land area of this district and all other districts~~
5 ~~within the city, the town or the county shall not~~
6 ~~exceed twenty-five percent (25%) of the total land~~
7 ~~area of the city, the town or the county.~~

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

23 D. However, nothing in the Local Development Act shall restrict
24 the ability of:

1 1. Any city, town or county to:

- 2 a. issue debt in accordance with the applicable
3 provisions of Article X of the Oklahoma Constitution,
4 and any statutes enacted in connection therewith, and
5 b. use incremental revenues derived from an increment
6 district to pay principal, interest or premium
7 associated with such indebtedness; or

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

- 9 a. issue tax apportionment bonds or notes in accordance
10 with Section 863 of this title or to issue other types
11 of revenue bonds or notes in accordance with other
12 applicable provisions of Oklahoma law, and
13 b. use incremental revenues derived from an increment
14 district to pay principal, interest or premium
15 associated with such indebtedness.

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

18 Section 860. A. A project plan may contain a provision that
19 certain local taxes may be subject to incentives or may be exempted
20 in reinvestment areas, historic preservation areas or enterprise
21 areas.

22 B. The governing body may grant incentives or exemptions from
23 local taxation only on the new investment made. No ad valorem tax
24 incentives or exemptions may be granted on the value of property

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

1 Number 518210 of the North American Industry Classification System
2 (NAICS) Manual, 2017 revision, such incentives or exemptions may be
3 granted for a period not to exceed twenty-five (25) years.

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

22 D. A project plan may contain a provision that ad valorem taxes
23 may be exempted in a commercial historic preservation area that is
24 adjacent to and serves designated historical residential areas for

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

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

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

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

23 2. Provide access to and authorize inspection of the property
24 by city, town or county employees to ensure that the improvements or

1 repairs are made according to the specifications and conditions of
2 the agreement;

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

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

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

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

17 1. List the location of the property;

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

22 3. Limit the uses of the property consistent with the general
23 purpose of encouraging neighborhood commercial preservation of the
24

1 area during the period that the ad valorem tax exemptions are in
2 effect;

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

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

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

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

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

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

19 C. The governing body shall enter into written agreements with
20 active project participants of increment projects. The written
21 agreement may include, but shall not be limited to, the provisions
22 specified in paragraphs 1 through 5 of subsection A of this section.
23
24

1 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2902, as
2 last amended by Section 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp.
3 2020, Section 2902), is amended to read as follows:

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

21 B. For purposes of this section, the following definitions
22 shall apply:

23 1. "Manufacturing facilities" means facilities engaged in the
24 mechanical or chemical transformation of materials or substances

1 into new products and except as provided by paragraph ~~8~~ 6 of
2 subsection C of this section shall include:

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

1 facility so qualifies and such other information as
2 required by the Tax Commission. For purposes of
3 determining whether annual gross revenues are derived
4 from sales to out-of-state buyers, all sales to the
5 federal government shall be considered to be an out-
6 of-state buyer,

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

1 the adjusted dollar amount in any of its relevant
2 forms or publications with respect to the exemption.

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

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

- 19 (1) construction with an initial capital investment
20 of at least Five Million Dollars (\$5,000,000.00),
21 (2) employment of at least one hundred (100) full-
22 time-equivalent employees, as certified by the
23 Oklahoma Employment Security Commission,

1 (3) payment of wages or salaries to its employees at
2 a wage which equals or exceeds ~~one hundred~~
3 ~~seventy-five percent (175%) of the federally~~
4 ~~mandated minimum wage, as certified by the~~
5 ~~Oklahoma Employment Security Commission~~ the
6 average wage requirements in the Oklahoma Quality
7 Jobs Program Act for the year in which the real
8 property was placed into service, and

9 (4) commencement of construction on or after November
10 1, 2007, with construction to be completed within
11 three (3) years from the date of the commencement
12 of construction,

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

22 g. with respect to any entity making an application for
23 the exemption authorized by this section on or after
24 January 1, 2023, the establishment making application

for exempt treatment of real or personal property
acquired or improved beginning January 1, 2022, and
for any calendar year thereafter, the entity shall be
required to pay new direct jobs, as defined by Section
3603 of this title for purposes of the Oklahoma
Quality Jobs Program Act, an average annualized wage
which equals or exceeds the average wage requirement
in the Oklahoma Quality Jobs Program Act for the year
in which the real or personal property was placed into
service. The Oklahoma Tax Commission may request
verification from the Oklahoma Department of Commerce
that an establishment seeking an exemption for real or
personal property pays an average annualized wage that
equals or exceeds the average wage requirement in
effect for the year in which the real or personal
property was placed into service. For purposes of
this subparagraph, it shall not be necessary for the
establishment to qualify for incentive payments
pursuant to the Oklahoma Quality Jobs Program Act, but
the establishment shall be subject to the wage
requirements of the Oklahoma Quality Jobs Program Act
with respect to new direct jobs in order to qualify
for the exempt treatment authorized by this section.

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 affidavit with the Tax Commission
4 stating that the facility so qualifies and containing such other
5 information as required by the Tax Commission.

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

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

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

1 property used directly and exclusively in the manufacturing process;
2 and

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

7 C. The following provisions shall apply:

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

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

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

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

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

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

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

24

1 (1) "base payroll" shall mean total payroll adjusted
2 for any nonrecurring bonuses, exercise of stock
3 option or stock rights and other nonrecurring,
4 extraordinary items included in total payroll,
5 and

6 (2) "initial payroll" shall mean base payroll for the
7 year immediately preceding the initial
8 construction, acquisition or expansion.

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

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

1 who own at least ten percent (10%) of
2 the stock in the corporation, and

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

22 b. the facility offers, or will offer within one hundred
23 eighty (180) days of the date of employment, a basic
24 health benefits plan to the full-time-equivalent

1 employees of the facility, which is determined by the
2 Department of Commerce to consist of the elements
3 specified in subparagraph b of paragraph 1 of
4 subsection A of Section 3603 of this title or elements
5 substantially equivalent thereto.

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

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

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

- 17 ~~a. has been located for at least five (5) years as of~~
18 ~~March 31, 2009, in a county in Oklahoma with a~~
19 ~~population of six hundred thousand (600,000) or more,~~
20 ~~b. is owned by an applicant that has been engaged in~~
21 ~~manufacturing as defined under U.S. Industry Numbers~~
22 ~~323110, 323111, 323121 and 323122 of the NAICS Manual,~~
23 ~~latest revision,~~

1 ~~e. is owned by an applicant that maintains a workforce of~~
2 ~~at least three hundred (300) employees on June 1,~~
3 ~~2009,~~

4 ~~d. is owned by an applicant that has filed multiple~~
5 ~~applications for exemption pursuant to this section,~~
6 ~~and~~

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

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

19 ~~6. Any new, acquired or expanded automotive final assembly~~
20 ~~manufacturing facility which does not meet the requirements of~~
21 ~~paragraph 4 of this subsection shall be granted an exemption only if~~
22 ~~all other requirements of this section are met and only if the~~
23 ~~investment cost of the construction, acquisition or expansion of the~~
24 ~~manufacturing facility is Three Hundred Million Dollars~~

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

1 ~~7. Any~~ Except as otherwise provided by this paragraph, any new,
2 acquired, or expanded computer data processing, data preparation, or
3 information processing services provider classified in ~~Industrial~~
4 ~~Group Number 7374 of the SIC Manual, latest revision, and U.S.~~
5 Industry Number ~~514210~~ 518210 of the North American Industrial
6 Classification System (NAICS) Manual, ~~latest~~ 2017 revision, may
7 apply for exemptions under this section for each year in which new,
8 acquired, or expanded capital improvements to the facility are made
9 for assets placed in service not later than December 31, 2021, if:

- 10 a. there is a net increase in annualized payroll of the
11 applicant at any facility or facilities of the
12 applicant in this state of at least Two Hundred Fifty
13 Thousand Dollars (\$250,000.00), which is attributable
14 to the capital improvements, or a net increase of
15 Seven Million Dollars (\$7,000,000.00) or more in
16 capital improvements, while maintaining or increasing
17 payroll at the facility or facilities in this state
18 which are included in the application, and
19 b. the facility offers, or will offer within one hundred
20 eighty (180) days of the date of employment of new
21 employees attributable to the capital improvements, a
22 basic health benefits plan to the full-time-equivalent
23 employees of the facility, which is determined by the
24 Department of Commerce to consist of the elements

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

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

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

1 exemption shall be filed by or accepted from an entity engaged in
2 electric power generation by means of wind on or after January 1,
3 2018; ~~and~~

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

18 8. A facility engaged in manufacturing defined under U.S.
19 Industry Number 327310 of the NAICS Manual shall have the payroll
20 requirements of paragraph 4 of this subsection waived for tax year
21 2021, which is based in part on the 2020 calendar year payroll
22 reported to the Oklahoma Employment Security Commission, and may
23 continue to receive the exemption for the five-year period provided
24

1 in this section only if all other requirements of this section are
2 met.

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

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

- 18 a. a manufacturing facility as defined in subparagraph c
19 of paragraph 1 of subsection B of this section, and
- 20 b. an establishment primarily engaged in distribution as
21 defined under Industry Number 49311 of the North
22 American Industry Classification System for which the
23 initial capital investment was at least One Hundred
24 Eighty Million Dollars (\$180,000,000.00); provided,

1 that the qualifying job creation and depreciable
2 property investment occurred prior to calendar year
3 2017 but not earlier than calendar year 2013.

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

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

20 G. Nothing herein shall in any manner affect, alter or impair
21 any law relating to the assessment of property, and all property,
22 real or personal, which may be entitled to exemption hereunder shall
23 be valued and assessed as is other like property and as provided by
24 law. The valuation and assessment of property for which an

1 exemption is granted hereunder shall be performed by the Tax
2 Commission using one or more of the cost, income and expense and
3 sales comparison approaches to estimate fair cash value in
4 accordance with the Uniform Standards of Professional Appraisal
5 Practice.

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

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

10 Passed the House of Representatives the 21st day of April, 2021.

11
12
13 _____
14 Presiding Officer of the House of
Representatives

15 Passed the Senate the ____ day of _____, 2021.

16
17
18 _____
19 Presiding Officer of the Senate
20
21
22
23
24

1 ENGROSSED SENATE
2 BILL NO. 609

By: Coleman and Hall of the
Senate

3 and

4 Hilbert of the House

5
6 An Act relating to ad valorem tax; amending 68 O.S.
7 2011, Section 2902, as last amended by Section 1,
8 Chapter 258, O.S.L. 2019 (68 O.S. Supp. 2020, Section
9 2902), which relates to exemption for manufacturing
10 facilities; modifying definitions; adjusting certain
11 investment requirement to inflation index; requiring
12 the Oklahoma Tax Commission to publish certain
13 adjustments; adjusting wage threshold; requiring
14 wages exceed certain Quality Jobs Program Act
15 requirements; authorizing the Oklahoma Tax Commission
16 to request verification; removing exceptions for
17 failure to meet certain payroll requirements;
18 modifying certain classification; and providing an
19 effective date.

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

21 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2902, as
22 last amended by Section 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp.
23 2020, Section 2902), is amended to read as follows:

24 Section 2902. A. Except as otherwise provided by subsection H
of Section 3658 of this title pursuant to which the exemption
authorized by this section may not be claimed, a qualifying
manufacturing concern, as defined by Section 6B of Article X of the
Oklahoma Constitution, and as further defined herein, shall be
exempt from the levy of any ad valorem taxes upon new, expanded or

1 acquired manufacturing facilities, including facilities engaged in
2 research and development, for a period of five (5) years. The
3 provisions of Section 6B of Article X of the Oklahoma Constitution
4 requiring an existing facility to have been unoccupied for a period
5 of twelve (12) months prior to acquisition shall be construed as a
6 qualification for a facility to initially receive an exemption, and
7 shall not be deemed to be a qualification for that facility to
8 continue to receive an exemption in each of the four (4) years
9 following the initial year for which the exemption was granted.
10 Such facilities are hereby classified for the purposes of taxation
11 as provided in Section 22 of Article X of the Oklahoma Constitution.

12 B. For purposes of this section, the following definitions
13 shall apply:

14 1. "Manufacturing facilities" means facilities engaged in the
15 mechanical or chemical transformation of materials or substances
16 into new products and except as provided by paragraph ~~8~~ 6 of
17 subsection C of this section shall include:

18 a. establishments which have received a manufacturer
19 exemption permit pursuant to the provisions of Section
20 1359.2 of this title,

21 b. facilities, including repair and replacement parts,
22 primarily engaged in aircraft repair, building and
23 rebuilding whether or not on a factory basis,

24

- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 5112 and 5415, and U.S. Industry Number 334611 and 519130 of the NAICS Manual, latest revision, and 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 as defined under Industrial Group Number 5142 of the NAICS Manual, latest revision, 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 as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer,
- d. ~~for which~~ facilities that the investment cost of the construction, acquisition or expansion ~~of the~~

1 ~~manufacturing facility is Two Hundred Fifty Thousand~~
2 ~~Dollars (\$250,000.00)~~ Five Hundred Thousand Dollars
3 (\$500,000.00) or more with respect to assets placed
4 into service during calendar year 2022. For
5 subsequent calendar years, the investment required
6 shall be increased annually by a percentage equal to
7 the previous year's increase in the Consumer Price
8 Index-All Urban Consumers ("CPI-U") and such adjusted
9 amount shall be the required investment cost in order
10 to qualify for the exemption authorized by this
11 section. The Oklahoma Department of Commerce shall
12 determine the amount of the increase, if any, on
13 January 1 of each year. The Oklahoma Tax Commission
14 shall publish on its website at least annually the
15 adjusted dollar amount in order to qualify for the
16 exemption authorized by this section and shall include
17 the adjusted dollar amount in any of its relevant
18 forms or publications with respect to the exemption.
19 Provided, "investment cost" shall not include the cost
20 of direct replacement, refurbishment, repair or
21 maintenance of existing machinery or equipment, except
22 that "investment cost" shall include capital
23 expenditures for direct replacement, refurbishment,
24 repair or maintenance of existing machinery or

1 equipment that qualifies for depreciation and/or
2 amortization pursuant to the Internal Revenue Code of
3 1986, as amended, and such expenditures shall be
4 eligible as a part of an "expansion" that otherwise
5 qualifies under this section, ~~and~~

6 e. establishments primarily engaged in distribution as
7 defined under Industry Numbers 49311, 49312, 49313 and
8 49319 and Industry Sector Number 42 of the NAICS
9 Manual, latest revision, and which meet the following
10 qualifications:

11 (1) construction with an initial capital investment
12 of at least Five Million Dollars (\$5,000,000.00),

13 (2) employment of at least one hundred (100) full-
14 time-equivalent employees, as certified by the
15 Oklahoma Employment Security Commission,

16 (3) payment of wages or salaries to its employees at
17 a wage which equals or exceeds ~~one hundred~~
18 ~~seventy-five percent (175%) of the federally~~
19 ~~mandated minimum wage, as certified by the~~
20 ~~Oklahoma Employment Security Commission~~ the
21 average wage requirements in the Oklahoma Quality
22 Jobs Program Act for the year in which the real
23 property was placed into service, and
24

1 (4) commencement of construction on or after November
2 1, 2007, with construction to be completed within
3 three (3) years from the date of the commencement
4 of construction,

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

14 g. with respect to any entity making an application for
15 the exemption authorized by this section on or after
16 January 1, 2022, the establishment making application
17 for exempt treatment of real or personal property
18 acquired or improved beginning January 1, 2022, and
19 for any calendar year thereafter, the entity shall be
20 required to pay new direct jobs, as defined by Section
21 3603 of this title for purposes of the Oklahoma
22 Quality Jobs Program Act, an average annualized wage
23 which equals or exceeds the average wage requirement
24 in the Oklahoma Quality Jobs Program Act for the year

1 in which the real or personal property was placed into
2 service. The Oklahoma Tax Commission may request
3 verification from the Oklahoma Department of Commerce
4 that an establishment seeking an exemption for real or
5 personal property pays an average annualized wage that
6 equals or exceeds the average wage requirement in
7 effect for the year in which the real or personal
8 property was placed into service.

9 Eligibility as a manufacturing facility pursuant to this
10 subparagraph shall be established, subject to review by the Tax
11 Commission, by annually filing an affidavit with the Tax Commission
12 stating that the facility so qualifies and containing such other
13 information as required by the Tax Commission.

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

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 application with the Tax
20 Commission stating that the facility so qualifies and containing
21 such other information as required by the Tax Commission;

22 2. "Facility" and "facilities", except as otherwise provided by
23 this paragraph, means and includes the land, buildings, structures,
24 and improvements used directly and exclusively in the manufacturing

1 process. Effective January 1, 2022, and for each calendar year
2 thereafter, for establishments which have received a manufacturer
3 exemption permit pursuant to the provisions of Section 1359.2 of
4 this title, or facilities engaged in manufacturing activities
5 defined or classified in the NAICS Manual under Industry Nos. 311111
6 through 339999, inclusive, but for no other establishments, facility
7 and facilities means and includes the land, buildings, structures,
8 improvements, machinery, fixtures, equipment and other personal
9 property used directly and exclusively in the manufacturing process;
10 and

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

15 C. The following provisions shall apply:

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

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

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

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

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

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

1 exemptions, including claims previously denied or on
2 appeal on March 3, 2010, for all initial applications
3 for exemption filed on or after January 1, 2004, and
4 on or before March 31, 2009, and all subsequent annual
5 exemption applications filed related to the initial
6 application for exemption, for an applicant, if the
7 facility has been located in Oklahoma for at least
8 fifteen (15) years engaged in marine engine
9 manufacturing as defined under U.S. Industry Number
10 333618 of the NAICS Manual, latest revision, and has
11 maintained an average employment of five hundred (500)
12 or more full-time-equivalent employees over a ten-year
13 period. Any applicant that qualifies for the payroll
14 requirement waiver as outlined in the previous
15 sentence and subsequently closes its Oklahoma
16 manufacturing plant prior to January 1, 2012, may be
17 disqualified for exemption and subject to recapture.
18 For an applicant engaged in paperboard manufacturing
19 as defined under U.S. Industry Number 322130 of the
20 NAICS Manual, latest revision, union master payouts
21 paid by the buyer of the facility to specified
22 individuals employed by the facility at the time of
23 purchase, as specified under the purchase agreement,
24

1 shall be excluded from payroll for purposes of this
2 section.

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

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

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

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

1 excluding from its payroll, for purposes of this
2 section:

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

1 submitted pursuant to the provisions of
2 this paragraph shall be submitted to
3 the Tax Commission and shall be subject
4 to the provisions of Section 205 of
5 this title, and

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

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

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

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

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

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

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~~ 518210 of the North
13 American Industrial Classification System (NAICS) Manual, ~~latest~~
14 2017 revision, may apply for exemptions under this section for each
15 year in which new, acquired, or expanded capital improvements to the
16 facility are 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.~~ 6. Effective January 1, 2017, an entity engaged in electric
13 power generation by means of wind, as described by the North
14 American Industry Classification System, No. 221119, shall not be
15 defined as a qualifying manufacturing concern for purposes of the
16 exemption otherwise authorized pursuant to Section 6B of Article X
17 of the Oklahoma Constitution or qualify as a "manufacturing
18 facility" as defined in this section. No initial application for
19 exemption shall be filed by or accepted from an entity engaged in
20 electric power generation by means of wind on or after January 1,
21 2018; and

22 ~~9.~~ 7. An entity or applicant engaged in an industry as defined
23 under U.S. Industry Number 324110 of the NAICS Manual, latest
24 revision, which has applied for or been granted an exemption for a

1 time period which began on or after calendar year 2012 and before
2 calendar year 2016 but which did not meet the payroll requirements
3 of subparagraph a of paragraph 4 of this subsection because of
4 nonrecurring bonuses, exercise of stock option or stock rights or
5 other nonrecurring, extraordinary items included in total payroll in
6 the previous year, shall be allowed an exemption, beginning with
7 calendar year 2016, for the number of years, including the calendar
8 year for which the exemption was denied, remaining in the entity's
9 five-year exemption period, provided such entity attains or
10 increases payroll at or above the initial or base payroll
11 established for the exemption.

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

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

1 the tax incentive district. Facilities qualifying pursuant to this
2 subsection shall include:

- 3 a. a manufacturing facility as defined in subparagraph c
4 of paragraph 1 of subsection B of this section, and
- 5 b. an establishment primarily engaged in distribution as
6 defined under Industry Number 49311 of the North
7 American Industry Classification System for which the
8 initial capital investment was at least One Hundred
9 Eighty Million Dollars (\$180,000,000.00); provided,
10 that the qualifying job creation and depreciable
11 property investment occurred prior to calendar year
12 2017 but not earlier than calendar year 2013.

13 E. Any person, firm or corporation claiming the exemption
14 herein provided for shall file each year for which exemption is
15 claimed, an application therefor with the county assessor of the
16 county in which the new, expanded or acquired facility is located.
17 The application shall be on a form or forms prescribed by the Tax
18 Commission, and shall be filed on or before March 15, except as
19 provided in Section 2902.1 of this title, of each year in which the
20 facility desires to take the exemption or within thirty (30) days
21 from and after receipt by such person, firm or corporation of notice
22 of valuation increase, whichever is later. In a case where
23 completion of the facility or facilities will occur after January 1
24 of a given year, a facility may apply to claim the ad valorem tax

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

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

1 overpayment against current taxes due. The county treasurer may
2 establish a schedule of up to five (5) years of credit to resolve
3 the overpayment.

4 G. Nothing herein shall in any manner affect, alter or impair
5 any law relating to the assessment of property, and all property,
6 real or personal, which may be entitled to exemption hereunder shall
7 be valued and assessed as is other like property and as provided by
8 law. The valuation and assessment of property for which an
9 exemption is granted hereunder shall be performed by the Tax
10 Commission.

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

14 SECTION 7. This act shall become effective November 1, 2021.

15 Passed the Senate the 2nd day of March, 2021.

16
17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2021.

21
22 _____
23 Presiding Officer of the House
24 of Representatives

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