

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 498

By: Mazzei, Brecheen, Allen,  
Shortey, Quinn, Halligan,  
3 Ford, Fields, and Newberry  
of the Senate

4  
5 and

6 Sears of the House  
7

8 [ ad valorem tax - exemption for certain  
9 manufacturers - requirements - effective date ]

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

12  
13 "An Act relating to revenue and taxation; creating  
14 the David Dank Tax Incentive Reform Act of 2015;  
15 amending 68 O.S. 2011, Section 2902, as amended by  
16 Section 1, Chapter 306, O.S.L. 2012 (68 O.S. Supp.  
17 2014, Section 2902), which relates to exemptions for  
18 certain qualifying manufacturing concerns; providing  
19 that effective on specified date certain entities  
shall not be eligible for exemption; providing  
20 certain entities not to be defined as qualifying  
manufacturing concerns with respect to certain wind  
power assets; providing for noncodification; and  
providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law not to be  
23 codified in the Oklahoma Statutes reads as follows:  
24

1 This act shall be known and may be cited as the "David Dank Tax  
2 Incentive Reform Act of 2015".

3 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2902, as  
4 amended by Section 1, Chapter 306, O.S.L. 2012 (68 O.S. Supp. 2014,  
5 Section 2902), is amended to read as follows:

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

23 B. For purposes of this section, the following definitions  
24 shall apply:

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

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

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

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

- 20 (1) construction with an initial capital investment  
21 of at least Five Million Dollars (\$5,000,000.00),  
22 (2) employment of at least one hundred (100) full-  
23 time-equivalent employees, as certified by the  
24 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, and  
6           (4) commencement of construction on or after November  
7           1, 2007, with construction to be completed within  
8           three (3) years from the date of the commencement  
9           of construction.

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

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

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

23           2. "Facility" and "facilities" means and includes the land,  
24           buildings, structures, improvements, machinery, fixtures, equipment

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

24

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

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

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

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



1 manufacturing facility shall have the option of  
2 excluding from its payroll, for purposes of this  
3 section, payments to sole proprietors, members of a  
4 partnership, members of a limited liability company  
5 who own at least ten percent (10%) of the capital of  
6 the limited liability company or stockholder-employees  
7 of a corporation who own at least ten percent (10%) of  
8 the stock in the corporation. A manufacturing  
9 facility electing this option shall indicate such  
10 election upon its application for an exemption under  
11 this section. Any manufacturing facility electing  
12 this option shall submit such information as the Tax  
13 Commission may require in order to verify payroll  
14 information. Payroll information submitted pursuant  
15 to the provisions of this paragraph shall be submitted  
16 to the Tax Commission and shall be subject to the  
17 provisions of Section 205 of this title, and

- 18 b. the facility offers, or will offer within one hundred  
19 eighty (180) days of the date of employment, a basic  
20 health benefits plan to the full-time-equivalent  
21 employees of the facility, which is determined by the  
22 Department of Commerce to consist of the elements  
23 specified in subparagraph b of paragraph 1 of  
24

1 subsection A of Section 3603 of this title or elements  
2 substantially equivalent thereto.

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

1 other qualification specified in this paragraph has not been met,  
2 the manufacturing concern shall pay an amount equal to the amount of  
3 any exemption granted, including penalties and interest thereon, to  
4 the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

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

- 13 a. has been located for at least five (5) years as of  
14 March 31, 2009, in a county in Oklahoma with a  
15 population of six hundred thousand (600,000) or more~~+~~+
- 16 b. is owned by an applicant that has been engaged in  
17 manufacturing as defined under U.S. Industry Numbers  
18 323110, 323111, 323121 and 323122 of the NAICS Manual,  
19 latest revision~~+~~+
- 20 c. is owned by an applicant that maintains a workforce of  
21 at least three hundred (300) employees on June 1,  
22 2009~~+~~+

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

3 and

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

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

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

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

22 7. Any new, acquired, or expanded computer data processing,  
23 data preparation, or information processing services provider  
24 classified in Industrial Group Number 7374 of the SIC Manual, latest

1 revision, and U.S. Industry Number 514210 of the North American  
2 Industrial Classification System (NAICS) Manual, latest revision,  
3 may apply for exemptions under this section for each year in which  
4 new, acquired, or expanded capital improvements to the facility are  
5 made if:

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

15 b. the facility offers, or will offer within one hundred  
16 eighty (180) days of the date of employment of new  
17 employees attributable to the capital improvements, a  
18 basic health benefits plan to the full-time-equivalent  
19 employees of the facility, which is determined by the  
20 Department of Commerce to consist of the elements  
21 specified in subparagraph b of paragraph 1 of  
22 subsection A of Section 3603 of this title or elements  
23 substantially equivalent thereto; and

24

1        8. ~~An~~ Effective January 1, 2017, an entity engaged in electric  
2 power generation by means of wind, as described by the North  
3 American Industry Classification System, No. 221119, ~~which does not~~  
4 ~~meet the requirements of paragraph 4 of this subsection shall be~~  
5 ~~granted an exemption only if all other requirements of this section~~  
6 ~~are met and only if there is a net increase in annualized payroll at~~  
7 ~~the facility of at least Two Hundred Fifty Thousand Dollars~~  
8 ~~(\$250,000.00) or a net increase of Two Million Dollars~~  
9 ~~(\$2,000,000.00) or more in capital improvements while maintaining or~~  
10 ~~increasing payroll.~~ shall not be defined as a qualifying  
11 manufacturing concern for purposes of the exemption otherwise  
12 authorized pursuant to Section 6B of Article X of the Oklahoma  
13 Constitution or qualify as a "manufacturing facility" as defined in  
14 this section. No initial application for exemption shall be filed  
15 by or accepted from an entity engaged in electric power generation  
16 by means of wind on or after January 1, 2018; and

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

1 payroll established for the exemption which was in force during  
2 calendar year 2009.

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 defined in subparagraph c  
10 of paragraph 1 of subsection B of this section which is located  
11 within a tax incentive district created pursuant to the Local  
12 Development Act by a county having a population of at least five  
13 hundred thousand (500,000), according to the most recent Federal  
14 Decennial Census, shall begin on January 1 following the expiration  
15 or termination of the ad valorem exemption, abatement, or other  
16 incentive provided through the tax incentive district.

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



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

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

1 taxpayer qualified to receive an exemption pursuant to the  
2 provisions of this section shall make payment of ad valorem taxes in  
3 excess of the amount due, the county treasurer shall have the  
4 authority to credit the taxpayer's real or personal property tax  
5 overpayment against current taxes due. The county treasurer may  
6 establish a schedule of up to five (5) years of credit to resolve  
7 the overpayment.

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

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

18 SECTION 3. This act shall become effective January 1, 2016."  
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21  
22  
23  
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1 ENGROSSED SENATE  
2 BILL NO. 498

By: Mazzei, Brecheen, Allen,  
Shortey, Quinn, Halligan,  
Ford, Fields, and Newberry  
of the Senate

4 and

5 Sears of the House

6  
7  
8 [ ad valorem tax - exemption for certain  
9 manufacturers - requirements - effective date ]  
10

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

12 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2902, as  
13 amended by Section 1, Chapter 306, O.S.L. 2012 (68 O.S. Supp. 2014,  
14 Section 2902), is amended to read as follows:

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

1 of twelve (12) months prior to acquisition shall be construed as a  
2 qualification for a facility to initially receive an exemption, and  
3 shall not be deemed to be a qualification for that facility to  
4 continue to receive an exemption in each of the four (4) years  
5 following the initial year for which the exemption was granted.  
6 Such facilities are hereby classified for the purposes of taxation  
7 as provided in Section 22 of Article X of the Oklahoma Constitution.

8 B. For purposes of this section, the following definitions  
9 shall apply:

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

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

1 service to an out-of-state buyer or consumer, and as  
2 defined under Industrial Group Number 5142 of the  
3 NAICS Manual, latest revision, which derive at least  
4 eighty percent (80%) of their annual gross revenues  
5 from the sale of a product or service to an out-of-  
6 state buyer or consumer. Eligibility as a  
7 manufacturing facility pursuant to this subparagraph  
8 shall be established, subject to review by the  
9 Oklahoma Tax Commission, by annually filing an  
10 affidavit with the Tax Commission stating that the  
11 facility so qualifies and such other information as  
12 required by the Tax Commission. For purposes of  
13 determining whether annual gross revenues are derived  
14 from sales to out-of-state buyers, all sales to the  
15 federal government shall be considered to be an out-  
16 of-state buyer,

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

1 49319 and Industry Sector Number 42 of the NAICS  
2 Manual, latest revision, and which meet the following  
3 qualifications;

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

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

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

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

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

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

17        C. The following provisions shall apply:

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



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

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

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

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

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

1 facility at the time of purchase, as specified under  
2 the purchase agreement, shall be excluded from payroll  
3 for purposes of this section.

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

23 b. the facility offers, or will offer within one hundred  
24 eighty (180) days of the date of employment, a basic

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

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

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

9       5. If a facility fails to meet the 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;

24

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

- 9           a. there is a net increase in annualized payroll of the  
10           applicant at any facility or facilities of the  
11           applicant in this state of at least Two Hundred Fifty  
12           Thousand Dollars (\$250,000.00), which is attributable  
13           to the capital improvements, or a net increase of  
14           Seven Million Dollars (\$7,000,000.00) or more in  
15           capital improvements, while maintaining or increasing  
16           payroll at the facility or facilities in this state  
17           which are included in the application, and  
18           b. the facility offers, or will offer within one hundred  
19           eighty (180) days of the date of employment of new  
20           employees attributable to the capital improvements, a  
21           basic health benefits plan to the full-time-equivalent  
22           employees of the facility, which is determined by the  
23           Department of Commerce to consist of the elements  
24           specified in subparagraph b of paragraph 1 of



1 subsection A of Section 3603 of this title or elements  
2 substantially equivalent thereto; and

3 8. An entity engaged in electric power generation by means of  
4 wind, as described by the North American Industry Classification  
5 System, No. 221119, which does not meet the requirements of  
6 paragraph 4 of this subsection shall be granted an exemption only if  
7 all other requirements of this section are met and only if there is  
8 a net increase in annualized payroll at the facility of at least ~~Two~~  
9 ~~Hundred Fifty Thousand Dollars (\$250,000.00) or~~ One Million Dollars  
10 (\$1,000,000.00) and a net increase of Two Million Dollars  
11 (\$2,000,000.00) or more in capital improvements while maintaining or  
12 increasing payroll.

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

23 D. 1. Except as provided in paragraph 2 of this subsection,  
24 the five-year period of exemption from ad valorem taxes for any

1 qualifying manufacturing facility property shall begin on January 1  
2 following the initial qualifying use of the property in the  
3 manufacturing process.

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

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 5. This act shall become effective January 1, 2016.

15 Passed the Senate the 10th day of March, 2015.

16  
17 \_\_\_\_\_  
18 Presiding Officer of the Senate

19 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
20 2015.

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23 Presiding Officer of the House  
24 of Representatives

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