

1 ENGROSSED HOUSE
2 BILL NO. 2172

By: Hilbert of the House

and

Coleman of the Senate

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6
7 [revenue and taxation - ad valorem tax exemptions
8 for qualifying manufacturing concerns - modifying
9 required investment amount - providing that
10 agreement condition precedent to exempt treatment -
11 effective date]
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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2902, as
16 last amended by Section 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp.
17 2020, Section 2902), is amended to read as follows:

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

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

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

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

- 17 a. establishments which have received a manufacturer
18 exemption permit pursuant to the provisions of Section
19 1359.2 of this title,
- 20 b. facilities, including repair and replacement parts,
21 primarily engaged in aircraft repair, building and
22 rebuilding whether or not on a factory basis,
- 23 c. establishments primarily engaged in computer services
24 and data processing as defined under Industrial Group

1 Numbers 5112 and 5415, and U.S. Industry Number 334611
2 and 519130 of the NAICS Manual, latest revision, and
3 which derive at least fifty percent (50%) of their
4 annual gross revenues from the sale of a product or
5 service to an out-of-state buyer or consumer, and as
6 defined under Industrial Group Number 5142 of the
7 NAICS Manual, latest revision, which derive at least
8 eighty percent (80%) of their annual gross revenues
9 from the sale of a product or service to an out-of-
10 state buyer or consumer. Eligibility as a
11 manufacturing facility pursuant to this subparagraph
12 shall be established, subject to review by the
13 Oklahoma Tax Commission, by annually filing an
14 affidavit with the Tax Commission stating that the
15 facility so qualifies and such other information as
16 required by the Tax Commission. For purposes of
17 determining whether annual gross revenues are derived
18 from sales to out-of-state buyers, all sales to the
19 federal government shall be considered to be an out-
20 of-state buyer,

21 d. ~~for which~~ facilities that the investment cost of the
22 construction, acquisition or expansion of the
23 manufacturing facility is ~~Two Hundred Fifty Thousand~~
24 ~~Dollars (\$250,000.00)~~ Five Hundred Thousand Dollars

1 (\$500,000.00) or more with respect to assets placed in
2 service during calendar year 2022. For all subsequent
3 calendar years, the amount shall be increased annually
4 by a percentage equal to the previous year's increase
5 in the Consumer Price Index-All Urban Consumers ("CPI-
6 U") and such adjusted amount shall be the required
7 investment cost in order to qualify for the exemption
8 authorized by this section. The Oklahoma Department
9 of Commerce shall determine the amount of the
10 increase, if any, on January 1 of each year. The
11 Oklahoma Tax Commission shall publish on its website
12 at least annually the adjusted dollar amount in order
13 to qualify for the exemption authorized by this
14 section and shall include the adjusted dollar amount
15 in any of its relevant forms or publications with
16 respect to the exemption. Provided, "investment cost"
17 shall not include the cost of direct replacement,
18 refurbishment, repair or maintenance of existing
19 machinery or equipment, except that "investment cost"
20 shall include capital expenditures for direct
21 replacement, refurbishment, repair or maintenance of
22 existing machinery or equipment that qualifies for
23 depreciation and/or amortization pursuant to the
24 Internal Revenue Code of 1986, as amended, and such

1 expenditures shall be eligible as a part of an
2 "expansion" that otherwise qualifies under this
3 section, ~~and~~

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

- 9 (1) construction with an initial capital investment
10 of at least Five Million Dollars (\$5,000,000.00),
- 11 (2) employment of at least one hundred (100) full-
12 time-equivalent employees, as certified by the
13 Oklahoma Employment Security Commission,
- 14 (3) payment of wages or salaries to its employees at
15 a wage which equals or exceeds ~~one hundred~~
16 ~~seventy-five percent (175%) of the federally~~
17 ~~mandated minimum wage, as certified by the~~
18 ~~Oklahoma Employment Security Commission~~ the
19 average wage requirements in the Oklahoma Quality
20 Jobs Program Act for the year in which the real
21 property was placed into service, and
- 22 (4) commencement of construction on or after November
23 1, 2007, with construction to be completed within
24

1 three (3) years from the date of the commencement
2 of construction,

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

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

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

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

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

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

20 2. "Facility" and "facilities", except as otherwise provided by
21 this paragraph, means and includes the land, buildings, structures,
22 and improvements, used directly and exclusively in the manufacturing
23 process. Effective January 1, 2022, and for each calendar year
24 thereafter, for establishments which have received a manufacturer

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

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

13 C. The following provisions shall apply:

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

20 2. ~~Except as otherwise provided in paragraph 5 of this~~
21 ~~subsection, no~~ No manufacturing concern shall receive more than one
22 five-year exemption for any one manufacturing facility unless the
23 expansion which qualifies the manufacturing facility for an
24 additional five-year exemption meets the requirements of paragraph 4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 7. Any new, acquired, or expanded computer data processing,
10 data preparation, or information processing services provider
11 classified in ~~Industrial Group Number 7374 of the SIC Manual, latest~~
12 ~~revision,~~ and U.S. Industry Number ~~514210~~ 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
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1 payroll at the facility or facilities in this state
2 which are included in the application, and

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

12 ~~8.~~ 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. For any application filed to qualify real property, personal
12 property or both for the exemption authorized by this section, prior
13 to the first year during which any of the real property or personal
14 property can be treated as exempt, the entity making application,
15 the Oklahoma Tax Commission and the county assessor of each and
16 every county in which the qualifying assets are located, or are to
17 be located, shall enter into an agreement, which shall contain a
18 clause binding any successor business entity to the terms of the
19 agreement, that establishes the fair cash value of the assets,
20 whether real property or personal property or both, to be entered on
21 the applicable assessment roll for the first year of the exemption
22 period. The agreement shall also contain a system or schedule for
23 the depreciation of improvements to real property and a system or
24 schedule for the depreciation of tangible personal property which

1 shall be used by the applicable county assessor to modify the fair
2 cash value of the real property or personal property or both for the
3 remaining useful life of the real property or personal property
4 including the remaining four (4) years of the exemption period.
5 After the expiration of the exemption period, the owner of the real
6 property or personal property or both shall not be allowed to
7 modify, except (1) in the event of functional obsolescence, economic
8 obsolescence, or physical damage to the real or personal property
9 and (2) through the use of the schedule for depreciation contained
10 in the agreement. Whether pursuant to request made to the county
11 assessor or made to the county board of equalization, or pursuant to
12 any protest otherwise authorized by the Ad Valorem Tax Code or other
13 provisions of law, the fair cash value of the assets described
14 within the agreement and the agreement shall operate as an estoppel
15 and affirmative defense to any actions, formal or informal, or
16 requests for administrative or judicial relief, to modify the fair
17 cash values and the methodology for depreciation contained in such
18 agreement. The agreement described by this subsection shall be a
19 condition precedent to the exemption otherwise authorized by this
20 section and by Section 6B of Article X of the Oklahoma Constitution.
21 A copy of the agreement shall be maintained by the Oklahoma Tax
22 Commission and by the county assessor of any county in which real or
23 personal property described by such agreement is located.

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

SECTION 2. This act shall become effective January 1, 2022.

Passed the House of Representatives the 8th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2021.

Presiding Officer of the Senate