

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 422 By: Simpson of the Senate  
3 and  
4 Burns of the House  
5

6 An Act relating to the Agriculture Enhancement and  
7 Diversification Program; amending 2 O.S. 2011,  
8 Sections 5-3.2, as last amended by Section 1, Chapter  
9 123, O.S.L. 2015 and 5-3.4, as amended by Section 3,  
10 Chapter 123, O.S.L. 2015 (2 O.S. Supp. 2020, Sections  
11 5-3.2 and 5-3.4), which relate to the purpose and  
12 categories of the program, and grants and loan  
13 criteria; removing purpose; modifying and removing  
14 categories; removing authorization for matching  
15 funds; removing and modifying preferences and  
16 exclusions; requiring nondisclosure pursuant to the  
17 Oklahoma Open Records Act; removing authorization for  
18 executive sessions by the Board under certain  
19 circumstances; exempting certain advisory meeting  
20 from the Oklahoma Open Meeting Act; updating  
21 statutory language; and providing an effective date.

16 AUTHORS: Remove Representative Burns as principal House author and  
17 substitute with Representative Kerbs  
18 Add Representative Burns as coauthor

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

21 "[ revenue and taxation - agricultural sales tax  
22 exemptions - effective date -  
23 emergency ]

24 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

1 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1358.1, is  
2 amended to read as follows:

3 Section 1358.1 A. In order to qualify for any exemption  
4 authorized by Section 1358 of this title, at the time of sale, the  
5 person to whom the sale is made shall be required to furnish the  
6 vendor proof of eligibility for the exemption as required by this  
7 section.

8 B. All vendors shall honor the proof of eligibility for sales  
9 tax exemption as authorized by this section and sales to a person  
10 providing such proof shall be exempt from the tax levied by this  
11 article, Section 1350 et seq. of this title.

12 C. The agricultural exemption permit, the size and design of  
13 which shall be prescribed by the Oklahoma Tax Commission, shall  
14 constitute proof of eligibility for sales tax exemptions authorized  
15 by Section 1358 of this title. The permit shall be obtained by  
16 listing personal property used in farming or ranching by the person  
17 with the county assessor each year as provided by law. If the  
18 assessor determines that the personal property is correctly listed  
19 and assessed for ad valorem taxation and the county treasurer  
20 certifies whether the person has delinquent accounts appearing on  
21 the personal property tax lien docket in the county treasurer's  
22 office, the assessor shall certify the assessment upon a form  
23 prescribed by the Oklahoma Tax Commission. One copy shall be  
24 retained by the assessor, one copy shall be forwarded to the

1 Oklahoma Tax Commission and one copy shall be given to the person  
2 listing the personal property. Upon verification that the applicant  
3 qualifies for the exemptions authorized by Section 1358 of this  
4 title and that the applicant has no delinquent accounts appearing on  
5 the personal property tax lien docket in the office of the county  
6 treasurer, a permit shall be issued as prescribed by this section.  
7 The permit shall be renewable every three (3) years in the manner  
8 provided by this section.

9 D. A person who does not otherwise qualify for a permit  
10 pursuant to subsection C of this section, except as provided in  
11 subsection E of this section, shall file with the Oklahoma Tax  
12 Commission an application for an agricultural exemption permit  
13 constituting proof of eligibility for the sales tax exemptions  
14 authorized by Section 1358 of this title, and except as prohibited  
15 by subsection I of this section, setting forth such information as  
16 the Tax Commission may require. The application shall be certified  
17 by the applicant that the applicant is engaged in custom farming  
18 operations or in the business of farming or ranching. If the  
19 applicant is a corporation, the application shall be certified by a  
20 legally constituted officer thereof.

21 E. Except as provided in this subsection, for a person who is a  
22 resident of another state and who is engaged in custom farming  
23 operations in this state, the person shall provide the vendor proof  
24 of residency, the name, address and telephone number of the person

1 engaging the custom farmer and certification on the face of the  
2 invoice, under the penalty of perjury, that the property purchased  
3 shall be used in agricultural production as proof of eligibility for  
4 the sales tax exemption authorized by Section 1358 of this title.  
5 Any person who is a resident of another state and who is engaged in  
6 custom farming operations in this state and who owns property in  
7 this state, shall obtain proof of eligibility as provided in  
8 subsection C or D of this section.

9 F. If an agricultural exemption permit holder purchases  
10 tangible personal property from a vendor on a regular basis, the  
11 permit holder may furnish the vendor proof of eligibility as  
12 provided for in subsections C and D of this section and the vendor  
13 may subsequently make sales of tangible personal property to the  
14 permit holder without requiring proof of eligibility for each  
15 subsequent sale. Provided, the permit holder shall notify the  
16 vendor of all purchases which are not exempt from sales tax under  
17 the provisions of Section 1358 of this title and remit the  
18 applicable amount of tax thereon. If the permit holder fails to  
19 notify the vendor of purchases not exempt from sales tax, then  
20 sufficient grounds shall exist for the Oklahoma Tax Commission to  
21 cancel the agricultural exemption permit of the permit holder who so  
22 failed to notify the vendor.

23 G. If an out-of-state agricultural exemption permit holder  
24 purchases tangible personal property from a vendor within this state

1 who is not in the business of shipping the tangible personal  
2 property purchased, then the out-of-state agricultural exemption  
3 permit holder is responsible for providing an export bill of lading  
4 or other documentation to the vendor from whom the tangible personal  
5 property was purchased showing that the point of delivery of such  
6 goods for use and consumption is outside the State of Oklahoma.

7 H. A purchaser who uses an agricultural exemption permit or  
8 provides proof of eligibility pursuant to subsection E of this  
9 section to purchase, exempt from sales tax, items not authorized for  
10 exemption under Section 1358 of this title shall be subject to a  
11 penalty in the amount of Five Hundred Dollars (\$500.00).

12 I. The Oklahoma Tax Commission shall accept any one of the  
13 following as proof of eligibility for the exemptions authorized by  
14 this section or pursuant to Section 1358 of this title:

15 1. Schedule F, or a copy of Schedule F, or any equivalent form  
16 prescribed by the Internal Revenue Service, with respect to a  
17 federal income tax return;

18 2. A three-year business plan form provided by the Oklahoma  
19 Tax Commission; or

20 3. A farm exemption tax form provided by the Oklahoma  
21 Department of Agriculture, Food, and Forestry.

22 SECTION 2. This act shall become effective July 1, 2021.

23 SECTION 3. It being immediately necessary for the preservation  
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval."

3 Passed the House of Representatives the 20th day of April, 2021.  
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6 Presiding Officer of the House of  
7 Representatives

8 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.  
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11 Presiding Officer of the Senate  
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1 ENGROSSED SENATE  
2 BILL NO. 422

By: Simpson of the Senate

and

Burns of the House

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6 An Act relating to the Agriculture Enhancement and  
7 Diversification Program; amending 2 O.S. 2011,  
8 Sections 5-3.2, as last amended by Section 1, Chapter  
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16 exclusions; requiring nondisclosure pursuant to the  
17 Oklahoma Open Records Act; removing authorization for  
18 executive sessions by the Board under certain  
19 circumstances; exempting certain advisory meeting  
20 from the Oklahoma Open Meeting Act; updating  
21 statutory language; and providing an effective date.

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

23 SECTION 4. AMENDATORY 2 O.S. 2011, Section 5-3.2, as  
24 last amended by Section 1, Chapter 123, O.S.L. 2015 (2 O.S. Supp.  
2020, Section 5-3.2), is amended to read as follows:

Section 5-3.2. A. The State Board of Agriculture is hereby  
authorized to establish and administer the Oklahoma Agriculture  
Enhancement and Diversification Program.

B. The purpose of the Oklahoma Agriculture Enhancement and  
Diversification Program is to promote and encourage the interests of

1 agriculture through the allocation of funds, by grant or loan, to  
2 individuals, cooperatives and other agricultural entities to:

- 3 1. Develop new or expanded uses of agricultural products;
- 4 ~~2. Develop new or expanded benefits of agricultural events;~~
- 5 ~~3. Increase agricultural productivity;~~
- 6 ~~4.~~ 3. Provide added value to agricultural products or events;
- 7 ~~5.~~ 4. Benefit the agricultural producer; and
- 8 ~~6.~~ 5. Benefit the agricultural interests of ~~Oklahoma~~ this  
9 state.

10 C. The Program shall consist of the following categories:

- 11 1. ~~Cooperative marketing~~ Value-added agriculture grants and  
12 loans for entities or individuals ~~intending to work together~~ to  
13 develop or establish production, processing or marketing of  
14 agricultural products. The purpose of this category is to provide  
15 funding for promoting productivity, providing added value to  
16 agricultural products, stimulating and fostering agricultural  
17 diversification and encouraging processing innovations;
- 18 2. ~~Marketing and utilization grants and loans to assist in the~~  
19 ~~development or implementation of sound domestic or foreign marketing~~  
20 ~~plans for Oklahoma agricultural products, by-products, or new and~~  
21 ~~better uses for existing agricultural products through the financing~~  
22 ~~of marketing feasibility studies, business plans, and test~~  
23 ~~marketing;~~

24



1       ~~3.~~ Farm diversification grants or loans for projects dealing  
2 with the diversification of family farms or ranches to  
3 nontraditional crops, livestock, agritourism, or on-farm, value-  
4 added processing of agricultural commodities;

5       ~~4. Basic and applied~~ 3. Product development and research  
6 grants and loans for agricultural business creation or expansion, or  
7 research which will likely lead to a marketable agricultural product  
8 through the focusing of research efforts on uses and processing of  
9 Oklahoma agricultural products and by-products, ~~including but not~~  
10 limited to:

- 11           a. focused research which enhances the value of an  
12           agricultural product or by-product,
- 13           b. feasibility studies, and
- 14           c. product development and test marketing costs, ~~and~~
- 15           d. ~~projects that are driven by an entrepreneur or the~~  
16           industry; and

17       ~~5.~~ 4. Agricultural event or events that benefit and further the  
18 public interest in agriculture; and

19       5. Veteran or young farmer grants or loans for veterans and  
20 young farmers that are engaged or will be engaged in expansion or  
21 ~~creation of events that benefit and further the public interest in~~  
22 ~~agriculture~~ an agricultural business.

1 D. The State Board of Agriculture shall promulgate rules  
2 governing the Oklahoma Agriculture Enhancement and Diversification  
3 Program.

4 SECTION 5. AMENDATORY 2 O.S. 2011, Section 5-3.4, as  
5 amended by Section 3, Chapter 123, O.S.L. 2015 (2 O.S. Supp. 2020,  
6 Section 5-3.4), is amended to read as follows:

7 Section 5-3.4. A. The Oklahoma Department of Agriculture,  
8 Food, and Forestry shall require eligible applicants to submit  
9 information, forms and reports as are necessary to properly and  
10 efficiently administer the Oklahoma Agriculture Enhancement and  
11 Diversification Program.

12 B. Persons may apply to the Department for grant or loan funds  
13 in accordance with rules promulgated by the State Board of  
14 Agriculture. Applications for grant or loan funds shall be approved  
15 or denied by the Department in accordance with criteria promulgated  
16 by the State Board of Agriculture pursuant to the Oklahoma  
17 Agriculture Enhancement and Diversification Program.

18 ~~C. The State Board of Agriculture may also allocate monies from~~  
19 ~~the fund to eligible applicants on a matching basis.~~

20 ~~D.~~ Grant or loan funds may be made available to eligible  
21 applicants pursuant to evaluation by the Department based on the  
22 following criteria:

23 1. Preference may be given to the applicants whose:  
24

- 1 a. industrial and nonfood production processes utilize  
2 agricultural products,
- 3 b. food, feed and fiber products and uses are innovative  
4 and add to the value of agricultural products,
- 5 c. applications demonstrate a high probability of job  
6 creation and return-on-investment,
- 7 d. proposals feature research that is innovative as well  
8 as commercially plausible,
- 9 e. proposals demonstrate a high probability of rapid  
10 commercialization,
- 11 f. projects demonstrate a shared commitment for funding  
12 from other private or public sources or from the  
13 applicant,
- 14 g. proposals center efforts on nonurban locales,
- 15 h. principals are individuals, a group of individuals, an  
16 individual on behalf of a group, or corporations which  
17 meet the criteria set forth in Section 951 of Title 18  
18 of the Oklahoma Statutes, to market a product or  
19 formulate or implement a marketing plan for  
20 agricultural products ~~which have not been marketed~~  
21 ~~through existing marketing cooperatives~~ produced or  
22 processed in this state,
- 23 i. proposals contain the potential to create additional  
24 income for the farm unit, and

1 j. proposals provide for new and innovative plans for  
2 marketing the product, ~~and~~

3 ~~k. proposals for agricultural events benefit the entire~~  
4 ~~state or a large geographic region of the state; and~~

5 2. Consideration shall not be given to applications for:

6 a. research or marketing plans which do not clearly meet  
7 the stated objectives of the Oklahoma Agriculture  
8 Enhancement and Diversification Act,

9 b. proposals which are aimed solely at business expansion  
10 or creation without regard to agricultural products  
11 utilization, or

12 c. research or marketing plans that cannot reasonably be  
13 expected to result in a viable commercial application,  
14 or that are or have been duplicated by other research  
15 efforts, ~~or~~

16 ~~d. proposals for agricultural events that do not result~~  
17 ~~in expansion of the event or encourage additional~~  
18 ~~public interest in the event.~~

19 ~~E.~~ D. 1. Any information submitted to or compiled by the  
20 Department with respect to the marketing plans, financial  
21 statements, trade secrets, research concepts, methods or products,  
22 or any other proprietary information of persons, firms,  
23 associations, partnerships, agencies, corporations, institutions of  
24 higher education, nonprofit research institutions or other entities

1 pursuant to the Oklahoma Agriculture Enhancement and Diversification  
2 Program shall not be disclosed pursuant to the Oklahoma Open Records  
3 Act or in public hearings and shall be kept confidential, except to  
4 the extent that the person or entity which provided such information  
5 or which is the subject of such information consents to disclosure.

6 2. ~~Executive sessions may be held to discuss such materials if~~  
7 ~~deemed necessary by the Board~~ In the event an independent advisory  
8 group of reviewers are used to analyze and make recommendations for  
9 projects for approval by the Board, any meetings of such advisory  
10 groups shall be exempt from the Oklahoma Open Meeting Act.

11 SECTION 6. This act shall become effective November 1, 2021.

12 Passed the Senate the 4th day of March, 2021.

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14 \_\_\_\_\_  
15 Presiding Officer of the Senate

16 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
17 2021.

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19 \_\_\_\_\_  
20 Presiding Officer of the House  
21 of Representatives  
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