

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2172 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kyle Hilbert

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2172

By: Hilbert

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2011, Section 2902, as last amended by Section
10 1, Chapter 258, O.S.L. 2019 (68 O.S. Supp. 2020,
11 Section 2902), which relates to ad valorem tax
12 exemptions for qualifying manufacturing concerns;
13 modifying provisions related to qualifying
14 manufacturing concerns; modifying required investment
15 amount; providing for adjustment to dollar amount
16 using Consumer Price Index for All Urban Consumers;
17 imposing duty on Oklahoma Department of Commerce and
18 Oklahoma Tax Commission; modifying provisions related
19 to certain required wages; providing for eligibility
20 by certain custom manufacturing establishments;
21 providing for wage requirements related to new direct
22 jobs on or after specified date; modifying
23 definitions; modifying provisions related to certain
24 establishments; prescribing requirements for
applications for exempt treatment; requiring joint
agreement related to fair cash value of assets;
providing for binding effect of agreement on
successor entities; requiring system for computation
of depreciation; imposing restriction on entities
with respect to modification of values as established
pursuant to agreement; providing for estoppel and
affirmative defense; providing that agreement
condition precedent to exempt treatment; and
providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 g. with respect to any entity making an application for
23 the exemption authorized by this section on or after
24 January 1, 2022, the establishment making application

1 for exempt treatment of real or personal property
2 acquired or improved beginning January 1, 2022, and
3 for any calendar year thereafter, the entity shall be
4 required to pay new direct jobs, as defined by Section
5 3603 of this title for purposes of the Oklahoma
6 Quality Jobs Program Act, an average annualized wage
7 which equals or exceeds the average wage requirement
8 in the Oklahoma Quality Jobs Program Act for the year
9 in which the real or personal property was placed into
10 service. The Oklahoma Tax Commission may request
11 verification from the Oklahoma Department of Commerce
12 that an establishment seeking an exemption for real or
13 personal property pays an average annualized wage that
14 equals or exceeds the average wage requirement in
15 effect for the year in which the real or personal
16 property was placed into service.

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

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

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

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

19 3. "Research and development" means activities directly related
20 to and conducted for the purpose of discovering, enhancing,
21 increasing or improving future or existing products or processes or
22 productivity.

23 C. The following provisions shall apply:
24

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

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

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

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

20 a. there is a net increase in annualized base payroll
21 over the initial payroll of at least Two Hundred Fifty
22 Thousand Dollars (\$250,000.00) if the facility is
23 located in a county with a population of fewer than
24 seventy-five thousand (75,000), according to the most

1 recent Federal Decennial Census, while maintaining or
2 increasing base payroll in subsequent years, or at
3 least One Million Dollars (\$1,000,000.00) if the
4 facility is located in a county with a population of
5 seventy-five thousand (75,000) or more, according to
6 the most recent Federal Decennial Census, while
7 maintaining or increasing base payroll in subsequent
8 years; provided the payroll requirement of this
9 subparagraph shall be waived for claims for
10 exemptions, including claims previously denied or on
11 appeal on March 3, 2010, for all initial applications
12 for exemption filed on or after January 1, 2004, and
13 on or before March 31, 2009, and all subsequent annual
14 exemption applications filed related to the initial
15 application for exemption, for an applicant, if the
16 facility has been located in Oklahoma for at least
17 fifteen (15) years engaged in marine engine
18 manufacturing as defined under U.S. Industry Number
19 333618 of the NAICS Manual, latest revision, and has
20 maintained an average employment of five hundred (500)
21 or more full-time-equivalent employees over a ten-year
22 period. Any applicant that qualifies for the payroll
23 requirement waiver as outlined in the previous
24 sentence and subsequently closes its Oklahoma

1 manufacturing plant prior to January 1, 2012, may be
2 disqualified for exemption and subject to recapture.
3 For an applicant engaged in paperboard manufacturing
4 as defined under U.S. Industry Number 322130 of the
5 NAICS Manual, latest revision, union master payouts
6 paid by the buyer of the facility to specified
7 individuals employed by the facility at the time of
8 purchase, as specified under the purchase agreement,
9 shall be excluded from payroll for purposes of this
10 section.

11 In order to provide certainty with respect to
12 investments in manufacturing facilities pertaining to
13 all initial applications for exemption filed on or
14 after January 1, 2016, the following definitions shall
15 apply:

16 (1) "base payroll" shall mean total payroll adjusted
17 for any nonrecurring bonuses, exercise of stock
18 option or stock rights and other nonrecurring,
19 extraordinary items included in total payroll,
20 and

21 (2) "initial payroll" shall mean base payroll for the
22 year immediately preceding the initial
23 construction, acquisition or expansion.
24

1 The Tax Commission shall verify payroll information
2 through the Oklahoma Employment Security Commission by
3 using reports from the Oklahoma Employment Security
4 Commission for the calendar year immediately preceding
5 the year for which initial application is made for
6 base-line payroll, which must be maintained or
7 increased for each subsequent year; provided, a
8 manufacturing facility shall have the option of
9 excluding from its payroll, for purposes of this
10 section:

- 11 i. payments to sole proprietors, members
12 of a partnership, members of a limited
13 liability company who own at least ten
14 percent (10%) of the capital of the
15 limited liability company or
16 stockholder-employees of a corporation
17 who own at least ten percent (10%) of
18 the stock in the corporation, and
- 19 ii. any nonrecurring bonuses, exercise of
20 stock option or stock rights or other
21 nonrecurring, extraordinary items
22 included in total payroll numbers as
23 reported by the Oklahoma Employment
24 Security Commission. A manufacturing

1 facility electing either option shall
2 indicate such election upon its
3 application for an exemption under this
4 section. Any manufacturing facility
5 electing either option shall submit
6 such information as the Tax Commission
7 may require in order to verify payroll
8 information. Payroll information
9 submitted pursuant to the provisions of
10 this paragraph shall be submitted to
11 the Tax Commission and shall be subject
12 to the provisions of Section 205 of
13 this title, and

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

22 For purposes of this section, calculation of the amount of
23 increased base payroll shall be measured from the start of initial
24 construction or expansion to the completion of such construction or

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

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

- 9 a. ~~has been located for at least five (5) years as of~~
10 ~~March 31, 2009, in a county in Oklahoma with a~~
11 ~~population of six hundred thousand (600,000) or more,~~
- 12 b. ~~is owned by an applicant that has been engaged in~~
13 ~~manufacturing as defined under U.S. Industry Numbers~~
14 ~~323110, 323111, 323121 and 323122 of the NAICS Manual,~~
15 ~~latest revision,~~
- 16 c. ~~is owned by an applicant that maintains a workforce of~~
17 ~~at least three hundred (300) employees on June 1,~~
18 ~~2009,~~
- 19 d. ~~is owned by an applicant that has filed multiple~~
20 ~~applications for exemption pursuant to this section,~~
21 ~~and~~
- 22 e. ~~is owned by an applicant that operates at least one~~
23 ~~facility in this state of at least seven hundred~~
24 ~~thirty thousand (730,000) square feet on June 1, 2009.~~

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

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

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

16 7. Any new, acquired, or expanded computer data processing,
17 data preparation, or information processing services provider
18 classified in ~~Industrial Group Number 7374 of the SIC Manual, latest~~
19 ~~revision,~~ and U.S. Industry Number ~~514210~~ 518210 of the North
20 American Industrial Classification System (NAICS) Manual, ~~latest~~
21 2017 revision, may apply for exemptions under this section for each
22 year in which new, acquired, or expanded capital improvements to the
23 facility are made if:

24

- 1 a. there is a net increase in annualized payroll of the
2 applicant at any facility or facilities of the
3 applicant in this state of at least Two Hundred Fifty
4 Thousand Dollars (\$250,000.00), which is attributable
5 to the capital improvements, or a net increase of
6 Seven Million Dollars (\$7,000,000.00) or more in
7 capital improvements, while maintaining or increasing
8 payroll at the facility or facilities in this state
9 which are included in the application, and
- 10 b. the facility offers, or will offer within one hundred
11 eighty (180) days of the date of employment of new
12 employees attributable to the capital improvements, a
13 basic health benefits plan to the full-time-equivalent
14 employees of the facility, which is determined by the
15 Department of Commerce to consist of the elements
16 specified in subparagraph b of paragraph 1 of
17 subsection A of Section 3603 of this title or elements
18 substantially equivalent thereto;

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

1 facility" as defined in this section. No initial application for
2 exemption shall be filed by or accepted from an entity engaged in
3 electric power generation by means of wind on or after January 1,
4 2018; and

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

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

24

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

- 11 a. a manufacturing facility as defined in subparagraph c
12 of paragraph 1 of subsection B of this section, and
- 13 b. an establishment primarily engaged in distribution as
14 defined under Industry Number 49311 of the North
15 American Industry Classification System for which the
16 initial capital investment was at least One Hundred
17 Eighty Million Dollars (\$180,000,000.00); provided,
18 that the qualifying job creation and depreciable
19 property investment occurred prior to calendar year
20 2017 but not earlier than calendar year 2013.

21 E. Any person, firm or corporation claiming the exemption
22 herein provided for shall file each year for which exemption is
23 claimed, an application therefor with the county assessor of the
24 county in which the new, expanded or acquired facility is located.

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

17 F. The application shall be examined by the county assessor and
18 approved or rejected in the same manner as provided by law for
19 approval or rejection of claims for homestead exemptions. The
20 taxpayer shall have the same right of review by and appeal from the
21 county board of equalization, in the same manner and subject to the
22 same requirements as provided by law for review and appeals
23 concerning homestead exemption claims. Approved applications shall
24 be filed by the county assessor with the Tax Commission no later

1 than June 15, except as provided in Section 2902.1 of this title, of
2 the year in which the facility desires to take the exemption.
3 Incomplete applications and applications filed after June 15 will be
4 declared null and void by the Tax Commission. In the event that a
5 taxpayer qualified to receive an exemption pursuant to the
6 provisions of this section shall make payment of ad valorem taxes in
7 excess of the amount due, the county treasurer shall have the
8 authority to credit the taxpayer's real or personal property tax
9 overpayment against current taxes due. The county treasurer may
10 establish a schedule of up to five (5) years of credit to resolve
11 the overpayment.

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

19 H. For any application filed to qualify real property, personal
20 property or both for the exemption authorized by this section, prior
21 to the first year during which any of the real property or personal
22 property can be treated as exempt, the entity making application,
23 the Oklahoma Tax Commission and the county assessor of each and
24 every county in which the qualifying assets are located, or are to

1 be located, shall enter into an agreement, which shall contain a
2 clause binding any successor business entity to the terms of the
3 agreement, that establishes the fair cash value of the assets,
4 whether real property or personal property or both, to be entered on
5 the applicable assessment roll for the first year of the exemption
6 period. The agreement shall also contain a system or schedule for
7 the depreciation of improvements to real property and a system or
8 schedule for the depreciation of tangible personal property which
9 shall be used by the applicable county assessor to modify the fair
10 cash value of the real property or personal property or both for the
11 remaining useful life of the real property or personal property
12 including the remaining four (4) years of the exemption period.
13 After the expiration of the exemption period, the owner of the real
14 property or personal property or both shall not be allowed to
15 modify, except (1) in the event of functional obsolescence, economic
16 obsolescence, or physical damage to the real or personal property
17 and (2) through the use of the schedule for depreciation contained
18 in the agreement. Whether pursuant to request made to the county
19 assessor or made to the county board of equalization, or pursuant to
20 any protest otherwise authorized by the Ad Valorem Tax Code or other
21 provisions of law, the fair cash value of the assets described
22 within the agreement and the agreement shall operate as an estoppel
23 and affirmative defense to any actions, formal or informal, or
24 requests for administrative or judicial relief, to modify the fair

1 cash values and the methodology for depreciation contained in such
2 agreement. The agreement described by this subsection shall be a
3 condition precedent to the exemption otherwise authorized by this
4 section and by Section 6B of Article X of the Oklahoma Constitution.
5 A copy of the agreement shall be maintained by the Oklahoma Tax
6 Commission and by the county assessor of any county in which real or
7 personal property described by such agreement is located.

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

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

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58-1-7329 MAH 02/03/21