

1 ENGROSSED SENATE  
2 BILL NO. 485

By: Bergstrom of the Senate

3 and

4 Fetgatter of the House  
5

6 An Act relating to Small Business Incubators  
7 Incentives Act; amending 74 O.S. 2011, Sections 5072,  
8 5075 and 5078, which relate to income tax exemptions;  
9 updating statutory reference; modifying purpose;  
10 eliminating exception for operator of incubator;  
11 eliminating requirement for claiming exemption during  
12 specified time period; amending 68 O.S. 2011, Section  
2359, which relates to income tax exemptions;  
eliminating exemption for sponsor of incubator; and  
providing an effective date.

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

14 SECTION 1. AMENDATORY 74 O.S. 2011, Section 5072, is  
15 amended to read as follows:

16 Section 5072. The purpose of ~~this act~~ the Small Business  
17 Incubators Incentives Act shall be to promote, encourage and advance  
18 economic prosperity and employment throughout the state by creating  
19 a more favorable tax climate for ~~organizations which qualify as~~  
20 ~~sponsors~~ tenants of small business incubators in this state ~~and a~~  
21 ~~more favorable business climate for tenants.~~

22 SECTION 2. AMENDATORY 74 O.S. 2011, Section 5075, is  
23 amended to read as follows:  
24

1       Section 5075. A. ~~Income~~ For tax years ending before January 1,  
2 2020, income earned by a sponsor from rental fees, service fees or  
3 any other form of payment for services provided to a tenant as an  
4 operator of an incubator, or for providing funding for such a  
5 facility, shall be exempt from state income tax for a period not to  
6 exceed ten (10) years from the date of the tenant's occupancy in an  
7 incubator.

8       B. The Oklahoma Tax Commission shall promulgate rules and  
9 regulations to implement the provisions of this section.

10       SECTION 3.       AMENDATORY       74 O.S. 2011, Section 5078, is  
11 amended to read as follows:

12       Section 5078. A. For a period of up to ten (10) years from the  
13 date of tenant's occupancy in an incubator, income earned by the  
14 tenant as a result of activities conducted as an occupant in an  
15 incubator, including income distributed to partners, shareholders of  
16 a corporation for which a Subchapter S election is in effect and to  
17 the members of a limited liability company, shall be exempt from  
18 state income tax. The exemption provided by this section shall  
19 remain in effect for such activities by such tenant after the date  
20 the tenant is no longer an occupant in an incubator, but not to  
21 exceed a total duration of ten (10) years for any tenant.

22       B. ~~In~~ For tax years ending before January 1, 2020, in order to  
23 qualify for the income tax exemption for the sixth through tenth  
24 year as authorized by this section, the tenant must make at least

1 seventy-five percent (75%) of its gross sales constituting the  
2 principal business activity of the business to buyers located  
3 outside the state or to buyers whose principal business activity is  
4 conducted outside the state or to the federal government or to  
5 buyers located within the state if the product or service is resold  
6 to an out-of-state customer or buyer for ultimate use. Provided, if  
7 a tenant does not achieve the qualifying percentage for any one of  
8 the above tax years, the tenant shall not be disqualified for  
9 subsequent tax years in which the qualifying percentage is achieved.

10 The Oklahoma Tax Commission shall promulgate rules to implement  
11 the provisions of this section.

12 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2359, is  
13 amended to read as follows:

14 Section 2359. A. A person or organization exempt from federal  
15 income taxation under the provisions of the Internal Revenue Code  
16 shall also be exempt from the tax imposed by Section 2351 et seq. of  
17 this title in each year in which such person or organization  
18 satisfies the requirements of the Internal Revenue Code for  
19 exemption from federal income taxation. If the exemption applicable  
20 to any person or organization under the provisions of the Internal  
21 Revenue Code is limited or qualified in any manner, the exemption  
22 from taxes imposed by this article shall be limited or qualified in  
23 a similar manner.  
24

1       B. Notwithstanding the provisions of subsection A of this  
2 section, the unrelated business taxable income or other income  
3 subject to tax, as computed under the provisions of the Internal  
4 Revenue Code, of any person or organization exempt from the tax  
5 imposed by ~~this act~~ Section 2351 et seq. of this title and subject  
6 to the tax imposed on such income by the Internal Revenue Code shall  
7 be subject to the tax which would have been imposed by this act but  
8 for the provisions of subsection A of this section.

9       C. Insurance companies paying, during or for the taxable year,  
10 a tax to this state on gross premium income shall be exempt from the  
11 provisions of this article and the taxes levied thereby.

12       D. Royalty earned by an inventor from products developed and  
13 manufactured in this state shall be exempt from the tax imposed by  
14 Section 2355 of this title for a seven-year period, pursuant to the  
15 provisions of Section 5064.7 of Title 74 of the Oklahoma Statutes.

16       E. ~~Sponsors and tenants~~ Tenants of small business incubators  
17 shall be exempt for the tax imposed by Section 2355 of this title,  
18 pursuant to the provisions of ~~Sections 5075 and~~ Section 5078 of  
19 Title 74 of the Oklahoma Statutes.

20       SECTION 4. This act shall become effective in accordance with  
21 the provisions of Section 58 of Article V of the Oklahoma  
22 Constitution.

1 Passed the Senate the 20th day of February, 2019.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2019.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives