

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 337

By: Bergstrom of the Senate

and

6 Kendrix of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to small business incubators;
11 amending 74 O.S. 2021, Sections 5078 and 5079, which
12 relate to state income tax exemption and annual
13 reports; requiring certain period of occupancy for
14 tenant to receive certain subsequent exemption;
15 requiring tenant to submit certain information to
16 receive certain exemption; requiring the Oklahoma
17 Department of Commerce to prescribe certain form;
18 requiring certain information to be included in
19 annual report provided by the Department; and
20 providing an effective date.

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

24 SECTION 1. AMENDATORY 74 O.S. 2021, Section 5078, is
amended to read as follows:

Section 5078. A. For a period of up to ten (10) years from the
date of tenant's occupancy in an incubator, income earned by the
tenant as a result of activities conducted as an occupant in an
incubator, including income distributed to partners, shareholders of

1 a corporation for which a Subchapter S election is in effect, and to
2 the members of a limited liability company, shall be exempt from
3 state income tax. ~~The~~ If the tenant remains an occupant of an
4 incubator for at least one (1) year, the exemption provided by this
5 section shall remain in effect for ~~such~~ the activities by ~~such~~ the
6 tenant after the date the tenant is no longer an occupant in an
7 incubator, but not to exceed a total duration of ten (10) years for
8 any tenant.

9 B. For tax years ending before January 1, 2020, in order to
10 qualify for the income tax exemption for the sixth through tenth
11 year as authorized by this section, the tenant must make at least
12 seventy-five percent (75%) of its gross sales constituting the
13 principal business activity of the business to buyers located
14 outside the state or to buyers whose principal business activity is
15 conducted outside the state or to the federal government or to
16 buyers located within the state if the product or service is resold
17 to an out-of-state customer or buyer for ultimate use. Provided, if
18 a tenant does not achieve the qualifying percentage for any one of
19 the above tax years, the tenant shall not be disqualified for
20 subsequent tax years in which the qualifying percentage is achieved.

21 C. For tax year 2024 and subsequent tax years, following the
22 first tax year a tenant is provided the exemption pursuant to
23 subsection A of this section, in order to continue to qualify for
24 the exemption, the tenant shall submit information on a form

1 prescribed by the Oklahoma Department of Commerce which shall
2 include but not be limited to the following:

3 1. Employment levels, including full-time-equivalent levels and
4 the ratio of part-time employees to full-time employees;

5 2. Interns employed;

6 3. Payments to subcontractors and their purpose;

7 4. Estimated gross annual revenues;

8 5. Estimated annual costs for property and services;

9 6. A statement of any additional financial assistance,
10 incentives, credits, or exemptions provided by this state or any
11 political subdivision of this state; and

12 7. A statement of any taxable income exempted pursuant to this
13 subsection in the previous tax year.

14 The Oklahoma Tax Commission shall promulgate rules to implement
15 the provisions of this section.

16 SECTION 2. AMENDATORY 74 O.S. 2021, Section 5079, is
17 amended to read as follows:

18 Section 5079. On or before December 31 of each year, the
19 Director of the Oklahoma Department of Commerce shall provide a
20 report to both the Speaker of the House of Representatives and the
21 President Pro Tempore of the Senate which shall include, but not be
22 limited to:

23 1. The number of applications for incubators submitted;

24 2. The number of applications for incubators approved;

1 3. The number of incubators created under this act;

2 4. The number of tenants occupying each incubator;

3 5. The number of jobs provided by each incubator and tenants of
4 each incubator; ~~and~~

5 6. The number of firms still operating in the state after
6 ending their tenancy in incubators and the number of jobs they have
7 provided; and

8 7. Beginning calendar year 2025, the total taxable income
9 exempted pursuant to subsection A of Section 5078 of this title for
10 the previous tax year.

11 SECTION 3. This act shall become effective November 1, 2023.

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13 59-1-8126 LRB 04/05/23
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