

1 ENGROSSED SENATE
2 BILL NO. 337

By: Bergstrom of the Senate

3 and

4 Kendrix of the House

5
6 An Act relating to small business incubators;
7 amending 74 O.S. 2021, Sections 5078 and 5079, which
8 relate to state income tax exemption and annual
9 reports; requiring certain period of occupancy for
10 tenant to receive certain subsequent exemption;
11 requiring tenant to submit certain information to
12 receive certain exemption; requiring the Oklahoma
13 Department of Commerce to prescribe certain form;
14 requiring certain information to be included in
15 annual report provided by the Department; and
16 providing an effective date.

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

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
a corporation for which a Subchapter S election is in effect, and to
the members of a limited liability company, shall be exempt from
state income tax. ~~The~~ If the tenant remains an occupant of an
incubator for at least five (5) years, the exemption provided by

1 this section shall remain in effect for ~~such~~ the activities by ~~such~~
2 the tenant after the date the tenant is no longer an occupant in an
3 incubator, but not to exceed a total duration of ten (10) years for
4 any tenant.

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

17 C. For tax year 2024 and subsequent tax years, following the
18 first tax year a tenant is provided the exemption pursuant to
19 subsection A of this section, in order to continue to qualify for
20 the exemption, the tenant shall submit information on a form
21 prescribed by the Oklahoma Department of Commerce which shall
22 include but not be limited to the following:

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

1 2. Interns employed;

2 3. Payments to subcontractors and their purpose;

3 4. Estimated gross annual revenues;

4 5. Estimated annual costs for property and services;

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

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

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

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

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

19 1. The number of applications for incubators submitted;

20 2. The number of applications for incubators approved;

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

22 4. The number of tenants occupying each incubator;

23 5. The number of jobs provided by each incubator and tenants of
24 each incubator; ~~and~~

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

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

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

Passed the Senate the 21st day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2023.

Presiding Officer of the House
of Representatives