

**SENATE FLOOR VERSION**

February 27, 2023

SENATE BILL NO. 337

By: Bergstrom of the Senate

and

Kendrix of the House

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

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

1 state income tax. ~~The~~ If the tenant remains an occupant of an  
2 incubator for at least five (5) years, the exemption provided by  
3 this section shall remain in effect for ~~such~~ the activities by ~~such~~  
4 the tenant after the date the tenant is no longer an occupant in an  
5 incubator, but not to exceed a total duration of ten (10) years for  
6 any tenant.

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

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

- 1        1. Employment levels, including full-time-equivalent levels and
- 2 the ratio of part-time employees to full-time employees;
- 3        2. Interns employed;
- 4        3. Payments to subcontractors and their purpose;
- 5        4. Estimated gross annual revenues;
- 6        5. Estimated annual costs for property and services;
- 7        6. A statement of any additional financial assistance,
- 8 incentives, credits, or exemptions provided by this state or any
- 9 political subdivision of this state; and
- 10       7. A statement of any taxable income exempted pursuant to this
- 11 subsection in the previous tax year.

12        The Oklahoma Tax Commission shall promulgate rules to implement

13 the provisions of this section.

14        SECTION 2.        AMENDATORY        74 O.S. 2021, Section 5079, is

15 amended to read as follows:

16        Section 5079. On or before December 31 of each year, the

17 Director of the Oklahoma Department of Commerce shall provide a

18 report to both the Speaker of the House of Representatives and the

19 President Pro Tempore of the Senate which shall include, but not be

20 limited to:

- 21        1. The number of applications for incubators submitted;
- 22        2. The number of applications for incubators approved;
- 23        3. The number of incubators created under this act;
- 24        4. The number of tenants occupying each incubator;

1        5. The number of jobs provided by each incubator and tenants of  
2 each incubator; ~~and~~

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

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

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

10       COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
11       February 27, 2023 - DO PASS

12

13

14

15

16

17

18

19

20

21

22

23

24