OKLAHOMA

State Of Oklahoma

Incentive Evaluation Commission

Tax Incentive Evaluation Report

2023

The Honorable Governor J. Kevin Stitt, President Pro Tempore Treat and Speaker McCall:

We would like to thank each of you for the opportunity to serve as members on the Incentive Evaluation Commission. As five voting members with diverse backgrounds and qualifications, we have taken our duties and responsibilities very seriously as commissioners.

In our eighth year, IEC reviewed eight incentives during this evaluation process. We have continued our contractual relationship with Public Financial Management Inc., who won the bid in 2016, in 2020, and again in 2024. They are a nationally recognized firm specializing in public sector finances. IEC members received ten draft evaluation reports on facts and findings on Sept. 29, 2023, with a formal presentation to the Commission Meeting on Oct. 12, 2023. As required in statute, a public hearing meeting took place on Oct. 26, 2023, to receive public comments regarding the consultant's recommendations.

The commission took into consideration all public comments received at the Nov. 16 meeting before deciding the final vote to approve, disapprove or modify incentives under review. It is in hope that our votes, based on public comments and PFM's facts and findings, help in assisting each of you and the Legislature in making imperative decisions. This year, PFM made alternative recommendations for improvement on all incentives if IEC chose to not follow the final PFM report.

Pursuant to the Incentive Evaluation Act of 2015, 32 O.S. § 7001-7005, the commission is providing the honorable governor, president pro tempore and speaker with the 2023, Year Eight report. The report will also be made publicly available on the Incentive Evaluation Commission website at iec.ok.gov and at the Oklahoma Department of Commerce website at documents.ok.gov.

Enclosed in the packet is a commission action summation chart immediately following the letter and the compiled reports of PFM.

We hope the information provided you is helpful during the upcoming 1st Session of the 59th Legislature.

Respectfully,

The Oklahoma Incentive Evaluation Commission

INCENTIVE EVALUATION COMMISSION ACTIONS

INCENTIVE	YEAR 8, EVALUATION RECOMMENDATION (2023)	COMMISSION ACTION
Economic Development Pooled Finance	**PFM Recommendation: Retain.** PFM recommends maintaining program continuity and efforts to advertise the availability of funds for this program to potential recipients around the state. Discussions with some external stakeholders suggest that the changes in the program have created some confusion related to program requirements. The varying aspects of the program and their different eligibility requirements are not necessarily a problem, but they will require continued efforts to make eligible businesses aware of them.	Vote: 3-0 to **approve** PFM's recommendation to retain the program.
Railroad Reconstruction or Replacement Expenditures	**PFM Recommendation: Retain with modifications.** PFM recommends making the credits refundable instead of transferable. Selling the credits generally deflates their value, as those companies typically sell them at 85 to 90 cents on the dollar. Instead of making credits transferrable, making them refundable may be more impactful. Refundable credits provide a larger benefit to the original recipient at the same cost to the State, as these taxpayers would not sell them for less than full value. Standardized reporting to improve data collection and analysis should also be considered. The data the Office of Management and Enterprise Services (OMES) publishes on the State's data and statistics website, while useful, is difficult to summarize and analyze because there is no consistent identifier for unique taxpayers. One must use the taxpayer's name to analyze credits claimed by taxpayers, which may or may not be consistent. For example, Wal-Mart made three claims associated with this credit between FY2017 and FY2021; the records use two variations of the business name: "WAL-MART STORES INC" and WAL-MART STORES EAST, LP." Data must be cleaned and streamlined carefully and thoroughly before it can be used. This manual manipulation of the data increases the possibility of human error. To evaluate program success, require eligible recipients to provide additional information about eligible projects. To understand the full economic impact of the tax credit program and resulting improved transportation infrastructure, data regarding total eligible expenditures – as well as whether an eligible project was linked to an economic development project (retention or expansion) – would be required. Given the Oklahoma Department of Transportation's (ODOT) role in administering certain aspects of the program, it may be best suited to collect the information.	Vote: 3-0 to **approve** PFM's recommendation to retain the tax credit with modifications.
The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act	**PFM Recommendation: Retain with modifications.** PFM recommends increasing program appeal and usage throughout the State. The program's primary user is Oklahoma City. The State should work with other cities to raise awareness of this program and its benefits so that it can be more widely used. Improve data collection and reporting is also recommended. With limited data available, a comprehensive evaluation of the incentive is difficult. The State should collect, store, and report data related to individual project employment, capital investment, industry, and other impacts, such as changes in assessed value within enterprise zones. It should also work to reconcile data differences so that comparisons of jobs and payroll for Leverage Act project impacts can be projected with a higher degree of confidence.	Vote: 3-0 to **approve** PFM's recommendation to retain the program with modifications.
Training for Industry (TIP)	**PFM Recommendation: Retain with minor modifications.** To demonstrate company expansion, PFM recommends tracking trainings for new positions, not necessarily new hires. Currently, when companies apply for subsequent trainings, they must demonstrate to ODCTE (Oklahoma Department of Career and Technology Education) that they are training additional employees compared to the number they trained in the previous cycle. Companies could provide similar documentation to ODCTE to show whether the positions are the result of turnover or overall business expansion. Flexibility should also be retained in allocating funds. ODCTE currently imposes a deadline for trainings to occur after funds are approved. It works with companies to negotiate the timing of their trainings to maximize the use of funds across all applicants. ODCTE representatives meet with applicants in person to review	Vote: 3-0 to **approve** PFM's recommendation to retain the program with minor modifications.

	documentation of their application requirements and understand their needs. These practices allow ODCTE to make informed choices surrounding the timing of their use of funds to ensure they do not overcommit resources. Consideration should be given to expanding program outcome metrics to include retained employees as well as new jobs. Business retention is as important as business attraction. Beyond the annual survey, ODCTE does not have a method to understand how long the trained employees remain at the company upon receiving the state's investment of training funds. However, it is important to note that tracking an additional metric will require additional administrative resources. Further, this metric demonstrates increased company productivity by avoiding additional resources being spent to recruit and train new employees. Still, it does not necessarily factor into the immediate two-year ROI calculation ODCTE uses to determine eligibility.	
Rural Economic Action Plan (REAP)	**PFM Recommendation: Retain.** PFM recommends maintaining the program's flexibility and ease of operation. Currently, each COG administers its own application and approval process. While the Department of Commerce provides statutory rules on which types of projects should be prioritized, the COGs are responsible for selecting projects. They can use their local knowledge and contextual understanding to best evaluate needs. Consideration should be given to adding a qualitative measure of success. As the project grant funds are, by design, smaller in scope, their long-term economic impact may not be captured by traditional economic analyses. Each COG could potentially track and report the qualitative results of each project, such as through satisfaction surveys.	Vote: 3-0 to **approve** PFM's recommendation to retain the grant program.
Aircraft Facilities Sales Tax Exemption	**PFM Recommendation: Reconfigure.** PFM recommends simplifying or eliminating certain eligibility requirements. As currently structured, the exemptions have differing eligibility parameters and requirements. Loosening and/or streamlining certain provisions and/or eligibility requirements may increase program appeal. For example, if the goal of the incentives is to recruit new businesses to the state, eliminating or reducing the minimum spend, investment, and/or job creation requirements that accompany the exemptions may generate the desired activity. Integration of these sales tax exemptions as part of the State's portfolio of industry incentives would add value. The aerospace industry is critical to Oklahoma's economy, and the State provides a number of incentive programs intended to strengthen industry performance in the state. While they may not be the most significant incentives offered in terms of dollar value, they are still potentially beneficial to some companies, depending on their ability to utilize some of the other, more popular incentives. Outdated code references should also be updated. It appears that multiple references within the administrative sections of the statute are out of date, referencing sections that no longer pertain to the aircraft facility exemptions. Left uncorrected, this could potentially complicate the state's ability to administer the exemptions effectively, should the need arise.	Vote: 3-0 to **approve** PFM's recommendation to reconfigure the sales tax exemption.
Computer Services and Data Processing Tax Exemption	**PFM Recommendation: Retain.** The Computer Services, Data Processing, and Research and Development Tax Exemption was established by two different additions to Oklahoma state statute. One section, § 68-54001 - 54006, was repealed effective November 1, 2022. This section provided a refund of state and local sales and use taxes to qualified purchasers primarily engaged in computer services and data processing or research and development. The other section of the computer services and data processing sales tax exemption, § 68 -1357v2 - 21, remains active but has not been used. This program exempts state sales and use taxes on purchasing machinery and equipment by persons and establishments primarily engaged in computer services and data processing. Retain § 68 -1357v2 – 21 to allow for its potential use for larger data centers and other computer services companies. Given the low cost of electricity in Oklahoma relative to benchmark states and the increasing number of data centers nationwide, retaining the program could allow for companies to potentially relocate to or expand in the state, as it is a competitive location.	Vote: 3-0 to **approve** PFM's recommendation to retain the tax exemption code.

Construction Materials Tax Refund	**PFM Recommendation: Retain with modifications.** PFM recommends expanding the qualifications beyond manufacturing companies, as expanding eligibility might increase the use of the exemption. Consideration should also be given to revising the construction materials program along the lines of the State of Louisiana, which offers an option for a refundable tax credit or a sales tax exemption	Vote: 3-0 to **approve** PFM's recommendation to retain the tax refund with modifications.

INCENTIVE EVALUATION COMMISSION
Regular Meeting Minutes
Nov. 16, 2023; 10 a.m.
Oklahoma State Capitol
Senate Conference Room 4S.9
Oklahoma City, OK 73105

MEMBERS PRESENT:
Lyle Roggow, Chair designee of Select Oklahoma and Economic Development Partnership, Inc.
Mandy Fuller, Auditor/CPA appointed by the Governor
Earl Sears, appointed by the Speaker of the House of Representatives
Mark Wood, Chair of the Oklahoma Tax Commission, Ex-Officio; Non-Voting
Jon Chiappe, Secretary of Commerce designee, Ex-Officio; Non-Voting
John Suter, Secretary of Operations and Government Efficiency, the State COO, and Director of the Office of Management and Enterprise Services

MEMBERS ABSENT:
Carlos Johnson, CPA, appointed by the Oklahoma Board of Accounting

STAFF/GUESTS:
Beverly Hicks, OMES
Christy Keen, OTC, Counsel
Randall Bauer, PFM
Max McKnight, ODCTE
Patrick Clanin, ODCTE
Jeremy Stoner, ODFA
Shawn Ashley, Quorum Call

♦*Office of Management and Enterprise Services (OMES)* ♦*Public Financial Management Group Consulting LLC (PFM)* ♦*OK Tax Commission (OTC)* ♦*OK Department of Career and Technology Education* (ODCTE) ♦*OK Development Finance Authority* (ODFA)

1. **Call to order and establish a quorum. [Chair]**

   Chairman Roggow called this regular meeting to order at 10:03 a.m. A roll call was taken, and a quorum was established. A meeting notice was filed with the Secretary of State, and the agenda was posted in accordance with the Open Meeting Act.

2. **Approval of minutes from the October 26, 2023, Commission meeting:**

   Rep. Earl Sears moved to approve the meeting minutes of October. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

   Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3. **Discussion and possible action on Year-Eight, 2023 Incentive Evaluations: [Chair]**

   3.1. Economic Development Pooled Finance – ***Recommendation: Retain.*** [PFM recommends maintaining program continuity and efforts to advertise the availability of funds for this program to potential recipients around the state. Discussions with some external stakeholders suggest that the changes in the program have created some confusion related to program requirements. The varying aspects of the program and their different eligibility requirements are not necessarily a problem, but they will require continued efforts to make eligible businesses aware of them.]

Mr. Bauer finds that it is a useful program but commented that because the program has changed significantly, including the names of parts of the program, there was some confusion in some of PFM's external stakeholder discussions regarding what programs might be most beneficial. He recognizes that the Department of Commerce provides that kind of outreach and feels that it is an area that they should continue to focus on to maintain the program in terms of continuity so that the business community will become even more comfortable with it going forward.

Mandy Fuller moved to accept PFM's recommendation to retain the program. Rep. Earl Sears seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3.2. Railroad Reconstruction or Replacement Expenditures – ***Recommendation: Retain with modifications.*** [PFM recommends making the credits refundable instead of transferable. Selling the credits generally deflates their value, as those companies typically sell them at 85 to 90 cents on the dollar. Instead of making credits transferrable, making them refundable may be more impactful. Refundable credits provide a larger benefit to the original recipient at the same cost to the State, as these taxpayers would not sell them for less than full value. Standardized reporting to improve data collection and analysis should also be considered. The data the Office of Management and Enterprise Services (OMES) publishes on the State's data and statistics website, while useful, is difficult to summarize and analyze because there is no consistent identifier for unique taxpayers. One must use the taxpayer's name to analyze credits claimed by taxpayers, which may or may not be consistent. For example, Wal-Mart made three claims associated with this credit between FY2017 and FY2021; the records use two variations of the business name: "WAL-MART STORES INC" and WAL-MART STORES EAST, LP." Data must be cleaned and streamlined carefully and thoroughly before it can be used. This manual manipulation of the data increases the possibility of human error. To evaluate program success, require eligible recipients to provide additional information about eligible projects. To understand the full economic impact of the tax credit program and resulting improved transportation infrastructure, data regarding total eligible expenditures – as well as whether an eligible project was linked to an economic development project (retention or expansion) – would be required. Given the Oklahoma Department of Transportation's (ODOT) role in administering certain aspects of the program, it may be best suited to collect the information.]

Mr. Bauer commented it is a tax credit for private railroads for Class II & III railroads, the smaller railroads within the state. The Legislature did this by increasing the amount of the credit that is done on a per-mile basis. PFM feels that it is a credit that has benefits. It is infrastructure-related and is an important part of overall commerce, particularly in smaller cities.

PFM has raised the issue in the past of credits being refundable rather than transferrable on the basis that it dilutes the dollars that may be used by the industry you are trying to incent. Companies are typically going to transfer and sale the credits to insurance companies or banks who have gross receipts taxes, so they always have tax liability. The point made in recent years by the Incentive Evaluation Commission members is that perhaps better than only giving the option to refund or transfer the credits, businesses should have the option of choosing either a refund or a credit. For a business where a fundable credit will provide them resources, and they are not worried about issues of timing, it would provide a more significant benefit for them and the State in terms of incenting activity, but for a business where particularly the timing of waiting for receipt of refund may be an issue, they could still elect to transfer the credits. PFM is open to that as a modification of the recommendation.

Commissioner Wood believes the modification is a good idea to give taxpayers the maximum flexibility.

Chairman Roggow recognizes that this has come up multiple times, and part of him believes this is precisely where we should also be headed.

Rep. Earl Sears moved to accept PFM's recommendation to retain the tax credit with modifications. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

Before moving to the next incentive, Commissioner Fuller commented that when reading through the incentives again in the report, she told Mr. Bauer that he had only listed one recommendation. Mr. Bauer agreed and apologized for not switching to the second page where the two additional recommendations were listed and agreed to run through them.

Ms. Fuller stated that, in thinking through it, some of the recommendations are specific to changes to the incentives, while others are more specific to administrative-type recommendations. Moving forward, she asked if it would be good to separate those items. Group things that require action from the Legislature separate from those items that are more administrative in nature.

Mr. Bauer acknowledged her point is well taken. It has been a process where PFM has figured it out along the way. PFM has split the categories into retained with minor modifications, which relate to the administrative aspect or reconfiguring where the Commission would be making what are likely statutory changes or then to repeal. He believes what Commissioner Fuller suggests as a framework makes sense and can be done moving forward.

Chairman Roggow supported Commissioner Fuller's point and agreed that legislative changes are one thing, and the administrative side is entirely different. He believes it is the Commission's responsibility to give good guidance and clear direction as much as possible, and any improvements, such as Commissioner Fuller's input, are always welcome.

3.3. The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act – ***Recommendation: Retain with modifications.*** [PFM recommends increasing program appeal and usage throughout the State. The program's primary user is Oklahoma City. The State should work with other cities to raise awareness of this program and its benefits so that it can be more widely used. Improve data collection and reporting is also recommended. With limited data available, a comprehensive evaluation of the incentive is difficult. The State should collect, store, and report data related to individual project employment, capital investment, industry, and other impacts, such as changes in assessed value within enterprise zones. It should also work to reconcile data differences so that comparisons of jobs and payroll for Leverage Act project impacts can be projected with a higher degree of confidence.]

Mr. Bauer informed members that local government is where the program is primarily providing the incentive. Still, there is some state incentive for those in an enterprise zone, primarily sales tax, but it can also be other taxes. There has been more program usage throughout the state. The first time PFM evaluated the program, it had been solely used in Oklahoma City. He believes that continued focus on finding places where projects could benefit from it statewide is a good one.

Mr. Bauer said the data is an issue and has spoken with Commerce and the Tax Commission about it. He believes they are working through some other ways to collect data. When you have a small number of projects, you must be concerned about the confidentiality of tax records and, perhaps, as the program grows, in terms of usage, may become less of an issue.

Mandy Fuller moved to accept PFM's recommendation to retain the program with modifications. Rep. Earl Sears seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3.4. Training for Industry Program (TIP) – ***Recommendation: Retain with minor modifications.*** [To demonstrate company expansion, PFM recommends track trainings for new positions, not necessarily new hires. Currently, when companies apply for subsequent trainings, they must demonstrate to ODCTE (Oklahoma Department of Career and Technology Education) that they are training additional employees compared to the number they trained in the previous cycle. Companies could provide similar documentation to ODCTE to show whether the positions are the result of turnover or overall business expansion. Flexibility should also be retained in allocating funds. ODCTE currently imposes a deadline for trainings to occur after funds are approved. It works with companies to negotiate the timing of their trainings to maximize the use of funds across all applicants. ODCTE representatives meet with applicants in person to review documentation of their application requirements and understand their needs. These practices allow ODCTE to make informed choices surrounding the timing of their use of funds to ensure they do not overcommit resources. Consideration should be given to expanding program outcome metrics to include retained employees as well as new jobs. Business retention is as important as business attraction. Beyond the annual survey, ODCTE does not have a method to understand how long the trained employees remain at the company upon receiving the state's investment of training funds. However, it is important to note that tracking an additional metric will require additional administrative resources. Further, this metric demonstrates increased company productivity by avoiding additional resources being spent to recruit and train new employees. Still, it does not necessarily factor into the immediate two-year ROI calculation ODCTE uses to determine eligibility.]

Mr. Bauer informed members that these are standard programs nationwide among state companies focused on particular economic sectors. PFM finds that these programs are effective.

Mr. Bauer made known that, often, with incentives, you talk about job years in terms of what you are impacting. A job could turn over, and it may be a person coming into a position that is still the same and is not necessarily an increase in employment that you would score. Still, it will show up that way unless you have some method of capturing it. It would be helpful for it to show up as new positions versus not necessarily new hires but as a new person in the same position.

Mr. Bauer addressed funding allocation where there is a deadline for trainings to occur after the funds are approved. PFM believes it is important to maintain flexibility so the training does not drop off because of those particular deadlines. Lastly, PFM is looking for a complete picture of the training impacts.

Rep. Earl Sears moved to accept PFM's recommendation to retain the program with minor modifications. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3.5. Rural Economic Action Plan – ***Recommendation: Retain.*** [PFM recommends maintaining the program's flexibility and ease of operation. Currently, each COG administers its own application and approval process. While the Department of Commerce provides statutory rules on which types of projects should be prioritized, the COGs are responsible for selecting projects. They can use their local knowledge and contextual understanding to best evaluate needs. Consideration should be given to adding a qualitative measure of success. As the project grant funds are, by design, smaller in scope, their long-term economic impact may not be captured by traditional economic analyses. Each COG could potentially track and report the qualitative results of each project, such as through satisfaction surveys.]

Mr. Bauer informed members this is a grant program and is different in that it is not a tax incentive, as many programs are, and is one that the Legislature has doubled the appropriation for last year. It is infrastructure-related and is different in terms of measuring economic impact. The program is beneficial not only for the grant dollars, which are something that for these projects would most likely not happen without state dollars, but for the community in terms of morale in bringing people together around projects.

Mr. Bauer informed that each Central Oklahoma Government (COG) administers its own program, most likely has more resources than the local governments, and can determine whether a project is feasible and whether it would be workable or not for the state and is an essential part of the program.

Mr. Bauer spoke about how, when looking at the program from a quantitative basis, an IMPLAN model is not as helpful, so for the department to measure or identify qualitative impacts for the program, PFM believes that would be useful. Community surveys provide some method for capturing what the community considers the benefit.

Rep. Earl Sears moved to accept PFM's recommendation to retain the grant program. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3.6. Aircraft Facilities Sales Tax Exemption – ***Recommendation: Reconfigure.*** [PFM recommends simplifying or eliminating certain eligibility requirements. As currently structured, the exemptions have differing eligibility parameters and requirements. Loosening and/or streamlining certain provisions and/or eligibility requirements may increase program appeal. For example, if the goal of the incentives is to recruit new businesses to the state, eliminating or reducing the minimum spend, investment, and/or job creation requirements that accompany the exemptions may generate the desired activity. Integration of these sales tax exemptions as part of the State's portfolio of industry incentives would add value. The aerospace industry is critical to Oklahoma's economy, and the State provides a number of incentive programs intended to strengthen industry performance in the state. While they may not be the most significant incentives offered in terms of dollar value, they are still potentially beneficial to some companies, depending on their ability to utilize some of the other, more popular incentives. Outdated code references should also be updated. It appears that multiple references within the administrative sections of the statute are out of date, referencing sections that no longer pertain to the aircraft facility exemptions. Left uncorrected, this could potentially complicate the state's ability to administer the exemptions effectively, should the need arise.]

Mr. Bauer commented that this incentive is one that states had on the books for about thirty years of multiple sales tax exemptions for qualifying air maintenance for manufacturing facilities. Although these particular sets of exemptions are currently not being used, he does not see any reason to remove them, and given the industry's prominence, there is a chance they will be used in the future.

Mr. Bauer informed members that because the aircraft industry is such an essential component of Oklahoma's economy, PFM thinks it may be helpful to restructure the offerings that are available. The tax credits focused on aerospace engineers are found to be beneficial, and there is a way to pull these all together in a more useful way for the industry that will incentivize more activity than exists with the sales tax exemption that is not used right now.

Commissioner Chiappe commented that in Commerce's review of the statute, there are different parts of aerospace sales tax exemption in sections of the statute. Other aspects of the aerospace sales tax exemptions are being utilized. There is no data being collected because they are not required to report, and given that it is an automatic exemption with the manufactured sales tax exemption permit (MSTEP), there is no way to collect data for the automatic exemption of sales taxes when a company has MSTEP. He recommends reconfiguring as indicated to clarify some of the aerospace exemptions and allow data collection associated with this going forward.

Commissioner Fuller cautioned to be careful about saying the sales tax exemption is not in use. Mr. Bauer said this was coming from the Tax Commission but clarified that they could revise that paragraph to Commissioner Chiappe's point.

Commissioner Wood commented that the American Airlines representative at the public hearing indicated they were utilizing it and found it valuable.

Commissioner Chiappe said Commerce does not want to add an administrative burden to the Tax Commission or the industry, but it is difficult to evaluate without data. It is something that, if there was any commerce associated with it, they could estimate based on what they could see industry averages for purchasing materials, but that would be an estimate and not an actual figure.

Chairman Roggow said we need to figure out how to collect more data in the future.

PFM plans to have joint conversations with Commerce and Tax to figure out ways of estimating with existing data.

Mandy Fuller moved to accept PFM's recommendation to reconfigure the sales tax exemption. Rep. Earl Sears seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3.7. Computer Services and Data Processing Tax Exemption – *Recommendation: Retain.*
[The Computer Services, Data Processing, and Research and Development Tax Exemption was established by two different additions to Oklahoma state statute. One section, § 68-54001 - 54006, was repealed effective November 1, 2022. This section provided a refund of state and local sales and use taxes to qualified purchasers primarily engaged in computer services and data processing or research and development. The other section of the computer services and data processing sales tax exemption, § 68 -1357v2 - 21, remains active but has not been used. This program exempts state sales and use taxes on purchasing machinery and equipment by persons and establishments primarily engaged in computer services and data processing. Retain § 68 - 1357v2 – 21 to allow for its potential use for larger data centers and other computer services companies. Given the low cost of electricity in Oklahoma relative to benchmark states and the increasing number of data centers nationwide, retaining the program could allow for companies to potentially relocate to or expand in the state, as it is a competitive location.]

Mr. Bauer commented on the section of the statute § 68 -1357v2 - 21 for machinery equipment for computer services and data processing that is still active but has not been used and believes this section should be retained. The data services industry is a significant sector nationwide and very capital-intensive, with several supportive vendors.

Rep. Earl Sears moved to accept PFM's recommendation to retain the tax exemption code. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3.8. Construction Materials Tax Refund – *Recommendation: Retain with modifications.*
[PFM recommends expanding the qualifications beyond manufacturing companies, as expanding eligibility might increase the use of the exemption. Consideration should also be given to revising the construction materials.]

Mr. Bauer commented that this incentive requires businesses to maintain records of purchases that qualify for this tax exemption. It is not a bi-rate exemption and is one where they have specific requirements regarding the amount of employees or capital investment to be made for them to receive it.

Commissioner Chiappe shared his thoughts on the incentive and commented that there is a disconnect in utilizing this tax refund. When visiting with companies, they are confused as to why it is even in the books, and there may be some options to reconfigure it to where it might be better utilized in other parts of the statute under a different program makeup. He compared it to Louisiana, where there is a part of their enterprise zone program with a geographic focus in its qualification.

Commissioner Roggow commented that the program is not being utilized, and we need to do something to make it where it is better utilized to its potential.

Rep. Earl Sears moved to accept PFM's recommendation to retain the tax refund with modifications and moved that the additional comments and recommendation that were put forth by the Commission today and to accept PFM's additional modification, "To consider a revision to the construction materials program along the lines of the State of Louisiana, which offers an option for a refundable tax credit or a sales tax exemption." Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

4. **Discussion and possible action to authorize the Office of Management and Enterprise Services to award a contract to the highest-scoring respondent to the request for proposals for an evaluator to assist the Commission in evaluating economic incentives.**

Mandy Fuller moved to authorize OMES to award the contract to the highest-scoring respondent to the request for proposals. Rep. Earl Sears seconded the motion. The following votes were recorded, and the motion passed:

Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

5. **Discussion and announcement of change to time of December 7, 2023, meeting.**

Chairman Roggow explained the reason for the request for the time change from 10 a.m. to the proposed time of 1:00 p.m. is to accommodate the Commission's contractor, Mr. Bauer's schedule conflict. The members present agreed to the new time of the December 7th meeting at 1 p.m.

Mr. Bauer made known at the December meeting he will have a report to the members on the requirement in the statute that the Commission reports to the Governor and Legislature on changes to the statute/practice related to the Incentive Evaluations for the last four years of 2020 and 2023.

6. **New Business.**

Commissioner Sears announced that today's meeting occurred on the great State of Oklahoma's birthday!

7. **Adjournment**

There being no further business, Rep. Sears made the motion to adjourn. Ms. Fuller seconded the motion. Seeing no opposition, the Chair adjourned the meeting at 11:08 a.m.

INCENTIVE EVALUATION COMMISSION
REGULAR MEETING MINUTES
OCT. 26, 2021; 10 a.m.
OKLAHOMA STATE CAPITOL
SENATE CONFERENCE ROOM 4S.9
OKLAHOMA CITY, OK 73105

MEMBERS PRESENT:
Lyle Roggow, Chair designee of Select Oklahoma and Economic Development Partnership, Inc.
Mandy Fuller, Auditor/CPA appointed by the Governor
Earl Sears, appointed by the Speaker of the House of Representatives
Mark Wood, Chair of the Oklahoma Tax Commission, Ex-Officio; Non-Voting
Jon Chiappe, Secretary of Commerce designee, Ex-Officio; Non-Voting
John Suter, Secretary of Operations and Government Efficiency, the State COO, and Director of the Office of Management and Enterprise Services

MEMBERS ABSENT:
Carlos Johnson, CPA, appointed by the Oklahoma Board of Accounting

STAFF/GUESTS:
Beverly Hicks, OMES
Randall Bauer, PFM
Jim Dunlap, American Airlines
Lorena Massey, OTC
Deborah Torres, Governor's Office
Max McKnight, ODCTE
Patrick Clanin, ODCTE
Amanda Hall, Frymire, State Chamber
Lori Peterson, OK Railroad Association
Ryan Pidde, Mickelson & Company

1. **Call to order and establish a quorum. [Lyle Roggow, chairman]:**

   Chairman Roggow called this regular meeting to order at 10:05 a.m. A roll call was taken, and a quorum was established. A meeting notice was filed with the Secretary of State, and the agenda was posted in accordance with the Open Meeting Act.

2. **Approval of minutes from the October 12, 2023, Commission meeting:**

   Rep. Earl Sears moved to approve the meeting minutes for October. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

   Ms. Fuller, aye; Mr. Roggow, aye; Mr. Sears, aye.

3. **Discussion and public comment on PFM draft evaluation reports for Year 8, 2023, Incentive Evaluations:**

   3.1. Economic Development Pooled Finance – PFM *Recommendation: Retain*. [Maintain program continuity and efforts to advertise the availability of funds for this program to potential recipients around the state. Discussions with some external stakeholders suggest that the changes in the program have created some confusion related to program requirements. The varying aspects of the program and their different eligibility requirements are not necessarily a problem, but they will require continued efforts to make eligible businesses aware of them.]

Chairman Roggow provided the opportunity for public comment. There were no public comments received electronically or in person.

No action taken. Public comment only.

3.2. Railroad Reconstruction or Replacement Expenditures – **PFM** ***Recommendation: Retain, with modifications.*** **[**Make the credits refundable instead of transferable. Selling the credits generally deflates their value, as those companies typically sell them at 85 to 90 cents on the dollar. Instead of making credits transferrable, making them refundable may be more impactful. Refundable credits provide a larger benefit to the original recipient at the same cost to the State, as these taxpayers would not sell them for less than full value. Standardized reporting to improve data collection and analysis should be considered. The data the Office of Management and Enterprise Services (OMES) publishes on the State's data and statistics website, while useful, is difficult to summarize and analyze because there is no consistent identifier for unique taxpayers. One must use the taxpayer's name to analyze credits claimed by taxpayers, which may or may not be consistent. For example, Wal-Mart made three claims associated with this credit between FY2017 and FY2021; the records use two variations of the business name: "WAL-MART STORES INC" and WAL-MART STORES EAST, LP." Data must be cleaned and streamlined carefully and thoroughly before it can be used. This manual manipulation of the data increases the possibility of human error. To evaluate program success, recipients should be required to provide additional information about eligible projects. To understand the full economic impact of the tax credit program and resulting improved transportation infrastructure, data regarding total eligible expenditures – as well as whether an eligible project was linked to an economic development project (retention or expansion) – would be required. Given the Oklahoma Department of Transportation's (ODOT) role in administering certain aspects of the program, it may be best suited to collect the information.]

Ryan Pidde with Mickelson & Company, a consulting firm that helps short line railroads across the country finance infrastructure improvement work and works with most of the short lines in Oklahoma, thanked the Commission for their great work evaluating these incentives.

Mr. Pidde spoke specifically to the Railroad Modernization Program that has been in place since 2008. He shared with the Commission the program's significance and how much it has benefited the short-line industry. He shared that the incentive is working, and Oklahoma has been a model for nine other states that have all implemented similar types of programs. The one comment he believes the industry would suggest making on the PFM draft report is to consider reframing the program's economic impact. The draft report indicated that the program's economic impact was negative. He believes a deeper dive needs to be taken to examine the types of investments being made, including associated costs. He noted that PFM referenced the Alabama and Pricewaterhouse Cooper (PwC) studies and believes that when other states or members of the Oklahoma Legislature review the report, it would be more accurate to examine it from a more dynamic perspective of what the overall economic impact is. He reiterated that it is a program that is working, and its transferability aspect is critical and essential to its value.

Lori Peterson with the Oklahoma Railroad Association thanked the Commission for the tax credit, expressed her gratitude, and addressed the importance of what the short line industry brings and how it has benefited the State in economic development. She explained that the short line industry provides a service that the larger railroad industries do not by serving smaller communities and are often family-owned businesses. She recently learned that there is a Port of Catoosa Industrial Railroad that is a short line railroad operated by the Omnitracs Company that is new to the State, benefiting the Tulsa port. She thanked the Commission for their great work.

Commissioner Sears gave a shoutout to the short line industry that keeps the commerce moving in the smaller communities of Oklahoma.

No action taken. Public comment only.

3.3. The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act – **PFM *Recommendation: Retain with modifications.* [**Increase program appeal and usage throughout the State. The program's primary user is Oklahoma City. The State should work with other cities to raise awareness of this program and its benefits so that it can be more widely used. Improve data collection and reporting is also recommended. With limited data available, a comprehensive evaluation of the incentive is difficult. The State should collect, store, and report data related to individual project employment, capital investment, industry, and other impacts, such as changes in assessed value within enterprise zones. It should also work to reconcile data differences so that comparisons of jobs and payroll for Leverage Act project impacts can be projected with a higher degree of confidence.]

Chairman Roggow provided the opportunity for public comment. There were no public comments received electronically or in person.

No action taken. Public comment only.

3.4. Training for Industry Program (TIP) – PFM *Recommendation: Retain with minor modifications.* [To demonstrate company expansion, track trainings for new positions, not necessarily new hires. Currently, when companies apply for subsequent trainings, they must demonstrate to ODCTE that they are training additional employees compared to the number they trained in the previous cycle. Companies could provide similar documentation to ODCTE to show whether the positions are the result of turnover or overall business expansion. Flexibility should also be retained in allocating funds. ODCTE currently imposes a deadline for trainings to occur after funds are approved. It works with companies to negotiate the timing of their trainings and to maximize the use of funds across all applicants. ODCTE representatives meet with applicants in person to review documentation of their application requirements and understand their needs. These practices allow ODCTE to make informed choices surrounding the timing of their use of funds to ensure they do not overcommit resources. Consideration should be given to expanding program outcome metrics to include retained employees as well as new jobs. Business retention is as important as business attraction. Beyond the annual survey, ODCTE does not have a method to understand how long the trained employees remain at the company upon receiving the state's investment of training funds. However, it is important to note that tracking an additional metric will require additional administrative resources. Further, this metric demonstrates increased company productivity by avoiding additional resources being spent to recruit and train new employees. Still, it does not necessarily factor into the immediate two-year return on investment (ROI) calculation ODCTE uses to determine eligibility.]

Max McKnight, Director of Workforce Training with the Department of CareerTech, thanked the Commission for their process and the opportunity to comment on this incentive. He said that the Department of CareerTech is the accrediting body for the twenty-nine technology centers across the state. He provided the members with written comments on the draft report. His comments included some clarifications to the draft evaluation for the Training for Industry Program (TIP). In his written comments to the members, he wanted to delineate between the funds they have set aside of what they call commerce tips, the funds that come through all those companies that commerce is recruiting into the state versus those organically grown at the local level for those businesses and industries in the community that are growing and expanding. He also pointed out that the report mentions they had TIPS in the last four years at twenty-one schools and believes it is important to say that it shows that it is twenty-one of the twenty-nine schools, showing a little over seventy percent of the schools were able to take advantage of the program. He agrees with the report's findings and always looks for continuing process improvements.

Chairman Roggow stated it is a great program that is leveraged and is one where it has to be figured out how to do a better job of marketing outside.

PFM Randy Bauer thanked Mr. McKnight for his comments and written suggestions and has considered them for the final report.

No action taken. Public comment only.

3.5. Rural Economic Action Plan – **PFM *Recommendation: Retain.*** [Maintain the program's flexibility and ease of operation. Currently, each Councils of Governments (COG) administers its own application and approval process. While the Department of Commerce provides statutory rules on which types of projects should be prioritized, the COGs are responsible for selecting projects. They can use their local knowledge and contextual understanding to best evaluate needs. Consideration should be given to adding a qualitative measure of success. As the project grant funds are, by design, smaller in scope, their long-term economic impact may not be captured by traditional economic analyses. Each COG could potentially track and report the qualitative results of each project, such as through satisfaction surveys.]

Chairman Roggow provided the opportunity for public comment. There were no public comments received electronically or in person.

No action was taken. Public comment only.

3.6. Aircraft Facilities Sales Tax Exemption – PFM *Recommendation: Reconfigure*. [Simplify or eliminate certain eligibility requirements. As currently structured, the exemptions have differing eligibility parameters and requirements. Loosening and/or streamlining certain provisions and/or eligibility requirements may increase program appeal. For example, if the goal of the incentives is to recruit new businesses to the state, eliminating or reducing the minimum spend, investment, and/or job creation requirements that accompany the exemptions may generate the desired activity.]

Jim Dunlap, a representative of American Airlines, is the airline's local counsel/lobbyist for the State. The airline has over five thousand employees in the Tulsa area. He gave some history as to why the sales tax exemption was implemented ten years ago. At the time, the maintenance of the American Airlines plane's equipment check engine parts was being shipped to Alliance Airport (DFW International Airport) first and then brought to Tulsa. It created issues of parts ordered not making it to Tulsa. They took away the incentive to send them to Texas, which is why the Aircraft Sales Tax Exemption is in place today to prevent the loss of equipment and jobs. It has solidified the Tulsa base and has been a good use of tax credits.

Mr. Dunlap addressed a comment made earlier about the tax credits not being used very often and explained it depends on when they want to qualify to use them. He also mentioned the airline does not have an issue with the threshold amount being lowered; they just want to keep the exemption possible.

Commissioner Sears commented that in his years serving as a State Legislator, he has always been a champion of credits that continue to give back to the State of Oklahoma. He asked Mr. Dunlap, a former Oklahoma State Senator, to pass on to American Airlines his appreciation for them continuing to stay in Oklahoma. The credit speaks volumes in helping create jobs, keeping that very active in Tulsa, and radiates out. There is no question in his mind that the employed people in Bartlesville, Oklahoma, go to that facility in Tulsa.

No action taken. Public comment only.

3.7. Computer Services and Data Processing Tax Exemption – PFM *Recommendation: Retain.* [The Computer Services, Data Processing, and Research and Development Tax Exemption was established by two different additions to Oklahoma state statute. One section, § 68-54001 - 54006, was repealed effective November 1, 2022. This section provided a refund of state and local sales and use taxes to qualified purchasers primarily engaged in computer services and data processing or research and development. The other section of the computer services and data processing sales tax exemption, § 68 -1357v2 - 21, remains active but has not been used. This program exempts state sales and use taxes on purchasing machinery and equipment by persons and establishments primarily engaged in computer services and data processing.]

Chairman Roggow provided the opportunity for public comment. There were no public comments received electronically or in person.

No action taken. Public comment only.

3.8. Construction Materials Tax Refund – **PFM *Recommendation: Retain with modifications.*** [Expand the qualifications beyond manufacturing companies and expanding eligibility might increase the use of the exemption.]

Chairman Roggow provided the opportunity for public comment. There were no public comments received electronically or in person.

No action taken. Public comment only.

4. Adjourn

There being no further business, Rep. Earl Sears made the motion to adjourn. Mandy Fuller seconded the motion. Seeing no opposition, the meeting adjourned at 10:33 a.m.

INCENTIVE EVALUATION COMMISSION TABLE OF CONTENTS

The following report can be navigated by using your cursor to select an incentive evaluation below. You also can go directly to commissioner comments after each evaluation. At the bottom of each comment page select the button to return to the table of contents.

State of Oklahoma
Incentive Evaluation Commission

Oklahoma's Incentive Evaluation Act provides a solid foundation for the yearly evaluations of tax and other forms of incentives. Among the requirements for each incentive evaluation is to make "Recommendations for any changes to state policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future. These recommendations may include changes to collection, reporting and sharing of data, and revisions or clarifications to the goal of the incentive."

Many of the Oklahoma incentive evaluations highlight the need for better or more data to conclusively evaluate the incentive. This is not a concern that is specific to the Oklahoma incentives and incentive evaluation process. The National Conference of State Legislatures maintains a database containing hundreds of incentive evaluations of state (and a few local) programs. A review of those evaluations found that the need for more or better data is among the most common issues raised in incentive evaluations.

There are certainly trade-offs related to increased data collection. It can be an administrative burden, and it may create complexity. At the same time it is important for the State to determine whether the state's investment in a particular tax incentive or other incentive program is a good deal for the State and its taxpayers. In the vast majority of cases, as the evaluations demonstrate, Oklahoma's incentives are 'a good deal' but there are opportunities to even more conclusively demonstrate that. The Commission recommends that the Governor, and Legislature pay particular attention to the concerns raised in state programs around the need for more or better data for incentive evaluations.

Respectfully,

The Oklahoma Incentive Evaluation Commission

State of Oklahoma
Incentive Evaluation Commission
Evaluation: Economic Development Pooled Finance

November 17, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
42nd Floor
Philadelphia, PA 19103

Contents

Key Findings and Recommendations

Incentive Overview

The Economic Development Pooled Finance Program was established in 2009 by the Oklahoma Community Economic Development Pooled Finance Act. The Legislature sought to support economic development and public infrastructure projects for the purpose of attracting private investment, creating jobs, and developing infrastructure essential to a safe and productive environment for state residents and visitors.

The program seeks to accomplish this through a $200 million pool of financing made available to for-profit entities for a local infrastructure or economic development project. Cash payment awards for approved projects are determined by the Department of Commerce (Department) and ultimately disbursed by the Oklahoma Development Finance Authority (ODFA), working in conjunction with the Oklahoma Tax Commission (OTC). The funding is repaid through payroll tax rebates generated by a for-profit entity receiving funding, or a new tax or tax increase levied by the local governments receiving funding.

There are three options within the Economic Development Pooled Finance Program: the Business Expansion Incentive Program (BEIP), the Oklahoma Innovation Expansion Program (OIEP), and the Public-Private Partnership Pooled Finance Program (P3). The program has been substantially revamped since the 2019 evaluation.

Recommendation: Retain

Key Findings

- **Since 2018, as a result of this program, over 9,300 new jobs have been created and over 53,000 jobs have been retained statewide.**
    - This program has facilitated the creation of 9,389 new jobs with an average wage of $42,370 and the retention of 53,560 jobs with an average wage of $58,405.
- **With over $140 million in funding awarded from 2018 – 2023, this program has catalyzed over $3.1 billion in capital investment.**
    - The funding awarded by ODFA, $141 million, represents 4.5 percent of the total private capital investment of $3.166 billion.
- **This program does not represent a direct state expenditure, as it is fully funded through ODFA, and there remains sufficient capacity for the program to continue to operate.** As a result, there are adequate protections in place to ensure the fiscal impact of the program does not increase substantially beyond the state's expectations in future years.
    - As of September 2023, $115 million is still available in capacity for program funding.
    - Within the program, as debt is repaid to ODFA, funds are then made available again in the $200 million pool, which makes it similar to a revolving loan program.
- **The introduction of the Bounceback program in 2020, later renamed the Oklahoma Innovation Expansion Program (OIEP), as a response to the COVID-19 pandemic, proved to be popular and successful.**

- This program, available to small businesses for funding amounts less than $150,000 resulted in a significant increase in usage of the program and funding awarded.
- The program alone represented $37.8 million in funding awarded, $225.7 million in capital investment, 25,682 retained jobs with an average wage of $53,210, and 2,864 new jobs with an average wage of $49,761.

- **For the OIEP, there is a specific application timeframe, for the program.**
  - In 2023, the open application period for OIEP was between April 3 and April 14.
  - This limited timeframe to submit an application to be considered for funding may limit qualifying businesses from having all application materials ready in a timely manner.
  - The BEIP application, however, is accepted on a rolling basis.

- **The most appropriate program within the incentive that a company should apply for is not always clear.**
  - Recipients are not always aware of which specific program they can qualify for, or which may be most beneficial to them, partially due to the name and program changes over the years.
  - This is somewhat combatted by efforts of the Department to go on site visits and meet with prospective recipients prior to the submittal period.

- **There are specific requirements and limitations for the program.**
  - To qualify for OIEP, a recipient must have a minimum capital expenditure of $50,000 and a minimum payroll at the facility of $625,000 per year.
  - To qualify for BEIP, a recipient must have a minimum capital investment of $2 million and total payroll of $2 million.
  - There are no jobs, payroll, or investment requirement in order to qualify for P3. Rather, the qualifications include critical infrastructure that is owned by a local government entity and an investment in it that would benefit at least one for-profit business. The infrastructure identified by the local government must contribute to the competitiveness of the region’s economy. The project may also qualify as a workforce development training.
  - Participation in any program within this incentive precludes a company from utilizing other state incentives such as the Quality Jobs Act or the Investment Tax Credit.

- **The program design aligns with several business incentives best practices.**
  - The program has specific eligibility criteria and specific types of firms/industries (targeted)
  - The program has an application process (discretionary)
  - The program leverages significant private capital
  - The incentive has a limited duration and not provided until requirements are met
  - It provides customized assistance to small and medium sized existing businesses to help them grow or become more productive

Recommendation

- **Maintain program continuity and efforts to advertise the availability of funds for this program to potential recipients around the state.**

Discussions with some external stakeholders suggest that the changes in the program have created some confusion related to program requirements. The varying aspects of the program and their different eligibility requirements are not necessarily a problem, but they will require continued efforts to make eligible businesses aware of them. It will be important in the short-term to maintain existing program requirements so that businesses become familiar with them. The Department should continue the practice of doing site visits and road shows throughout the state to advertise the benefits and details of the various programs and funding available through this incentive.

Introduction

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Economic Development Pooled Finance Act was first reviewed by the Commission in 2019.[1] Significant findings and recommendations from PFM's evaluation of the program are summarized in the following table:

[1] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/ED%20Pooled%20Finance_11112019_FINAL.pdf

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- All projects that had received financing through the program expect to create 4,269 jobs and make capital investment of $1.5 billion. - Since FY 2011, $86.9 million in withholding tax revenue has been foregone by the State as part of the program. - The average wage of new jobs associated with Economic Development Pooled Finance projects is $33,447. - Over the previous five years, the average number of years required to recoup the incentives offered was three years. - No pool funds had ever been used for local government infrastructure projects.
Fiscal and Economic Impact	Assuming the firms that used the incentives were still in business after 3 years, the return on investment to the State is positive.
Future Fiscal Impact Protections	No future fiscal impact protections were noted.
Administrative Effectiveness	No broad impacts were noted by the administration of this program.
Retain, Reconfigure or Repeal	The project team recommended retaining the program with minor modifications.
Other Recommendations	- Establish regular reporting of awards and costs associated with the program.

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

Based on PFM's analysis and consideration of other factors, the Commission voted 6-0 to retain the program with minor modifications.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Economic Development Pooled Finance Program, the purpose or goal of the incentive is to encourage local government cooperation in the development of regional infrastructure and economic development projects. The Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Job creation associated with financed projects;
- Capital investment (facilities, machinery and equipment) associated with financed projects;
- Comparison of job creation and capital investment to similar cities/counties not participating in the program;
- Contributions to community development;
- State return on investment.

To conduct its 2023 review of the Economic Development Pooled Finance Program, the PFM team undertook several project tasks, including (but not limited to) the following:

- Requested, reviewed, and analyzed data from the Department of Commerce.
- Conducted subject matter expert and internal stakeholder interviews.
- Participated in project site visits with the Department of Commerce and ODFA.
- Met with leadership from the State, Oklahoma City, and Tulsa Chambers of Commerce, and interested industry representatives.
- Performed an economic impact analysis of program costs.
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission
Evaluation: Railroad Modernization Tax Credit

November 17, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
42nd Floor
Philadelphia, PA 19103

Contents

Key Findings & Recommendations

Incentive Overview

Available since 2006, Oklahoma's Railroad Modernization Tax Credit is equal to 50 percent of qualified railroad reconstruction or replacement expenditures incurred by a Class II or Class III railroad.[1] The amount of the credit is limited to $5,000 per mile of railroad track owned or leased within the State by the taxpayer. The total amount of credits used to offset tax liability is limited to $5 million per year.

Recommendation: Retain with Modifications.

Key Findings

- **Smaller railroads play an important role in Oklahoma.** Class III railroads account for approximately one-third of the state's 3,200-mile rail network. These smaller railroads operate in rural areas not served by larger Class I railroads – particularly the southwestern and southeastern areas of the state.

- **Rail service is essential to Oklahoma economy.** According to one 2021 study, rail-related employment in the state totaled more than 27,000 jobs in 2019, and the $1.3 billion earned by these employees represented more than 1 percent of Oklahoma's total labor income. The combined value-added impact of rail-related activity amounted to nearly $2.6 billion and represented approximately 1.3 percent of the state's Gross State Product (GSP). Rail-related industries generated an estimated $5.7 billion in output, in terms of total revenue.[2]

- **Train accidents/incidents have generally declined over the past decade, both nationally and in Oklahoma.** While it is likely that the impacts of the COVID-19 pandemic on rail activity contributed to the lower number of accidents/incidents, the reduction in Oklahoma (-5.6 percent annually, 2013-2019) outpaced the national average (-1.7 percent annually).

- **Freight rail is an extremely capital-intensive industry, and the private owners are responsible for their own maintenance and improvement projects.** Most smaller railroads operate on legacy infrastructure suited for lighter weight railcars that must be upgraded to handle today's heavier, industry standard railcars. Compared with other major modes of transportation, railroad owners invest one of the highest percentages of revenues (19 percent) to maintain and add capacity to their system, spending nearly $25 billion annually.[3]

- **Oklahoma's Class III railroads have a significant need for infrastructure improvements.** Freight rail needs and opportunities identified in the State Rail Plan include updates to accommodate heavier railcars and reduction of bottlenecks, among others. External analyses confirm that investments in the state's freight rail network are needed: the American Society of Civil Engineers' (ASCE) most recent Report Card for Oklahoma's Infrastructure found that segments of the short line network could not accommodate the high-capacity freight cars common to Class I railroads. Further, while the short line industry generally had the resources to maintain basic operations, increasingly higher funding would be required to maintain operations in accordance with escalating industry standards.[4]

---

[1] 68 O.S. § 2357.104
[2] ODOT, "Oklahoma State Rail Plan," (2021). Accessed electronically at https://oklahoma.gov/content/dam/ok/en/odot/publications/SRP%202021%20Final%20with%20FRA%20Approval.pdf
[3] AAR, "Railroad 101," (last updated June 2023). Accessed electronically at https://www.aar.org/wp-content/uploads/2020/08/AAR-Railroad-101-Freight-Railroads-Fact-Sheet.pdf
[4] American Society of Civil Engineers – 2013 Report Card for Oklahoma's Infrastructure. Accessed electronically at https://www.infrastructurereportcard.org/wp-content/uploads/2016/10/ASCE-OK-2013-Report-Card.pdf

- **In recent years, statutory changes have modified the program to the benefit of eligible taxpayers.** In 2020, SB 1322 increased the credit amount from $2,000 per mile to $5,000 per mile; added certain types of projects to the list of qualified expenditures; eliminated a 25 percent reduction in the calculated credit amount; increased the annual credit cap from $2 million to $5 million; and extended the sunset date to January 1, 2030.

- **Credit use to reduce tax liability fluctuates from year to year but is declining on a per-claim basis.**[5] As shown in the following table, between 2017 and 2021, an average of 10 returns per year reduced overall tax liability among claimants by an average of approximately $2.4 million. On a per-return basis, this equates to an average of just over $270,000. Generally, the average reduction in liability is declining over the period in question.

Table 1: Tax Credit Activity, TY 2017-2021 ($ in Millions) *

	Total Returns	Carry Forward**	Credit Established During TY	Total Amount Claimed	Tax Liability Reduced	Avg. Claim per Return	Avg. Reduction in Liability
2017	15	$2.0	$1.4	$3.3	$1.3	$220,569	$88,009
2018	8	$0.5	$2.3	$2.8	$2.5	$343,925	$308,673
2019	12	$1.9	$1.9	$3.7	$2.4	$310,955	$202,211
2020	7	$0.0	$3.3	$3.3	$3.1	$465,851	$439,040
2021	9	$0.0	$2.9	$2.9	$2.9	$325,252	$320,273
Avg.	**10.2**	**$0.9**	**$2.3**	**$3.2**	**$2.4**	**$333,310**	**$271,641**

Source: Oklahoma Tax Commission

** Average Claim per Reward and Average Liability Reduction totals are real values, not in $ millions.*

*** Carry forward represents unused credit carried over from prior year(s).*

- **The tax incentive results in increased statewide economic activity, but the net impact is negative.** Between 2017 and 2021, the program, through direct, indirect, and induced economic effects, generated approximately $1.0 in State tax revenue. Over the same time, however, the state provided nearly $11.7 million in tax credits, resulting in a net impact over the time period of -$10.7 million, as shown in the following table.

Table 2: Impact Summary

	Credits Established During Tax Year	Estimated Oklahoma Tax Revenue	Net Impact
2017	$1,350,101	$112,651	($1,237,450)
2018	$2,289,957	$195,727	($2,094,230)
2019	$1,879,679	$162,699	($1,716,980)
2020	$3,257,815	$285,566	($2,972,249)
2021	$2,893,040	$256,810	($2,636,230)
Total	**$11,670,592**	**$1,013,454**	**($10,657,138)**

Source: PFM IMPLAN analysis output, September 2023

- **Relative to states with comparable tax credits, the dollar value of Oklahoma's is relatively generous.** Ten states have enacted tax credit incentives like Oklahoma's, and several others have attempted to enact or are considering their own programs. At $5,000 per track mile owned or leased, Oklahoma – in addition to Arkansas, Kansas, Mississippi, and Missouri – has among the highest cap. Other states match the federal cap of $3,500, and the lowest cap is $1,000 in Oregon.

[5] Program usage totals reflect the impacts of some of the statutory changes cited, though isolating and accurately allocating the impacts of those changes is difficult, if not impossible. Other, external factors may contribute to overall program activity, including inflationary concerns, economic uncertainty, rising construction costs, global supply chain issues, and more.

- **The State is not currently at risk of significant increases in expenditures associated with the program.** Given the implementation of a $5 million annual cap, the State is not at risk of significant increases in expenditures related to this incentive.

Recommendations

- **Consider making credits refundable instead of transferable.** Critics of transferrable tax credits question whether it is prudent for tax breaks to be sold to companies in industries the tax credits were not meant to incent. Additionally, selling the credits generally deflates their value, as they are typically sold by those companies at 85 to 90 cents on the dollar. Instead of making credits transferrable, it may be more impactful to make them refundable. Refundable credits provide a larger benefit to the original recipient at the same cost to the State, as these taxpayers would not sell them for less than full value.

- **Standardize reporting to improve data collection and analysis.** The data the Office of Management and Enterprise Services (OMES) publishes on the State's data and statistics website, while useful, is difficult to summarize and analyze because there is no consistent identifier for unique taxpayers. To analyze credits claimed by taxpayers, one must use the taxpayer's name, which may or may not be consistent. For example, Wal-Mart made three claims associated with this credit between FY2017 and FY2021; the records use two variations of the business name: "WAL-MART STORES INC" and WAL-MART STORES EAST, LP." Data must be cleaned and streamlined carefully and thoroughly before it can be used. This manual manipulation of the data increases the possibility of human error.

- **To evaluate program success, require eligible recipients to provide additional information about eligible projects.** To understand the full economic impact of the tax credit program and resulting improved transportation infrastructure, data regarding total eligible expenditures – as well as whether an eligible project was linked to an economic development project (retention or expansion) – would be required. Given the Oklahoma Department of Transportation's (ODOT) role in administering certain aspects of the program, it may be best suited to collect such information.

Introduction & Project Background

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Railroad Modernization Tax Credit was first reviewed by the Commission in 2019.[6] Significant findings and recommendations from PFM's evaluation of the program are summarized in the following table:

Table 3: Summary of 2019 Evaluation Findings and Recommendations

	Finding(s)
Findings	
Overall Findings	– Rail service is essential to Oklahoma's economy and provides a multitude of additional benefits – There appears to be a need for additional private investment in Class III railroad tracks – In the years following the implementation of the credit, short line derailments have decreased – Nationally, state support for short line railroads is typically offered in the form of tax-based incentives and/or through grant or loan programs – Evaluations of similar short line tax credit programs are generally positive, but have yielded mixed results

[6] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/IEC2019FinalReport.pdf

	Finding(s)
Fiscal & Economic Impact	− Credit use to reduce tax liability fluctuates from year to year − The tax credit program results in increased statewide economic activity, but the net impact is negative − Credits are frequently transferred by railroad companies to other taxpayers − A few beneficiaries make up a large majority of total claimants – most of which are not railroad companies − Several changes have impacted the value of and ability to claim the credit in recent years
Future Fiscal Impact Protections	− The State is not currently at risk of significant increases in expenditures associated with the program
Administrative Effectiveness	− There are concerns about the tax data and reporting, but improvements are being made
Recommendations	
Retain, Reconfigure, or Repeal	− Retain
Other Recommendations	− Consider making credits refundable instead of transferable − Standardize reporting to improve data collection and analysis − To evaluate program success, require eligible recipients to provide additional information about eligible projects

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendations to retain the program.[7]

In 2020, SB 1322 made the following substantive changes, all effective November 1, 2020):[8]

- Increased the credit amount from $2,000 per mile of track owned or leased to $5,000 per mile for tax years 2020 and onward.
- Modified the definition of "qualified railroad reconstruction or replacement expenditures" to include expenditures for track maintenance, natural disasters, and crossings.
- Eliminated the 25 percent reduction in calculated credit amount (which had been in place since January 1, 2016).
- Increased the annual credit cap from $2 million to $5 million, beginning in tax year 2020.
- Added a sunset date of January 1, 2025 (previously, none was included in statute). Subsequently, SB 17X of the First Extraordinary Session of 2023 extended the sunset date to January 1, 2030.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation (where applicable) and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be identified and used for the evaluation.

The purpose of the Railroad Modernization Tax Credit is not articulated in the enabling legislation, though it is reasonable to assume that the intent is to encourage investment in the state's short line railroads. The Commission has adopted the following criteria to assist in a determination of program effectiveness:

[7] In addition, the Commission also voted to include comments provided by a representative from the Oklahoma Railroad Association in the Commissioner's Comments section of its report.
[8] In addition to these substantive changes, SB 1322 also made minor modifications to the program statute, including deleting obsolete language and eliminating specified taxpayer elections and related prohibitions.

- Program usage, including types of projects funded by the program.
- New business activity associated with the railroad improvements.
- Private investment associated with the improvements funded by the credits.
- Railroad safety associated with the program.
- State return on investment.

To conduct its 2023 review of the Railroad Modernization Tax Credit, the PFM undertook several project tasks, including (but not limited to) the following:

- Reviewed and analyzed qualitative and quantitative data, including information from the Oklahoma Tax Commission (OTC) and ODOT.
- Conducted subject matter expert and internal stakeholder interviews.
- Met with leadership from the State, Oklahoma City, and Tulsa Chambers of Commerce and interested industry representatives.
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission

Evaluation: Oklahoma Local Development And Enterprise Zone Incentive Leverage Act

November 17, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
42nd Floor
Philadelphia, PA 19103

Contents

Key Findings and Recommendations

Incentive Overview

The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act provides funding for local units of government to match local tax revenue dedicated to support a project located in an enterprise zone. Eligible projects must be located entirely in an enterprise zone, in support of a major tourism destination, or in support of a military growth impact.

Recommendation: Retain, with modifications

Key Findings

- **This incentive has been used for four projects since 2019, three located in Oklahoma City.**
    - According to data from the Oklahoma Tax Commission, Oklahoma City is the primary user of this incentive.
    - Representatives from Oklahoma City indicated that this program is used for "transformational" projects.
- **From 2020-2022, the incentive has contributed to the creation of 8,510 jobs in the State.**
- **Total matching payments made by the Oklahoma Tax Commission (OTC) from September 2019 to December 2022 were $8.94 million.**
- **Due to data limitations and non-disclosure requirements, data received from the Department and the OTC regarding employment and payroll for specific projects, could not be reconciled to illustrate a fully informed economic impact analysis.**
    - The project team could not confidently reconcile the aggregated employment and payroll data.
    - Based on limited employment data, the project team conducted an economic impact analysis that estimates the total economic output from FY 2020 to FY 2022 to be $1.9 billion .
- **The program is intended to be fiscally neutral to the State.**
    - Applicants to the program must demonstrate that the project will produce a positive return on investment for local governments and the State.
    - Applications must include an estimate of the incremental revenues that are likely to be derived from the project.
- **The Department of Commerce calculates a net benefit rate for each project.**
    - This approach is a best practice used in many states to ensure a positive return on investment while also creating jobs and attracting private investment.
    - The Department uses an in-house methodology to determine the net benefit rate.
    - The net benefit rate is calculated by dividing direct net benefits to the State by the projected sales tax revenue that would be generated at an estimated occupancy rate.

- **It is possible that eligible projects utilize this incentive along with others.**
  - Eligible projects may also receive other benefits associated with being located within an Enterprise Zone.
  - Federal opportunity zone provisions and Oklahoma's associated "Priority Enterprise Zones" add additional possible benefits such as the ability to defer and/or reduce capital gains tax liability.
- **There is some administrative difficulty for users of the incentive when submitting information to both the Department and the OTC .**
  - Recipients of the matching payments must work with the Department to calculate net state benefit, but this calculation is not always sufficient for the OTC.
- **This incentive is uncommon among other states.**
  - While enterprise zones are popular and used across the country, the state match associated with this program appears to be unique to Oklahoma.

Recommendations

- **Increase program appeal and usage throughout the State.**
  - The program's primary user is Oklahoma City. The State should work with other cities to increase the awareness of this program and its benefits so that it can be more widely used.
- **Improve data collection and reporting.**
  - With limited data available, a comprehensive evaluation of the incentive is difficult. The State should collect, store, and report data related to individual project employment, capital investment, industry, and other impacts such as changes in assessed value within enterprise zones. It should also work to reconcile data differences so that comparisons of jobs and payroll for Leverage Act project impacts can be projected with a higher degree of confidence.

Introduction

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Local Development and Enterprise Zone Incentive Leverage Act was first reviewed by the Commission in 2019.[1] Significant findings and recommendations from PFM's evaluation of the program are summarized in the following table:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	– Oklahoma City is the primary and nearly sole beneficiary. – Very limited data is available regarding the program's use and information related to most evaluation criteria is not available. – The program is intended to be fiscally neutral to the state, to ensure this, the Department of Commerce calculates a net benefit rate for each project. – Based on standard econometric multipliers, it is reasonable to estimate the State of Oklahoma captures an amount equal to or greater than the incentives offered under this program. – Developers typically receive other incentives in conjunction with this program.

[1] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/Leverage%20Act_11112019_FINAL.pdf

Fiscal and Economic Impact	The Department of Commerce uses an in-house methodology to determine the net benefit rate to the state after deducting direct and indirect expenses incurred by the State. The project team reviewed the net benefit analyses produced by the Department for three development projects.
Future Fiscal Impact Protections	No future fiscal impact protections were noted.
Administrative Effectiveness	Both the Oklahoma Tax Commission and the Department of Commerce have responsibilities related to the program, which is comprised of three main components: Certification, payment, and reporting.
Retain, Reconfigure or Repeal	The project team recommended retaining the program with minor modifications.
Other Recommendations	- Increase program appeal and usage beyond Oklahoma City. - Improve data collection.

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

Based on PFM's analysis and consideration of other factors, the Commission voted 5-0, with one vote of abstention, to retain the program with minor modifications

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Local Development and Enterprise Zone Incentive Leverage Act, the purpose or goal of the incentive is to encourage development within designated enterprise zones. The Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Job creation associated with financed projects;
- Capital investment (facilities, machinery and equipment) associated with financed projects;
- Comparison of job creation and capital investment to similar cities/counties not participating in the program;
- Contributions to community development;
- State return on investment.

To conduct its 2023 review of the Local Development and Enterprise Zone Incentive Leverage Act, the PFM team undertook several project tasks, including (but not limited to) the following:

- Requested, reviewed, and analyzed data from the Department of Commerce and the Oklahoma Tax Commission.
- Conducted subject matter expert and internal stakeholder interviews.
- Met with leadership from the State, Oklahoma City, and Tulsa Chambers of Commerce, and interested industry representatives.
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission

Evaluation: Training for Industry Program

November 17, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
43rd Floor
Philadelphia, PA 19103

Contents

Key Findings and Recommendations

Overview

The Training for Industry Program (TIP) provides reimbursements for workforce trainings conducted by new or expanding companies in Oklahoma. The program is intended to serve companies exporting goods and services in the following ecosystems: Manufacturing: Aerospace and Defense: Energy; Transportation and Distribution; Agriculture and Biosciences; Information and Financial Service; and Health. The Oklahoma Department of Career and Technology Education (ODCTE) oversees administration of the program in conjunction with technology centers across the state, who directly interface with the companies benefitting from the program. Trainings can be fully reimbursed by the program. From FY 2018 through FY 2022, reimbursements averaged $41,216 per training and totaled $3.6 million.

Recommendation: Retain, with minor modifications

Key Findings

- **The majority of the training is related to the manufacturing industry.** Total TIP reimbursements from FY 2018 through FY 2022 was $3.6 million. Manufacturing accounted for over 70 percent of the reimbursements. The second largest industry was Professional, Scientific, and Technical Services (12.5 percent).

- **Training is conducted statewide.** During the FY 2018 – FY 2022 time period, there were 135 trainings conducted at 21 technology centers. The top three locations were the Tulsa Technology Center (29), the Francis Tuttle Technology Center in Oklahoma City (16), and the Central Technology Center in Drumright (11). These three centers account for about 40 percent of the total trainings.

- **The program receives an annual appropriation.** As a result, there are adequate protections in place to ensure the fiscal impact of the incentive does not increase substantially beyond the state's expectations in future years.

- **The average wage associated with jobs receiving training is $41,309.** From FY 2018 through FY 2022 reported average wage of new jobs as a percentage of the average county wage ranged from 31 percent to 149 percent. Of the locations of the most jobs that received training, Oklahoma's average wage was 87 percent of the county-wide average and Tulsa's was 62 percent.

- **The return on investment of the program is positive.** The annual state tax revenue directly and indirectly associated with the jobs supported by the Training for Industry Program is larger than the annual state reimbursement provided through the program.

- **ODCTE calculates its own return on investment when evaluating program applicants.** TIP administrators ensure that the sum of the wages offered to new employees that attend training is higher than the amount TIP invests over the course of two years.

- **Training provides qualitative as well as quantitative benefits.** Much of the training relates to worker safety, but in other instances it may be used to enhance worker 'soft skills' or training specific to an industry or position. These may not necessarily generate economic activity, but improved skills will tend to boost worker productivity, which benefits the state as a whole. Further, avoiding workplace injury provides unquantifiable social and financial benefits.

- **The program administration process is flexible to allow for efficient use of funds.** The requirement to hold the trainings within 60 days of allows ODCTE the opportunity to reallocate funds to serve as many individuals as possible.

- **Participants report overall satisfaction with the program.** Even if there is not a strong causal relationship between the training reimbursement and a company's decision to move to or remain in Oklahoma, participants cite increased safety and positive company culture development as positive outcomes of the program.

- **Training programs are common among the states.** All of the states surrounding Oklahoma have some form of training program, although they vary considerably. Some states offer training for existing employees or when training is done to avoid layoffs. Nearly all the comparable programs provide the option for using their own trainer rather than at state sponsored providers. About half impose wage requirements on jobs eligible for training, although some of those requirements are not particularly onerous. Colorado, for example, requires the positions to pay employees at least $2.00 above the state minimum wage and New Jersey just at the minimum wage.

- **Evaluations of job training tax incentives have shown varying results.** An Iowa study found little difference in the employment for firms that did or didn't use the program. However, a study of the California training program found that companies using the program had on average 22 percent more employees after two years compared to those who did not.

Recommendations

- **Track trainings for new positions, not necessarily new hires, to demonstrate company expansion.** Currently, when companies apply for subsequent trainings, they must demonstrate to ODCTE that they are training additional employees compared to the number they trained in the previous cycle. Companies could provide similar documentation to ODCTE to show whether the positions are the result of turnover or overall business expansion.

- **Retain ODCTE's flexibility in allocating funds.** ODCTE currently imposes a deadline for trainings to begin within 60 days of the issue of a purchase order. . It works with companies to negotiate the timing of their trainings to maximize the use of funds across all applicants. ODCTE representatives meet with applicants in person to review documentation of their application requirements and understand their needs. These practices allow ODCTE to make informed choices surrounding the timing of their use of funds to ensure they do not overcommit resources.

- **Consider expanding program outcome metrics to include retained employees as well as new jobs.** Business retention is as important as business attraction. Beyond the annual survey, ODCTE does not have a method to understand how long the trained employees remain at the company upon receiving the state's investment of training funds. However, it is important to note that tracking an additional metric will require additional administrative resources. Further, this metric demonstrates increased company productivity through the avoidance of additional resources being spent to recruit and train new employees, but it does not necessarily factor into the immediate two-year ROI calculation ODCTE uses to determine eligibility.

Introduction

Oklahoma Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives.[1] The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings and recommendations from the 2019 evaluation of the Training for Industry Program (TIP) are summarized in Table 1:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	Subsidizing the development of jobs that offer below average wage does not advance the public good.
Fiscal and Economic Impact	Due to the low average reimbursement amount, it is unlikely that this program will influence significant business development.
Future Fiscal Impact Protections	The program needs to cause 7 percent of total job growth impacts statewide in order to break even.
Administrative Effectiveness	Users state the administrative process is cumbersome or is in need of streamlining, particularly the CareerTech Information Management System.
Retain, Reconfigure or Repeal	Retain but consider a minimum wage requirement or additional weighting criteria.
Other Recommendations	− Consider a minimum wage requirement or additional weighting criteria; − Collect data regarding wage increases and employee retention following training; − Consider requiring applicants to demonstrate the need for program funding; − Consider requiring applicants to demonstrate the potential for trainee retention and career progression.

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

[1] A copy of the statute is located in Appendix B.

Based on PFM's analysis and consideration of other factors, the Commission voted 4 – 0 to retain the program without a minimum wage requirement and to continue the use of CareerTech's weighting criteria.

The statute outlining the Training for Industry Program has not been modified since 2016. There have been no changes since the 2019 review.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Training for Industry Program, the State of Oklahoma aims to create new employment opportunities that have a significant impact on Oklahoma's economy. To achieve this, TIP works with a delivery agency to provide new job slot trainings for new or expanding businesses or industries in selected manufacturing, processing and national or reginal offices of business and industry.[2]

In addition to this goal and the general evaluation factors discussed in the preceding section, the Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Program usage
- Program demand
- Business workforce impacts (e.g., employee retention, earnings or placements, skills development)
- State return on investment

To conduct its 2023 review of the Training for Industry Program (based on the criteria described in the preceding), the PFM project team conducted the following activities:

- Submitted a data request to CareerTech
- Reviewed and analyzed data received, including historical usage data and survey results
- Completed subject matter expert/internal stakeholder interviews with representatives from CareerTech
- Benchmarked Oklahoma to other states.

[2] Oklahoma Amin. Code § 780:25-5-1

State of Oklahoma
Incentive Evaluation Commission
Evaluation: Rural Economic Action Plan (REAP)

November 21, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
43rd Floor
Philadelphia, PA 19103

Contents

Key Findings and Recommendations

Overview

In 1996, the Oklahoma Legislature created a grant program with a goal to “remove impediments to economic development in rural areas to alleviate the sometimes negative effects of lower population density, population decreases and increased demand for governmental services and to maintain a desirable quality of life for residents and other legal entities in rural areas.” The Rural Economic Development Action Plan (REAP) provides funding to infrastructure projects in rural areas to meet this goal.

Recommendation: Retain

Key Findings

- **Program demand and usage has increased.** The total number of REAP-funded projects has increased by 40.7 percent between 2018 and 2022. Similarly, the amount of total awarded funding has increased by a compound annual growth rate (CAGR) of 14.6 percent between 2019 and 2022. During the same period, the amount of funding requested increased by a CAGR of 12.0 percent.

- **As a grant program via an appropriation by the Legislature, there are adequate protections in place related to future fiscal impact.** While the Legislature doubled its funding for the current fiscal year, they could decrease funding in the future if fiscal circumstances warrant that.

- **Grant recipients leverage the funds to complete larger projects, increasing overall capital investment.** In many cases, jurisdictions completed projects with a higher budget than what was awarded through REAP. While there is no matching requirement for fund usage, some localities used the funding to complete larger projects. The total project budget amounts increased by 42.1 percent between 2019 and 2022. There was not sufficient data available to evaluate the amount of capital investment of localities that did not receive REAP funds.

- **The return on investment, on a purely quantitative basis, for the REAP program is negative.** The amount of state revenue Oklahoma receives in association with the development projects supported by REAP is lower than the amount the state invests in the program. However, a traditional economic impact analysis does not adequately capture the benefits of improving infrastructure for the community. Given the smaller size of the average grant, measurable differences in economic output as a result of the investment, particularly those that require a longer time frame to fully realize the results of infrastructure improvement, may be harder to discern using traditional methods.

- **Short-term quality of life measures did not improve after project completion.** There is no noticeable difference in the poverty rate, median household income, and unemployment rate between jurisdictions that received REAP funding and those that did not. This applies both to outcomes in the years just prior to receiving REAP funding and the years after the locality received funding. However, infrastructure improvements enhance the community over the course of many years, and these criteria may not adequately convey the change in residents’ desire to live in the community or, for example, general public health outcomes.

- **Site visits indicate that REAP funds are appreciated and generate excitement around infrastructure project work.** While the average grant size is less than $50,000, both site visits completed by the project team demonstrate that a project of this size generates excitement for near and long term potential created by the infrastructure improvement.

Recommendations

- **Maintain the flexibility and ease of operation of the program.** Currently, each COG administers its own application and approval process. While the Department of Commerce provides statutory rules on which types of projects should be prioritized, the COGs are responsible for selecting projects and can use their local knowledge and contextual understanding to best evaluate need.

- **Consider adding a qualitative measure of success.** As the project grant funds are by design smaller in scope, their long-term economic impact may not be captured by traditional economic analyses. Each COG could potentially track and report the qualitative results of each project, such as through satisfaction surveys.

Introduction

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, Rural Economic Action Plan (REAP) was first reviewed by the Commission in 2019.[1] Significant findings and recommendations from PFM's evaluation of the program are summarized in the following table:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	Retain with reconfiguration
Fiscal and Economic Impact	A traditional economic impact analysis does not capture the full benefits of improving infrastructure. REAP grants result in increased statewide economic activity, but the net impact is negative.
Future Fiscal Impact Protections	The COGs or the Department of Commerce could require more information from grant recipients to better evaluate the fiscal impact of the program.
Administrative Effectiveness	The State's REAP funds are competitively awarded and appear to be in demand. However, based on a high level analysis, they do not appear to impact quality of life measures.
Retain, Reconfigure or Repeal	Reconfigure to increase REAP funding or pair REAP funds with other rural economic development strategies.
Other Recommendations	Consider increasing REAP funding and/or pair REAP funds with other rural economic development strategies; consider eliminating split-sharing provisions; and require communities to provide additional information regarding the impact of REAP-funded projects.

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

[1] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/IEC2019FinalReport.pdf

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to retain the program.

There were no legislative changes to the incentive since the previous 2019 review.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Rural Economic Action Plan, per Oklahoma statute, the intent is to "remove impediments to economic development in rural areas in order to alleviate the sometimes negative effects of lower population density, population decreases and increased demand for governmental services and in order to maintain a desirable quality of life for residents and other legal entities in rural areas."

In addition to this goal and the general evaluation factors discussed in the preceding section, the Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Program usage;
- Program demand;
- Changes in capital investment for local governments that participate, and comparisons to similar local governments that do not;
- Quality of life measures (e.g., changes in median income, poverty rate, employment with local governments that participate, and comparisons to similar local governments that do not);
- Contributions to community development; and
- State return on investment

State of Oklahoma
Incentive Evaluation Commission

Evaluation: Aircraft Maintenance or Manufacturing Facilities Sales Tax Exemptions

November 20, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
42nd Floor
Philadelphia, PA 19103

Table of Contents

Key Findings & Recommendations

Incentive Overview

Since 1991, the State of Oklahoma has offered multiple sales tax exemptions that are specific to qualified aircraft maintenance or manufacturing facilities (aircraft facilities). These exemptions, which apply only to qualified aircraft maintenance and manufacturing facilities, apply to sales of: (1) computers, data processing equipment, related peripherals and telephone, telegraph, or telecommunication services and equipment; and (2) tangible personal property consumed or incorporated in construction or expansion.

Recommendation: Reconfigure

The PFM project team recommends reconfiguring the State's sale tax exemption incentives for qualified aircraft facilities. The exemptions specific to qualified aircraft facilities are not currently being used; however, given that the Legislature assumed they may have a positive effect on the State's economy, there is no reason to repeal them at this time. Instead, the State should reconfigure its approach to these exemptions to make them more likely to incent the desired industry activity.

Key Findings

- **The State's qualified aircraft maintenance and manufacturing facility-related sales tax exemptions are not currently in use.** According to Oklahoma Tax Commission (OTC) representatives, these incentives have not been used in at least the last five fiscal years. One company qualified for the tangible personal property sales tax exemption during the time period, but to date it has failed to substantiate its refund claim. Because these exemptions are not being used, the State is not currently at risk of untenable future fiscal impacts.

- **No economic or fiscal impact can be attributed to the sales tax exemptions.** Because no taxpayers have used these incentives, the State has not foregone any sales tax revenue. There has also been no economic impact as a result of the incentives.

- **The aerospace and defense industry is central to the Oklahoma economy.** The sector is the state's second largest, and it generates an estimated $44 billion annually in economic impact. The more than 1,100 aerospace entities operating in the state encompass all aspects of the supply chain. Oklahoma is a major hub for the maintenance, repair, and overhaul (MRO) of aircraft, and an estimated 90 percent of companies that comprise the state's aerospace and defense industry are in this particular sector.

- **The civil aviation maintenance industry totals more than 13,000 jobs in Oklahoma.** This share is 4.1 percent of the total jobs across all states. Oklahoma ranks seventh among all states based on number of industry jobs, and among neighboring states, only Texas has more. While national industry employment decreased by an estimated 5.0 percent annually between 2015 and 2023, Oklahoma employment has maintained relatively consistent, increasing by a compound annual growth rate (CAGR) of 1.1 percent.

- **Industry economic activity in Oklahoma ranks seventh among states and is growing faster than the national average.** Between 2015 and 2023, growth in economic activity nationally was equal to a CAGR of 5.1 percent; at 11.3 percent, Oklahoma's growth is more than double the national average. Among the top states for industry economic activity, Oklahoma's growth lags only that of Florida (17.6 percent) and Georgia (slightly higher at 11.5 percent).

- **The State has many incentives targeting the aerospace industry.** In marketing Oklahoma to the sector as a business-friendly location, the Department of Commerce (Department) touts the state's low tax rates and its offering of "some of the best tax incentives in the nation." Among the incentives that are often used by aerospace companies are the Quality Jobs Program; Small Employer Quality Jobs Program; 21st Century Quality Jobs Program; Investments/New Jobs Tax Credit Package; Business Expansion Incentive Program; Engineer Workforce Tax Credit for Aerospace; Training for Industry Program; Five-Year Ad Valorem Exemption; and New Market Tax Credits. In contrast, the Department does not advertise the aircraft facilities sales tax exemptions in its marketing materials for the industry.[1]

- **Including Oklahoma, six states were found to offer targeted sales tax exemptions.** While many states exempt from taxation the sales of certain aircraft, fewer provide specific tax exemptions targeting new or expanding aircraft maintenance or manufacturing facilities. In addition to Oklahoma, the states of Arizona, Hawaii, Mississippi, Nevada, and Washington offer similar tax exemptions. Additionally, Virginia provides grant funds to encourage similar economic activity.

Recommendations

- **Simplify or eliminate certain eligibility requirements.** As currently structured, the exemptions have differing eligibility parameters and requirements. Loosening and/or streamlining certain provisions and/or eligibility requirements may increase program appeal. For example, if the goal of the incentives is to recruit new businesses to the state, eliminating or reducing the minimum spend, investment, and/or job creation requirements that accompany the exemptions may generate the desired activity.

- **Integrate these sales tax exemptions as part of the State's robust portfolio of industry incentives.** The aerospace industry is critical to Oklahoma's economy, and the State provides a number of incentive programs intended to strengthen industry performance in the state. While they may not be the biggest incentives offered, in terms of dollar value, they are still potentially beneficial to some companies, depending on their ability to utilize some of the other, more popular incentives.

- **Update outdated code references.** It appears that multiple references within the administrative sections of statute are out of date, referencing sections that no longer pertain to the aircraft facility exemptions. Left uncorrected, this could potentially complicate the state's ability to administer the exemptions effectively, should the need arise.

[1] Oklahoma Department of Commerce, "Oklahoma: A World Hub for Aerospace." Accessed electronically at https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Aerospace-Brief.pdf

Introduction & Project Background

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Aircraft Facilities Sales Tax Exemptions were first reviewed by the Commission in 2019.[2] Significant findings and recommendations from PFM's evaluation are summarized in the following table:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

	Finding(s) & Recommendation(s)
Findings	
Overall Findings	– While Oklahoma offers a robust package of incentives to aerospace companies, this particular incentive is not being used (and has not been utilized in at least the last five years). – The aviation/aerospace industry has become a strong, integral component of the Oklahoma economy, yet the State's aerospace manufacturing industry attractiveness ranked 30th among states in 2019 (declining from 20th in 2018). – Only four other states (Arizona, Mississippi, Ohio, and Washington) were found to offer similar tax exemptions, and in several instances, Oklahoma's incentives are more complex.
Fiscal & Economic Impact	– Because the incentive is not being utilized, it generates no associated fiscal or economic impact.
Future Fiscal Impact Protections	– Because the incentive is not being utilized, the state is not at risk of future fiscal impacts.
Administrative Effectiveness	– Because the incentive is not being utilized, its administrative effectiveness cannot be evaluated.

[2] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/IEC2019FinalReport.pdf

	Finding(s) & Recommendation(s)
Recommendations	
Retain, Reconfigure, or Repeal	− Reconfigure. Given that the Legislature assumed that the incentives might have a positive effect on the State economy, there is no reason to repeal them at this time. − As the State has some useful attributes that make it attractive to the industry, it is logical to attempt to reconfigure its approach. Should that lead to growth in the industry in the State, the Commission would have a better opportunity to conduct a cost benefit analysis of the incentives.
Other Recommendations	− Consider the policy goals of the exemption and modify them accordingly. − Explore the adoption of targeted tax preferences employed in other states, including Georgia, Indiana, Michigan, Missouri, and North Carolina.

Source: State of Oklahoma Incentive Evaluation Commission, 2019 Tax Incentive Evaluation Report

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to reconfigure the incentive. No notable legislative, programmatic, or administrative changes have been made to the program since the 2019 evaluation was conducted.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation (where applicable) and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be identified and used for the evaluation.

The purpose of the Aircraft Facilities Sales Tax Exemption is not articulated in the enabling legislation, though it is reasonable to assume that the intent is to encourage investment in aircraft maintenance and manufacturing facilities in Oklahoma. The Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Changes to industry measures (e.g., size sector GDP, employment compared to other sectors)
- Comparisons of changes in sector versus states with/without similar exemptions
- Changes in Oklahoma industry employment
- Changes in Oklahoma industry capital investment
- State return on investment

To conduct its 2023 review of the Aircraft Facilities Sales Tax Exemptions, the PFM team undertook several project tasks, including (but not limited to) the following:

- Reviewed and analyzed Tax Commission and other relevant data and information.
- Conducted subject matter expert and internal stakeholder interviews.
- Met with leadership from the State, Oklahoma City, and Tulsa Chambers of Commerce and interested industry representatives.
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission

Evaluation: Computer Services, Data Processing and Research and Development Tax Exemption

November 17, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
43rd Floor
Philadelphia, PA 19103

Contents

Key Findings and Recommendations

Overview

The Computer Services, Data Processing, and Research and Development Tax Exemption was established by two different additions to Oklahoma state statute. One section, § 68-54001 - 54006, was repealed effective November 1, 2022. This section provided a refund of state and local sales and use taxes to qualified purchasers primarily engaged in computer services and data processing or research and development. Qualified purchasers were defined as new or expanding businesses that added at least 10 new full time employees who received at least $35,000 annually in compensation and maintained them for at least 36 months.

The other section of the computer services and data processing sales tax exemption, § 68 -1357v2 - 21, is still active but has not been used. This program exempts state sales and use taxes on the purchase of machinery and equipment by persons and establishments primarily engaged in computer services and data processing. These entities must derive at least 50 percent of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer if they are defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification Manual, or, if they are defined by Industrial Group Number 7374 and derive at least eighty percent of their annual gross revenues of a product or service to an out-of-state buyer or consumer. Notably, unlike § 68-54001 – 54006, this sales tax exemption does not include the research and development industries.

Recommendation: Retain

Key Findings

- **Current demand for the program is low.** The program has not been used over the previous five years, despite the number of data centers increasing nationwide.

- **Oklahoma has a relatively low cost of electricity.** Compared to the surrounding benchmark states, Oklahoma has the second lowest cost of electricity.

- **The number of data centers nationwide is increasing.** The number of data center establishments in the US increased by 217 percent between 2012 and 2022.

Recommendations

- **Retain § 68 -1357v2 – 21 to allow for its potential use for larger data centers and other computer services companies.** Given the low cost of electricity in Oklahoma relative to benchmark states and the increasing number of data centers nationwide, retaining the program could allow for companies to potentially relocate to or expand in the state, as it is a competitive location.

Introduction

Oklahoma Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Computer Services, Data Processing, and Research and Development Tax Exemption was first reviewed by the Commission in 2019.[1] Significant findings and recommendations from PFM's evaluation of the program are summarized in the following table:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	This initiative has become unnecessary due to the availability of more generous and easier to use incentives.
Fiscal and Economic Impact	As the program had not been used in the previous study period, the previous report did not include an economic impact analysis.
Future Fiscal Impact Protections	Oklahoma ranks highly among states in terms of affordable electricity, but ranks low among states in broadband coverage, which are two important factors in data center location decisions.
Administrative Effectiveness	It is difficult for data centers to meet new job creation requirements.
Retain, Reconfigure or Repeal	Repeal due to lack of use.
Other Recommendations	None.

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

[1] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/IEC2019FinalReport.pdf

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to repeal the program.

The research and development incentive portion of this incentive was repealed by Laws 2022, c. 146, § 1, which went into effect November 1, 2022.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Computer Services, Data Processing, and Research and Development Tax Exemption, the program incentivizes the creation of new employment in the computer services and data processing industry.

In addition to this goal and the general evaluation factors discussed in the preceding section, the Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Changes to industry measures (e.g. size sector GDP, employment compared to other sectors)
- Comparisons of changes in sector versus states with/without similar exemptions
- Changes in Oklahoma industry employment
- Changes in Oklahoma industry capital investment
- State return on investment

To conduct its 2023 review of the Computer Services, Data Processing, and Research and Development Tax Exemption (based on the criteria described in the preceding), the PFM project team conducted the following activities:

- Submitted a data request to the Oklahoma Tax Commission (OTC), with the OTC responding that there was no available data;
- Completed subject matter expert/internal stakeholder interviews with representatives from the OTC and the State, Oklahoma City, and Tulsa Chambers of Commerce; and
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission
Evaluation: Construction Materials Tax Exemption

November 17, 2023

PFM Group Consulting LLC
BNY Mellon Center
1735 Market Street
42nd Floor
Philadelphia, PA 19103

Contents

Key Findings and Recommendations

Incentive Overview

The Construction Materials Tax Exemption offers a full exemption from sales tax on purchases of tangible personal property by a qualified manufacturer that is used in the expansion or construction of a new manufacturing facility meeting new jobs and investment requirements.

Recommendation: Retain, with modifications. While the 2019 evaluation recommended repealing the program, the Department of Commerce (Commerce) indicates that there has been some interest in the exemption in discussions of some major projects. Given that the one use of the exemption in recent years had a positive impact for the state, there is no real point in repealing it.

Key Findings

- **The exemption has only been claimed once in the last four fiscal years.**
  - One manufacturing business has been the only beneficiary of the exemption.
  - Eligible companies are more likely to use other state incentives, such as the Quality Jobs Act or the Investment Tax Credit.
  - Statute prohibits the use of this exemption with other state incentives.
  - As a result, there is little danger that the incentive use will increase substantially beyond the state's expectations in future years.
- **The State should expect a return on investment from this tax exemption.**
  - Based on the minimum job requirements of this exemption, the state is estimated to receive $1 million in tax revenues, greater than the $583,000 in foregone revenue remitted through this program.
- **The economic impact of the jobs created associated with this exemption has been $90.3 million in the last four fiscal years.**
  - This is the total output from direct, indirect, and induced economic impacts from the single user of the exemption.
- **The administrative work to submit claims is burdensome for companies.**
  - Statute requires the following information to be submitted to the OTC in order for the claim to be processed:
    - Invoices indicating the amount of state and local tax billed;
    - Affidavit of each vendor that sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission (OTC);
    - Affidavit from the contractor or subcontractor making purchases stating that the sales tax refund claimed by the qualified manufacturer is based on state and local sales tax paid by the contractor or subcontractor on qualified purchases.
  - As a result, the company must maintain a significant number of records while being uncertain of its ability to qualify for the exemption.
  - At the same time, the OTC's administration of the program closely aligns with its statutory requirements.
- **This is a situation where incentive best practices make it difficult for the incentive to be used.** The state has a legitimate interest in determining the financial impact and the economic impact of the

incentive, which requires companies to maintain and present records and receipts. In contrast, blanket exemptions are generally issued by the state revenue department for qualified purchasers, and that certificate is then presented at the time of purchase, and no sales tax is collected. That makes it more difficult to determine financial and economic impact. This is an incentives conundrum that will likely always limit its use.

- **The state with the most similar program, South Carolina, also has had little utilization of the tax exemption.**
  - Most other states with construction materials tax exemptions have more restrictions than Oklahoma.
  - South Carolina, the most similar program, does not indicate within their tax expenditure report that the exemption has been claimed within the last three fiscal years.

Recommendations

- **Expand the qualifications beyond manufacturing companies.**
  - If more companies could qualify for this exemption, other than just manufacturing companies, it might increase the utilization of the exemption.

Introduction

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

Summary of 2019 Evaluation Findings and Recommendations

In accordance with the four-year evaluation cycle described in the preceding, the Construction Materials Tax Exemption was first reviewed by the Commission in 2019.[1] Significant findings and recommendations from PFM's evaluation of the program are summarized in the following table:

Table 1: Summary of 2019 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	The exemption had not been claimed in the previous five fiscal years prior to the evaluation.
Fiscal and Economic Impact	No economic or fiscal impact generated.
Future Fiscal Impact Protections	No future fiscal impact protections noted.
Administrative Effectiveness	It was noted that the documentation process required to submit claims was quite burdensome given all the information needed.
Retain, Reconfigure or Repeal	The project team recommended repealing the program.
Other Recommendations	None

Source: State of Oklahoma Incentive Evaluation Commission, Tax Incentive Evaluation Report 2019

[1] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/OKConstructionMaterials09272019Draft.pdf

Based on PFM's analysis and consideration of other factors, the Commission voted 6-0 to repeal the incentive.

2023 Criteria and Evaluation Approach

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation.

In the case of the Construction Materials Tax Exemption, the purpose or goal of the incentive is to incent the creation of manufacturing jobs in the State of Oklahoma. The Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Job creation associated with financed projects;
- Capital investment (facilities, machinery and equipment) associated with financed projects;
- Comparison of job creation and capital investment to similar cities/counties not participating in the program;
- Contributions to community development;
- State return on investment.

To conduct its 2023 review of the Economic Development Pooled Finance Program, the PFM team undertook several project tasks, including (but not limited to) the following:

- Requested, reviewed, and analyzed data from the Department of Commerce.
- Conducted subject matter expert and internal stakeholder interviews.
- Participated in project site visits with the Department of Commerce and ODFA.
- Met with leadership from the State, Oklahoma City, and Tulsa Chambers of Commerce, and interested industry representatives.
- Benchmarked Oklahoma to other states.