OKLAHOMA

INCENTIVE EVALUATION COMMISSION
Regular Meeting Minutes
Oct. 12, 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.
Carlos Johnson, CPA, appointed by the Oklahoma Board of Accounting
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:
Dr. Robert Dauffenbach, an Economist appointed by the President Pro Tempore of the Senate

STAFF/GUESTS:
Beverly Hicks, OMES
Lorena Massey, OTC, Counsel
Randall Bauer, PFM
Max McKnight, ODCTE
Patrick Clanin, ODCTE
Will Milam, State

♦*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)

1. **Announcement of filing of meeting notice and posting of the agenda in accordance with the Open Meetings Act. [Lyle Roggow, chairman]**
2. **Call to order and establish a quorum. [Chair]**

   Chairman Roggow called this regular meeting to order at 10:01 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.
3. **Welcome/Introductions. [Chair]**

   Chairman Roggow welcomed members and guests to the meeting.
4. **Approval of minutes from the August 24, 2023, Commission meeting:**

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

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

5. **Presentation and discussion of draft evaluation reports for Year-Eight, 2023 incentives given by PFM Consultant Randall Bauer: [Chair]**
    - **Economic Development Pooled Finance**
    - **Railroad Reconstruction or Replacement Expenditures**
    - **The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act**
    - **Training for Industry Program (TIP)**
    - **Rural Economic Action Plan**
    - **Aircraft Facilities Sales Tax Exemption**
    - **Computer Services and Data Processing Tax Exemption**
    - **Construction Materials Tax Refund**

Mr. Bauer reported on the following eight 2023 incentive draft evaluations from PFM.

Economic Development Pooled Finance – ***Recommendation: Retain.*** The program provides $200 million for local government infrastructure development and economic development projects. The program targets business expansion projects, including job creation and significant investment in facilities, machinery, and equipment.

Findings: Since 2018, 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, adequate protections are in place to ensure the program's fiscal impact 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.

Recommendation: 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.

Railroad Reconstruction or Replacement Expenditures – ***Recommendation: Retain with modifications.*** The 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. 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.

Findings: In recent years, statutory changes have modified the program to benefit 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 used to reduce tax liability fluctuates from year to year but is declining on a per-claim basis. From 2017 to 2021, an average of 10 returns per year reduced overall tax liability among claimants by an average of approximately $2.4 million. This equates to an average of just over $270,000 on a per-return basis. Generally, the average reduction in liability is declining over the period in question. 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 million 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. 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.

Recommendation: 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 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.

The Oklahoma Local Development and Enterprise Zone Incentive Leverage Act – *Recommendation: Retain with modifications.* Provides funding for local units of government to match local tax revenue dedicated to supporting 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.

Findings: It has been used for four projects since 2019, three located in Oklahoma City. 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.

Recommendation: 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.

Training for Industry Program (TIP) – *Recommendation: Retain with minor modifications.* Provides reimbursements for workforce trainings conducted by new or expanding companies in Oklahoma. It 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.

Findings: Most of the training is related to the manufacturing industry. Total TIP reimbursements from FY 2018 through FY 2022 were $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 FY 2018 – FY 2022, 135 trainings were 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, adequate protections are 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, the 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. 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. 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.

Recommendation: 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 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.

Rural Economic Action Plan – *Recommendation: Retain.* In 1996, the Oklahoma Legislature created a grant program with the 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.

Findings: Program demand and usage have 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, adequate protections related to future fiscal impact are in place. 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 insufficient 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. 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 realize the results of infrastructure improvement fully, may be harder to discern using traditional methods. 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 considerable local involvement.

Recommendation: 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.

Aircraft Facilities Sales Tax Exemption – *Recommendation: Reconfigure.* Since 1991, the State of Oklahoma has offered multiple sales tax exemptions for use by qualified aircraft maintenance or manufacturing facilities (aircraft facilities). The exemptions apply to sales of (1) computers, data processing equipment, related peripherals, telephone, telegraph, or telecommunication services and equipment and (2) tangible personal property consumed or incorporated in construction or expansion.

Findings: The State's aircraft maintenance 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 it has failed to substantiate its refund claim to date. 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 State has many incentives targeting the aerospace industry. Among the incentives that aerospace companies often use 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.

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 incentives.

Recommendation: 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.

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.

Findings: The 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. Companies cannot take this incentive and access the Quality Jobs Program. Companies that may qualify for this exemption likely prefer to use that incentive instead. Because the incentive has not been used, there is no quantifiable fiscal or economic impact, and it is unlikely to have a significant impact in the future.

Construction Materials Tax Refund – *Recommendation: Retain with modifications.* 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 (ranging between 75 and 1,750) and investment requirements (ranging between $5 million and $300 million).

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. The economic impact of the jobs created associated with this exemption has been $90.3 million in the last four fiscal 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. Eligible companies are more likely to use other state incentives, such as the Quality Jobs Act or the Investment Tax Credit. The 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 administrative work to submit claims is burdensome for companies, which will likely limit its use. The 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; an 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 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. The peer state program most similar, in South Carolina, has also not been widely used. Expanding the qualifications beyond manufacturing companies and expanding eligibility might increase the use of the exemption.

Recommendation: PFM recommends expanding the qualifications beyond manufacturing companies, and expanding eligibility might increase the use of the exemption.

Commissioner Johnson entered the meeting at 10:15 a.m.

6. **Overview of Public Hearing Guidelines for meeting on October 26, 2023. [Chair]**

Chairman Roggow gave an overview of the guidelines for the next meeting.

7. **Discussion and possible action to approve the schedule of meetings for 2024 at 10 a.m. [Chair]**

Jan. 25	**Oct. 10**	**Dec. 5**
Mar. 21	**Oct. 24**	
Aug. 22	**Nov. 14**	

Rep. Earl Sears moved to approve the 2024 meeting schedule. Mandy Fuller seconded the motion. The following votes were recorded, and the motion passed:

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

8. **Announcements:**
IEC Website Update
Next meeting date

Chairman Roggow introduced Justin Devero from the Office of Management and Enterprise Services, who demonstrated the new IEC website platform.
Mr. Roggow announced the next commission meeting date being October 26th at 10 a.m.

9. **New Business.**

There was no unforeseen new business reported.

10. Adjournment

There being no further business, Ms. Fuller made the motion to adjourn. Representative Sears seconded the motion. Seeing no opposition, the Chair adjourned the meeting at 11:22 a.m.