Oklahoma Incentive Evaluation Commission

Draft Incentive Evaluations' Findings and Recommendations

November 14, 2024

PFM Group Consulting LLC.

1735 Market Street
43rd Floor
Philadelphia, PA 19103

(215) 567-6100

Today's Agenda

- Discussion of activities since the last Commission meeting.
- October 1, 2024 draft evaluations' recommendations.
- Next steps.

Introduction

- The following are the 12 incentives under review in 2024 and the year when they were last evaluated:
  - Oklahoma Rural Jobs Program (New)
  - Invest in Oklahoma Program (New)
  - The Oklahoma Leverage Act (2023)
  - Seed Capital Fund (2022)
  - Small Business Incubator Tenants Tax Exemption (2022)
  - Technology Business Financing Program (2022)
  - Five Year Ad Valorem Tax Exemption (2020)
  - Historic Rehabilitation Tax Credit (2020)
  - Film Enhancement Rebate (2020)
  - Film and Television Companies Sales Tax Exemption (New)
  - Tourism Development Act (2023)
  - Quality Events Act (2020)

Activities Since Providing Incentive Evaluation Working Drafts

- Reviewed comments from public hearings.
- Made non-material edits to the October 1 drafts.
- Revised final drafts submitted.

Oklahoma Rural Jobs Program

The Rural Jobs Act, effective November 1, 2022, is intended to provide support to the state's rural communities by incentivizing rural development. The Department of Commerce has $100 million in capital investment authority to be invested by approved rural funds over a six-year period. Five funds have received $20 million each and have been approved to issue this capital investment to projects or businesses primarily located in rural areas in exchange for a capped tax credit.

Recommendation: Retain, and allow program to sunset in 2032, with another review in 2028. Given that the $100 million in capital investment authority has been allocated based on the statutory requirements, program changes in mid-stream are probably unwise. While other benchmarks demonstrate this program will likely operate at a net loss to the State, the logical course is to re-examine the program after program performance reports are provided by the five funds in December 2024.

Invest in Oklahoma Program

The Invest in Oklahoma Act seeks to increase investment in the state by providing opportunities for public pensions to invest in Oklahoma-based funds, which are selected based on a series of criteria related to their financial performance and history of investment in the state. It went into effect on November 1, 2021.

Recommendation: Retain, with modifications, and remove from future evaluation. Add reporting guidelines to track the performance of investments made by participating pension funds and/or increased economic investment within the state, such as number of companies invested in within Oklahoma or each fund's annual return on investment.

Additional recommendation:

- The incentive evaluation statute defines an incentive as "a tax credit, tax exemption, tax deduction, tax expenditure, rebate, grant, or loan that is intended to encourage businesses to locate, expand, invest, or remain in Oklahoma, or to hire or retain employees in Oklahoma." This program does not provide a tax credit, tax exemption, tax deduction, tax expenditure, rebate, grant, or loan. This program does not fall within the statutory definition of a program eligible for review by the Incentive Evaluation Commission. **It is recommended that it be removed from the list of incentives for future evaluations.**

Oklahoma Leverage Act

The Act seeks to encourage economic development within designated enterprise zones. It provides funding for local units of government to match local tax revenue dedicated to support a project located in an enterprise zone, in support of a major tourism destination, or in support of a military growth impact.

Recommendation: Retain, with modifications.

Additional Recommendation:

- **Create requirements to allow for more specific reporting regarding payroll and employment information.** Due to confidentiality requirements, the Department of Commerce is not able to disaggregate payroll and employment information for each individual project. This affects the ability to conduct economic impact analyses of these projects separately, and therefore understand the performance of the program.

Seed Capital Fund

The Fund provides concept, seed, and start-up equity investments to innovative Oklahoma businesses. It is funded through legislative appropriations to the Oklahoma Center for the Advancement of Science and Technology. Fund investments are focused on industry sectors with technologies and proprietary products, processes, and/or know-how that provide high growth opportunities in addressable markets (e.g. advanced materials, aerospace, agri-sciences, biotechnology, communications technologies, energy, software/information technology, medical devices, nanotechnology, robotics, etc.).

Recommendation: Retain

Additional Recommendation:

- **Clearly communicate the new changes to the Seed Capital Fund to past and prospective users and how it is now designed to meet the needs that the Technology Business Finance Program was meeting prior to it being discontinued.**

Small Business Incubator Tenants Tax Exemption

The State of Oklahoma provides a corporate income tax exemption for up to 10 years for tenants of small business incubators, from the date of occupancy. Small business incubators must be certified by the Department of Commerce. The purpose of the incentive is to promote, encourage, and advance economic prosperity and employment through the state by creating a more favorable tax climate for the tenants, particularly as they graduate from the incubators.

Recommendation: Retain, with modifications.

Additional Recommendations:

- **Update the statute to require participation in the Department's data collection survey, including in post-program years, as a condition of continued tenancy, while applicable, and eligibility for the income tax exemption.**
- **Revise the Tax Commission's tax forms to allow for disaggregation of the exempted income tax from incubator residents.** The incentive evaluation statute requires the evaluation to make recommendations on ways to better evaluate the incentive when data is not available to do so. In this case, the OTC tax forms do not allow for ready disaggregation of the data, and to be able to do so, the forms should be modified. While the OTC believes that it is important to limit the lines on the tax forms, most taxpayers now use electronic tax preparation software or professional services, which negates the concern about additional form complexity.

Technology Business Finance Program

The Oklahoma Center for the Advancement of Science and Technology (OCAST) was authorized to develop and implement a technology business financing program to provide funding and financing for and to assist qualified Oklahoma enterprises to commercialize a new product, service, technology, innovation, or process. Awards generally range from $20,000 to $50,000 and repayments are made through royalty payments. The program was terminated, effective July 1, 2024..

Recommendation: Repeal.

Five Year Ad Valorem Property Tax Exemption

The exemption was approved by voters through state question 588 in April 1985. The property tax exemption applies to all real and personal property necessary for the manufacturing of a product and facilities engaged in qualifying industries, and the Legislature has implemented it via state statute. The property tax exemption applies to new, acquired or expanded manufacturing facilities in qualified industries. Facilities may qualify for the property exemption for up to five consecutive years, if they continue to meet payroll and other requirements. The State reimburses local governments for the entirety of the property tax exemption.

Recommendation: Retain, with modifications.

Additional Recommendations:

- **Data Collection Enhancements:** The Oklahoma Tax Commission is responsible for collecting and reporting on the data associated with applications for the Exemption. However, the current methodologies do not offer an efficient or comprehensive way to access and report on data. **The project team recommends an evaluation of these methods, tools, and process to establish a plan to improve and enhance data associated with this program.** There are also instances where data collection could be reasonably expanded. For example, the number of jobs created is not currently provided as part of the application and data collection process. This would be a valuable indicator of the impacts of the Exemption on the economy.
- **Additionally, the OTC has established that the project team may not review individual project level data, particularly as it relates to payrolls, as it "could result in the unauthorized disclosure of information about specific taxpayers."** This lack of visibility limits the ability to evaluate the project accurately, and therefore is limited to aggregate analyses at the industry level. Given that the incentive evaluation statute requires nondisclosure of data and information, a method (such as redacted names and other identifying information of firms) should be created to allow the disaggregated data to be provided to the next evaluation team for this incentive.

Historic Rehabilitation Tax Credit

In 1992, as part of the Local Development Act, the Oklahoma Legislature introduced a tax credit for the rehabilitation of certified historic hotels and newspaper plants located in a tax increment or incentive district. Effective January 1, 2006, with the passage of HB 3024, credit eligibility was broadened to include the rehabilitation of any income-producing certified historic structure; the bill also allowed projects that qualify for the 20 percent federal credit to automatically qualify for the state credit (also 20 percent) without additional paperwork. All requirements with respect to qualifying for the federal credit are applicable.

Recommendation: Retain.

Film Enhancement Rebate

The State of Oklahoma Film Enhancement Rebate Program provides a base incentive for qualified productions of 20 percent of qualified spend and uplifts that can increase the rebate to a maximum of 30 percent. There are multiple uplifts as well as limits on eligible expenses subject to the rebate. The program was modified substantially since the last evaluation in 2020.

Recommendation: Retain, with modifications.

Additional Recommendations:

- **Target the credit more directly at post-production activities.** Film and other productions are generally the largest portion of the rebates, but they tend to support surges of economic activity that are temporary. To the extent that the state can grow its post-production industry, there is the opportunity to create longer-lasting economic impact.
- **Expand the content creation eligible for the rebate.** The current program is primarily geared toward film, television, streaming content, and commercials. Other states have expanded eligible activities, for example to video game production. That industry is growing - the video game industry is projected to see a rise in revenue from $262 billion in 2023 to $312 billion in 2027.
- **Target the credit more directly at post-production activities.** Film and other productions are generally the largest portion of the rebates, but they tend to support surges of economic activity that are temporary. To the extent that the state can grow its post-production industry, there is the opportunity to create longer-lasting economic impact.
- **Build out the content on the OF+MO website.** While there is a lot of information available on the website, including a useful FAQ, it requires visiting several locations to get complete information on eligibility, uplifts, the application process, etc. Also, at least one hyperlink to information on the incentive leads to an ‘under construction’ page.

Film Enhancement Rebate (continued)

Additional Recommendations:

- **Refine the existing data collection.** The project team recommends that OF+MO include the year that funds were spent in the reporting requirements for productions. This will be used to determine when the economic impacts took place as different productions have different timelines and are awarded funds over different time periods.As part of the reporting requirements, OF+MO should include the full-time equivalent of all jobs associated with the production, including extras. This may be calculated by OF+MO based on data provided by applicants, or by applicants themselves. For example, it may be given as an estimate based on average number of hours worked per day or per production for jobs where the individual number is high, such as extras. This will be used to enhance the economic impact associated with the reported jobs.
- **Maintain the existing $30 million program cap.** While this is a popular program (as exhibited by the number of letters of support that were directed to the program team), it is also notable that current award activity has not approached the program cap. Even if that would be the case, the state should focus on aspects of the industry that will create recurring, regular activity and demonstrate that for several years before considering to raise the cap.

Film and Television Companies Sales Tax Exemption

Since July 1, 1996, the state of Oklahoma exempts sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production from the state and local sales and use tax. To qualify for the exemption, the motion picture or television production company must file required documentation and information with the Oklahoma Tax Commission.

Recommendation: Reconfigure

Additional Recommendation:

- **Modify the sales tax exemption to apply to film production infrastructure.** A model is Texas, which provides its exemption for the construction, maintenance, expansion, improvement, or renovation of a qualified media production facility. As discussed in the separate evaluation of the Film Production Rebate, a continuing challenge is to grow the industry in a way that is sustainable. While several major motion pictures and/or television series have been filmed in Oklahoma, the employment, salary and wages associated with the permanent aspects of the industry is still very small. **Targeting industry infrastructure is probably the most strategic way to use this exemption.**

Tourism Development Act

The Tourism Development Act is a sales tax credit intended to create new or expand existing tourism attractions in Oklahoma. It provides a tax credit of up to 10 percent of approved costs, capped at $1 million, to companies who spend at least $500,000 on tourism attractions, such as cultural or historic sites, recreational facilities, or destination hotels. These projects must attract at least 25 percent of visitors from outside the state and produce significant revenues. No credits will be awarded after January 1, 2026. This is the first evaluation of the Tourism Development Act.

Recommendation: Retain.

Additional Recommendation:

- **Since all projects using the program are in urban areas, the State may consider targeting certain areas, such as rural or underdeveloped communities.**

Quality Events Act

The Quality Events Incentive Act program was created in 2010 and launched in 2012, and it has been updated significantly twice since 2018. The amount of the incentive is determined by the Oklahoma Tax Commission (OTC) based on incremental sales tax revenues associated with a “quality” event. These events must be a new or existing event or meeting of a nationally recognized organization; national, international, or world championship; or managed or produced by an Oklahoma-based national or international organization.

Recommendation: Retain.

Additional Recommendation:

- **Aggregate collected data to better help determine the program’s economic impact on the State.** The required economic impact reports are already collecting data such as the number of event attendees, the number of event participants (note: in some cases, attendees and participants can be lumped together), length of the event (days), ratio of local to non-overnight attendees, ratio of local to non-overnight participants, average daily spending (not including event registration fees), and total cost of the event. As an enhancement to the process, the Department should work to standardize and aggregate these data to provide reporting on total impacts. According to its 2023 Annual Report, the Department is working to update the application process through the Tax Commission to enable this level of reporting.

Next Steps

- PFM will prepare the draft report on changes to incentives resulting from Commission recommendations, on December 5th.
- As with last year, there is a requirement that, by December 15th, the Commission provide to the Legislature and Governor 'a review of prior Commission recommendations, and changes to statute or incentive administration related to incentive evaluation recommendations . . .'
- This requires reviewing statutes and administrative processes, which PFM will do as we did last year.
- PFM has a purchase order for next year's incentive evaluations, but the Commission has the prerogative to end the existing contract should it wish to do so.
- PFM is required, in December 2024, to inform the state procurement division of its intent to renew the contract, which will be communicated on December 1, 2024.

Questions and Discussion