State Of Oklahoma

Incentive Evaluation Commission

Tax Incentive Evaluation Report

2021

State Of Oklahoma
Incentive Evaluation Commission

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 sixth 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 and again in 2020. They are a nationally recognized firm specializing in public sector finances. IEC members received eight draft evaluation reports on facts and findings on Oct. 1, 2021, and Oct. 4, 2021, with a formal presentation to the Commission Meeting on Oct. 14, 2021. As required in statute, a public hearing meeting took place on Oct. 28, 2021, to receive public comments regarding the consultant's recommendations.

The commission took into consideration all public comments received at the Oct. 28 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 2021, Year Six 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 2nd Session of the 58th Legislature.

Respectfully,

The Oklahoma Incentive Evaluation Commission

2021 INCENTIVE EVALUATION COMMISSION ACTIONS

INCENTIVE	EVALUATION RECOMMENDATION	COMMISSION ACTION
Capital Gain Deduction	**Repeal with the suggested alternatives:** ▪ Reconfigure with specific legislative intent and economic development goals; ▪ Require qualified gains to be reinvested in Oklahoma; ▪ Cap the deduction; ▪ Target the deduction, such as for farming and ranching operations.	4-0 to **reject** the recommendations of PFM to repeal, with suggested alternatives. The Commission made a recommendation for the Department of Commerce, the Tax Commission and the Office of Management and Enterprise Services (OMES) to develop a task force in regards to an interim study to look at the incentive; is it still effective for businesses, the impact it has on businesses, the impact it has on the individual tax payers, and to have the findings reported back to the Incentive Evaluation Commission.
Quality Jobs Program	**Retain, with modifications:** ▪ Require participants to pay the average county wage regardless of the statewide threshold wage – in 2018, 22 companies generated rebates while paying less than the average county wage in place on their start date; ▪ For new agreements, reset the minimum wage requirement after 5 years (only applies to new agreements, not existing ones); ▪ Require participants to file rebate claims within one year of qualifying quarter (rather than the current two years); ▪ Regularly review/update eligible industries to reflect the State's economic development goals.	4-0 to **accept** the recommendations of PFM to retain, with modifications to bullet point number one that would increase the statewide threshold and further recommend that we eliminate bullet point number two and we maintain number three and number four as stated.
21st Century Quality Jobs Program	**Retain, with modifications:** ▪ Same as for the quality jobs program recommended modifications; ▪ In addition, provide an option for firms who fail to meet program requirements to continue receiving the Quality Jobs program benefits, if qualified.	4-0 to **accept** the recommendations of PFM to retain, with modifications that the Commission made regarding the Quality Jobs Program and to accept the one additional recommendation on the report for the 21st Century Quality Jobs Program.
Small Employer Quality Jobs Program	**Retain, with modifications:** ▪ The same as for the Quality Jobs Program.	4-0 to **accept** the recommendations of PFM to retain, with modifications with the understanding the recommendation follow the recommended changes made by the Commission in the Quality Jobs Program.
Home Office Tax Credit	**Reconfigure to encourage/reward job creation:** ▪ Options include a credit that is either an amount per new job or some portion of new payroll; ▪ Require a specific job and payroll verification process.	4-0 to **accept** the recommendation of PFM to encourage/reward job creation.

INCENTIVE	EVALUATION RECOMMENDATION	COMMISSION ACTION
Clean Burning Fuel Tax Credit	**Retain, with modifications:** ▪ The 2019 legislative changes were substantial, and it is not possible at this time to discern those impacts; ▪ Clarify statutory language related to eligible investments in commercial fueling activity.	4-0 to **accept** the recommendation of PFM to retain, with modifications.
Ethanol Fuel Retailer Tax Credit	**Repeal:** ▪ Reallocate the programs financial resources to the Tax Credit for Investment in Qualified Clean-Burning Motor Vehicle Fuel Property.	4-0 to **accept** the recommendation of PFM to repeal.
Coal Tax Credits	**Repeal** (program will sunset on 12/31/21): ▪ Reallocate the program's financial resources into industry retraining opportunities.	4-0 to **accept** the recommendation of PFM to repeal.

INCENTIVE EVALUATION COMMISSION
SPECIAL MEETING MINUTES
Nov. 18, 2021; 10 a.m.
Oklahoma State Capitol
House Conference Room 4S.4 (412-B)
Oklahoma City, Oklahoma 73105

A meeting notice was filed with the Secretary of State and an agenda posted in accordance with the Open Meeting Act.

MEMBERS PRESENT:
Lyle Roggow, President, Designee of the OK Professional Economic Development Council
Carlos Johnson, Certified Public Accountant
Mandy Fuller, CPA, Auditor of Private Company
Earl Sears, Lay Person
Charles Prater, Chairman, Tax Commission, Ex-Officio; Non-Voting
Brent Kisling, Director, Department of Commerce, Ex-Officio; Non-Voting

MEMBERS ABSENT: Dr. Robert Dauffenbach, Economist
John Gilbert, OMES designee, Ex-Officio; Non-Voting

STAFF/GUESTS:
Beverly Hicks, OMES
Randall Bauer, PFM
Taylor Ferguson, Counsel to IEC
Megan Holden, Ok Tax Commission
John Riesenberg, Governor's Office
Josh McGoldrick, OK Dept. of Commerce
Brent Wright, ODOC
Jon Chiappe, ODOC
Rachel Jamieson, LegisOK
Shawn Ashley, ECAPITOL

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

   Chairman Roggow called this regular meeting to order at 10:08 a.m. A roll call was taken and a quorum established. A meeting notice was filed with the Secretary of State and agenda posted in accordance with the Open Meeting Act.

2. **Approval of Minutes from the October 28, 2021Commission meeting:**

   Earl Sears moved to approve the meeting minutes for October. 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.

3. **Discussion and possible action on Year 6, 2021, Incentive Evaluations:**
   ***Possible action may include approving, disapproving, modifying or taking no action*.**

3.1. <u>Discussion and possible action on Capital Gain Deduction</u>:

PFM's recommendation is to repeal with the suggested alternatives:

- Reconfigure with specific legislative intent and economic development goals;
- Require qualified gains to be reinvested in Oklahoma;
- Cap the deduction;
- Target the deduction, such as for farming and ranching operations.

Earl Sears moved that the Commission reject the recommendation made by PFM that was presented before them today, but made a recommendation to ask the Department of Commerce, the Tax Commission and the Office of Management and Enterprise Services (OMES) to develop a task force in regards to an interim study to look at the incentive; is it still effective for businesses, the impact it has on businesses, the impact it has on the individual tax payers, and to have the findings reported back to the Incentive Evaluation Commission. 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.

3.2. <u>Discussion and possible action on Quality Jobs Program</u>:

PFM's recommendation is to retain, with modifications:

- Require participants to pay the average county wage regardless of the statewide threshold wage – in 2018, 22 companies generated rebates while paying less than the average county wage in place on their start date;
- For new agreements, reset the minimum wage requirement after 5 years (only applies to new agreements, not existing ones);
- Require participants to file rebate claims within one year of qualifying quarter (rather than the current two years);
- Regularly review/update eligible industries to reflect the State's economic development goals.

Earl Sears moved that the Commission accept the recommendation made by PFM, with modifications to bullet point number one that would increase the statewide threshold and further recommend that we eliminate bullet point number two and we maintain number three and number four as stated.

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.

3.3. <u>Discussion and possible action on 21st Century Quality Jobs Program</u>:

PFM's recommendation is to retain, with modifications:

- Same as for the quality jobs program recommended modifications;
- In addition, provide an option for firms who fail to meet program requirements to continue receiving the Quality Jobs program benefits, if qualified.

Earl Sears moved that the Commission accept the recommendations made by PFM with the modifications that the Commission made regarding the Quality Jobs Program and to accept the one additional recommendation on the report for the 21st Century Quality Jobs Program. 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.

3.4. Discussion and possible action on Small Employer Quality Jobs Program:

PFM's recommendation is to retain, with modifications:

- The same as for the Quality Jobs Program.

Earl Sears moved that the Commission accept the recommendation made by PFM with the understanding the recommendation follow the recommended changes made by the Commission in the Quality Jobs Program. 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.

3.5. Discussion and possible action on Home Office Tax Credit:

PFM's recommendation is to reconfigure to encourage/reward job creation:

- Options include a credit that is either an amount per new job or some portion of new payroll;
- Require a specific job and payroll verification process.

Earl Sears moved that the Commission accept the recommendation made by PFM. 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.

3.6. Discussion and possible action on Clean Burning Fuel Tax Credit:

PFM's recommendation is to retain, with modifications:

- The 2019 legislative changes were substantial, and it is not possible at this time to discern those impacts;
- Clarify statutory language related to eligible investments in commercial fueling activity.

Mandy Fuller moved that the Commission accept and follow the recommendation made by PFM to retain with modifications. Earl Sears seconded the motion. The following votes were recorded and the motion passed:

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

3.7. Discussion and possible action on Ethanol Fuel Retailer Tax Credit:

PFM's recommendation is to repeal:

- Reallocate the programs financial resources to the Tax Credit for Investment in Qualified Clean-Burning Motor Vehicle Fuel Property.

Earl Sears moved that the Commission accept the recommendation made by PFM to repeal Ethanol Fuel Retailer Tax Credit. 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.

3.8. <u>Discussion and possible action on Coal Tax Credits</u>:

PFM's recommendation is to repeal (program will sunset on 12/31/21):

- Reallocate the program's financial resources into industry retraining opportunities.

Earl Sears moved that the Commission accept PFM's recommendation to repeal the Coal Tax Credits that will sunset on 12/31/21. 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.

4. Discussion and possible action on the acceptance of the final report provided by PFM:

Earl Sears moved that the Commission accept the recommendation that they encountered today with the modifications that the Commission specifically have asked to those modifications be in the report. 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.

5. Discussion and possible action to approve 2022 meeting dates, all on Thursday at 10 a.m.:

Jan. 20	**Oct. 13**	**Dec. 8**
Mar. 24	**Oct. 27**	
Aug. 25	**Nov. 17**	

Mandy Fuller moved to approve the 2022 meeting dates as written. Earl Sears seconded the motion. The following votes were recorded and the motion passed:

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

6. Adjournment

There being no further business, Mr. Sears made the motion to adjourn. Ms. Fuller seconded the motion. Seeing no opposition, the meeting adjourned at 11:44 a.m.

INCENTIVE EVALUATION COMMISSION
REGULAR MEETING MINUTES
Oct. 28, 2021; 10 a.m.
Oklahoma State Capitol
Senate Conference Room 4S.9 (419-C)
Oklahoma City, Oklahoma 73105

A meeting notice was filed with the Secretary of State and an agenda posted in accordance with the Open Meeting Act.

MEMBERS PRESENT:
Lyle Roggow, President, Designee of the OK Professional Economic Development Council
Carlos Johnson, Certified Public Accountant
Mandy Fuller, CPA, Auditor of Private Company
Earl Sears, Lay Person
Dr. Robert Dauffenbach, Economist
Charles Prater, Chairman, Tax Commission, Ex-Officio; Non-Voting
Brent Kisling, Director, Department of Commerce, Ex-Officio; Non-Voting
John Gilbert, OMES designee, Ex-Officio; Non-Voting

MEMBERS ABSENT: None.

STAFF/GUESTS:
Beverly Hicks, OMES
Josh McGoldrick, ODOC
Randall Bauer, PFM
Byron Schlomach, 1889 Institute
Jim Dunlap, American Airlines
Brent Wright, ODOC
Chris Cremin, OMES
Meagan Rhodes, OMES
Matthew Weaver, ACOG
John Riesenbert, Governor's Office
Julia Kirt, Senate
Carmen Foreman, The Oklahoman

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

Chairman Roggow called this regular meeting to order at 10:06 a.m. A roll call was taken and a quorum established. A meeting notice was filed with the Secretary of State and agenda posted in accordance with the Open Meeting Act.

2. **Approval of minutes from the October 14, 2021, commission meeting:**

Carlos Johnson moved to approve the special meeting minutes for October. 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; Dr. Dauffenbach, aye.

3. Discussion and public comment on PFM draft evaluation reports for Year 6, 2021, Incentive Evaluations:

3.1. Capital Gain Deduction – *Repeal. Suggested Alternatives*: ***[****Reconfigure with specific legislative intent and economic development goals; require qualified gains to be reinvested in Oklahoma; and cap the deduction*.]

Chairman Roggow read the following comments sent to the Commission members electronically for consideration that were not present at the meeting:

Elizabeth Chung:
"Sounds like Corporate Welfare to me. I oppose this. If they can't pay their taxes, then they don't need to expand. The oil refineries are simply out of the question, and this "certain" wind power generators sounds quite unclear. This is not time to start adding to Oklahoma's corporate entitlement society."

Steve Thompson:
"The potential impact on Oklahoma farming and ranching if the current capital gains deduction were to be eliminated would be significant. Production agriculture requires large investments in land and buildings that are held for long periods of time – on average 30 years. During that time, land values can more than triple. In addition to potentially paying capital gains taxes on the sale of land, farmers could also pay capital gains taxes when they sell other assets, such as buildings, breeding livestock, and timber.

Starting or expanding a farm or ranch requires a large investment because of the capital-intensive nature of agribusiness. State capital gains taxes could be a disincentive for farmland owners to sell property or could alternatively lead to raise the asking price. If landowners are discouraged from selling, it can be harder for new farmers to acquire land to start farming and for existing farms to buy land to expand their business to include a son or daughter.

To remain efficient and profitable, farmers and ranchers must have the flexibility to change their businesses to be responsive to market signals from consumers. If capital gains taxes are imposed when buildings, breeding livestock and farmland are sold, the increased tax burden would make it more difficult for procedures to shed unneeded assets to generate revenue to adapt and upgrade their operations."

Commissioner Kisling entered the meeting at 10:12 a.m.

3.2. Quality Jobs Program – ***Recommendation: Retain, with modifications. –*** [*Require participants to pay the average county wage regardless of the statewide threshold wage – in 2018, 22 companies generated rebates while paying less than the average county wage in place on their start date; for new agreements, reset the minimum wage requirement after 5 years (only applies*

to new agreements, not existing ones); require participants to file rebate claims within one year of qualifying quarter (rather than the current two years); and regularly review/update eligible industries to reflect the State's economic development goals.]

Dr. Byron Schlomach, Director of 1889 Institute provided some supplemental testimony, shared his concerns about the programs to the members, and believes those programs should be repealed. He presented the Commission members with a handout of a short overview published by the Institute titled, "Oklahoma's "Quality Jobs" Programs," for members to consider.

3.3. 21st Century Quality Jobs Program – ***Recommendation: Retain, with modifications. –*** [*Same as for the quality jobs program recommended modifications; in addition, provide an option for firms who fail to meet program requirements to continue receiving the Quality Jobs program benefits, if qualified.*]. No public comments were received electronically or in person.

3.4. Small Employer Quality Jobs Program – ***Recommendation: Retain with modifications. –*** [*The same as for the Quality Jobs Program.*] No public comments were received electronically or in person.

3.5. Home Office Tax Credit – ***Recommendation: Reconfigure to encourage/reward job creation –*** [*Options include a credit that is either an amount per new job or some portion of new payroll. These types of credits are in place in other States and other Oklahoma state programs; require a specific job verification process.*]

Chairman Roggow read the following comment sent to the Commission members electronically for consideration that was not present at the meeting:

Chris Meredith:
"The story of the Farmers Insurance Claims Center in Oklahoma City is an outstanding example of the power of the Home Office tax credit to help promote strong economic growth in Oklahoma. In 2000, Los Angeles-based Farmers Insurance made the decision to place a national claims center in Oklahoma City. The two most commonly cited reasons for choosing Oklahoma City were its outstanding work force and the tax incentives offered by the state – most particularly, the Home Office Tax Credit. In 2010, Farmers renewed strengthened its commitment to a long-standing presence in Oklahoma with the opening of the newly built Oklahoma City Claims Center on Memorial Road, just east of Rockwell.

There are a couple of key thoughts on this credit that should be pointed out. The overall employment has not grown in numbers; however, the growth in avg. salary has increased substantially. As efficiencies are gained thru innovation, I would not expect the number of employees to increase, however, salaries likely will increase and that adds to the economy. The average salary in Oklahoma is near $60,000. The focus on overall employment growth misses the fact that the employees may not be here without the tax credit acting as an anchor. In today's environment where employees have a greater potential to perform their work from virtually anywhere in the world, Oklahoma

needs to continue this investment and avoid any reason for employers to leave the state for states with lower premium taxes.

Thank you for your work on this matter and your consideration."

3.6. Clean Burning Fuel Tax Credit – ***Recommendation: Retain, with modifications –*** [*The 2019 legislative changes were substantial, and it is not possible at this point in time to discern those impacts; Clarify statutory language related to eligible investments in commercial fueling activity.*] No public comments were received electronically or in person.

3.7. Ethanol Fuel Retailer Tax Credit – ***Recommendation: Repeal –*** [*Reallocate the programs financial resources to the Tax Credit for Investment in Qualified Clean-Burning Motor Vehicle Fuel Property.*] No public comments were received electronically or in person.

3.8 Coal Tax Credits – ***Recommendation: Repeal (program will sunset on 12/31/21) –*** [*Reallocate the program's financial resources into industry retraining opportunities.*] No public comments were received electronically or in person.

4. Adjourn

There being no further business, Mr. Sears made the motion to adjourn. Dr. Dauffenbach seconded the motion. Seeing no opposition, the meeting adjourned at 10:32 a.m.

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Quality Jobs Program *Access full report.*

21st Century Quality Jobs Program *Access full report.*

Small Employer Quality Jobs Program *Access full report.*

Home Office Tax Credit *Access full report.*

Credit for Investment in Clean-Burning Fuel or Electric Vehicle Credit *Access full report.*

Ethanol Fuel Retailer Tax Credit *Access full report.*

Coal Tax Credits *Access full report.*

State of Oklahoma
Incentive Evaluation Commission
Capital Gain Deduction Evaluation

October 1, 2021

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

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Key Findings and Recommendations

Incentive Overview

The incentive provides a deduction from taxable income for gains from the sale of qualified Oklahoma-based property. Qualified gains include the sale of real and tangible personal property based in Oklahoma and stock or ownership interest in a business entity with a primary headquarters in Oklahoma.

Recommendation: Repeal

Key Findings

- **The deduction resulted in an estimated $716.3 million in foregone revenue in tax years 2014 through 2018.** Foregone revenue averaged $143.3 per year during this period and peaked at $193.0 million in 2015.

Table 1: Use of the Deduction[1]

Tax Year	Returns Claiming the Deduction	Total Amount Deducted	Estimated Foregone Tax Revenue
2005	10,828	$1,539,922,016	$87,005,594
2006	18,379	$2,582,859,065	$145,931,537
2007	18,223	$3,325,139,828	$182,882,691
2008	14,785	$2,203,512,997	$121,193,215
2009	12,369	$905,343,747	$49,793,906
2010	14,584	$1,561,014,955	$85,855,823
2011	17,106	$1,420,260,932	$74,563,699
2012	16,962	$3,009,138,923	$157,979,793
2013	15,649	$1,520,093,410	$79,804,904
2014	17,274	$2,047,103,649	$107,472,942
2015	17,446	$3,675,894,222	$192,984,447
2016	16,330	$2,606,876,225	$130,343,811
2017	19,078	$2,624,369,667	$131,218,483
2018	19,935	$3,086,488,916	$154,324,446

Source: Oklahoma Tax Commission

- **The return on investment for the capital gains deduction is negative.** Over the five-year period from 2014-2018, the total economic impact of the capital gains deduction is $403.3 million, compared with $716.3 million in foregone revenue to the State. Economic impacts of the deduction are far less (56 percent) than the deduction itself.

- **The foregone revenue would generate substantially greater employment and economic impacts statewide if these revenues were spent as part of the Oklahoma budget.**

- **Claimants of the deduction represent one percent of Oklahoma taxpayers.** An average of 18,000 individual income tax deductions were claimed each year from 2014 through 2018.

- **From 2015 to 2018, taxpayers with Federal Adjusted Gross Income (AGI) of less than $100,000 were the most frequent claimants of the deduction but accounted for just 6.1 percent of the total amount deducted.**
    - Over the same period, claimants with AGI greater than $1,000,000 accounted for 5.4 percent of claimants but claimed about two-thirds (66.3 percent) of the total amount deducted.

[1] Foregone tax revenue estimated using the top income tax rate in each year.

- Claimants with AGI greater than $25 million accounted for 0.1 percent of claimants but about a quarter (24.8 percent) of the total amount deducted over this period.

- **Most claimants deduct amounts of $100,000 or less.** From 2015 through 2018, 81.8 percent of returns deducted amounts of $100,000 or less and about 80 percent of those returns were filed by taxpayers with AGI of $200,000 or less.

- **There are no cost controls in place.** This is especially important because of the amount of foregone revenue associated with the program and the volatile nature of capital gains tax revenue.

- **The deduction is available for both individual and corporate income tax, but the Tax Commission is unable to aggregate data on the usage of the deduction for corporate income tax.** It is likely that most usage of the deduction is for individual income tax and the State's total corporate income tax revenue is low, equal to about 6.6 percent of income tax revenue in FY 2020. The data presented represent individual income tax deductions only.

Recommendations, if the program is retained

- **Reconfigure the program with specific legislative intent and economic development goals.** Oklahoma's capital gains deduction is the most broad among comparable incentives. Real or intangible property, and stock or ownership interest can all qualify for the deduction and gains generated by investments in any industry are eligible. Due to the breadth of Oklahoma's program, it is not clear exactly what it intends to accomplish, thus its benefits are difficult to quantify.

  Most states target similar incentives toward a specific industry or small businesses, and many limit the deduction to certain types of property. The benefits of a more targeted approach include lower costs to the State and more measurable outcomes. If, for example, Oklahoma's deduction was narrowed to only apply to gains from investments in certain industries, or if the gains were required to be re-invested in certain industries in the State, data on the use of the deduction could be compared to the performance of target industries in the State for some indication of the program's impact.

- **Require qualified gains to be reinvested in Oklahoma.** Doing this would improve the economic impact of the program. Currently, there is no indication of where or how the gains associated with deductions are or are not spent. Utah places requirements on how gains are spent and targets this spending toward an economic development goal. It requires that at least 70 percent of gains are reinvested in a Utah small business within a year. Oklahoma could adopt a similar requirement and target reinvestment to an industry that aligns with the State's economic development goals.

- **Cap the deduction.** Other states cap comparable deductions to control costs. For example, Colorado limits its deduction to $100,000 per taxpayer while Vermont caps its deduction $350,000. A cap limiting the amount of income deducted in Oklahoma to $100,000 would have had no impact on 81.8 percent of claimants from 2015 to 2018 who deducted less than that amount, while still providing some benefit to claimants above that amount. A cap matching Vermont's would have had no impact on over 90 percent of claimants from 2015 to 2018.[2]

[2] Tax Commission data show 89.5 percent of claimants over this period deducted gains of $200,000 or less, and 5.5 percent of claimants in the next deduction range of $200,001 to $500,000.

Introduction

Oklahoma Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 of 2015 to produce objective evaluations of the State of Oklahoma's wide array of economic incentives. The Commission is made up of five members appointed by the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives, along with 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 incentive and effectiveness of administration, as well as criteria specific to each incentive.

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 a given 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 is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings from the 2017 evaluation of the Capital Gains Deduction are summarized in the following table.

Table 2: Summary of 2017 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- The deduction was found to be a significant net cost to the state with a total of $465 million in foregone tax revenue while creating an estimated $9 million in additional tax revenue. Most benefits of the program were received by individuals with reported income of $200,000 or more. Due to lack of legislative intent and broad eligibility, it is unclear exactly what the program intends to accomplish.
Fiscal and Economic Impact	- Based on economic and fiscal impact analysis, foregone revenue far exceeded estimated tax revenue generated.
Future Fiscal Impact Protections	- The incentive does not provide a cap or any other limit to future costs.
Administrative Effectiveness	- The Tax Commission was unable to provide information on the use of the deductions by corporations. The evaluation focused only on its use for individual income tax.
Achievement of Goals	- Due to lack of legislative intent and broad eligibility, it is unclear exactly what the program intends to accomplish. Data showed that the share of tax returns reporting any net capital gain or loss decreased since the program was established.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 the deduction be repealed.
Other Recommendations	- If program is retained, target the incentive to a specific industry. - Require gains to be reinvested in Oklahoma. - Improve data collection for future evaluation.

The Commission voted 3-1 to disapprove PFM's recommendation to repeal the incentive. In 2017, HB 1279, which would have ended the deduction for individual income tax, was introduced but did not advance. Another bill intending to repeal the deduction, HB 2590 introduced in 2018, also failed. In 2019, HB 1455 attempted to modify the program by limiting its use by income level, but the bill did not pass. No statutory or programmatic changes have been made since the program was last evaluated in 2017.

2021 Criteria for Evaluation

The provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation. 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.

To assist in a determination of program effectiveness, the Incentive Evaluation Commission has adopted the following criteria:

- Number of realized capital gains
- Employment/capital/payroll associated with realized capital gains
- Change in realized capital gains before/after the deduction
- State return on investment

2021 Evaluation Approach

To conduct its 2021 review of the Capital Gains Deduction, the project team conducted the following activities:

- Submitted a data request to the Oklahoma Tax Commission (OTC);
- Reviewed and analyzed OTC-provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from OTC;
- Conducted external stakeholder interviews with industry representatives;
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission
Quality Jobs Program Evaluation

October 1, 2021

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Key Findings and Recommendations

Incentive Overview

Oklahoma's Quality Jobs Program, created in 1993, offers qualifying companies quarterly cash rebates equal to up to 5 percent of newly created taxable payroll for up to 10 years. Originally targeted toward manufacturing firms, the program has been expanded to include a wide range of industries. In recent years, it has mostly been used by manufacturing and oil and gas companies. To qualify for the rebates, a company must operate in an eligible industry and meet requirements related to the amount of payroll associated with new jobs created, health insurance coverage, and wages.

Recommendation: Retain the program, with modifications

Key Findings

- **Rebates generated by program participants have declined in recent years from a peak of $84.5 million in 2014 to $47.1 million in 2018.**[1] Rebates generated by oil and gas-related establishments declined by half in 2016 and again in 2017, largely driving the overall trend in rebates. Reported jobs declined along with the number of companies participating in the program.

Table 1: Rebates Generated, CY 2011 to CY 2018

Year	Companies Generating Rebate	Reported Jobs	Rebates Generated (Millions)
2011	159	21,035	$66.1
2012	181	24,543	$80.0
2013	189	23,966	$80.6
2014	183	22,235	$84.5
2015	169	18,014	$74.0
2016	123	12,712	$49.1
2017	98	11,149	$43.5
2018	103	12,036	$47.1

Source: Oklahoma Department of Commerce

- **The median wage of participants exceeded the state average wage from 2011 through 2018.** This is despite low wage requirements. Establishments must match the lesser of the county average or a state threshold wage equal to $35,376 as of 2021, 15.1 percent lower than the statewide average wage of $44,025, and 36.1 percent lower than the highest average county wage, in Oklahoma County.

- **From 2011 to 2018, manufacturing (36.8 percent) and oil and gas firms (27.1 percent) combined for more than half of the generated rebates.** These industries received $192.9 and $114.1 million in rebates, respectively. The next-highest rebated industry, management of companies, received $55.5 million over this period.

- **Participants are concentrated in Oklahoma and Tulsa counties.** From 2011 to 2018, these counties account for $260.0 and $155.0 million in rebates, respectively, combining for about 80 percent of the total. These counties combined for 54.9 percent of total private employment in the State in 2020.[2]

- **Economic and fiscal impact analysis found the program from 2011 to 2018 to be a net fiscal benefit to the State, generating $4,025.4 million in additional State tax revenue compared to its total cost of $524.8 million.** While an argument can be made that some of the projects and the

[1] The analysis of program usage in this evaluation focuses on data provided by the Department of Commerce that includes information on participants' reported jobs, payroll, and wages in the quarters in which a rebate payment was generated. Due to the potential lag time in filing a claim for rebate payment, the analysis of the Department's data, which was provided for 2011 through 2020, was truncated to include data out to 2018, the last full year of claims in the dataset.
[2] US Bureau of Labor Statistics, Quarterly Census of Employment and Wages

associated jobs would have occurred anyway, even if 85 percent of these jobs and wages would have occurred regardless of the program, leaving only 15 percent attributable to the incentive, the program would still generate a small surplus impact to state tax revenues.

- **Industries generating most of the rebates exceeded State growth in annual pay and wages but lagged in employment growth.** Most rebates were generated by industries outperforming overall State growth in average annual pay and total wages from 2011 through 2018. A total of 66.4 percent of rebates generated from 2011 to 2018 were in industries that exceeded State average growth rates for annual pay; 63.6 percent were in industries that exceeded State average growth in total wages. However, most rebates (73.7 percent) were generated in industries lagging State growth in employment. [3]

- **Strong program cost controls are in place.** All participants in the program are evaluated to determine the project is a net benefit to the State in order to qualify. The rebates paid to participants are based on the net benefit provided to the State, so the program is revenue neutral. Rebates are paid only when participants meet or are ramping up to job and wage requirements.

Recommendations

- **Require establishments to pay the average county wage regardless of the statewide threshold wage.** Currently, establishments must match the lesser of the county average or a state threshold wage equal to $35,376 as of 2021 – 15.1 percent lower than the statewide average wage of $44,025, and 36.1 percent lower than the average wage in Oklahoma County.

  Despite this low threshold wage, the overall median wage of participants from 2011 through 2018 exceeded the statewide average wage. However, because of the low state threshold wage, there are instances where companies paid significantly less than their average county wage and still met program qualifications. In 2018, for example, 22 companies generated rebates while paying less than the average county wage in place as of their start date.[4] Among those companies, nine paid wages that were 20 percent or more below their average county wage.

  Eliminating the statewide threshold wage would ensure the program is encouraging the creation of jobs that at least maintain average wage levels in each county.

- **For new agreements, reset the minimum wage requirement after five years.** Currently, participating firms enter into a 10-year contract outlining the requirements that must be met to receive rebates over that term. These contracts require that the firm pays a minimum average wage over the 10-year period. Once the minimum wage requirement is established, it is not updated at any point over the 10-year contract. As a result, jobs receiving the annual average pay as of 10 years prior may still qualify a firm for benefits in the tenth year of the contract.

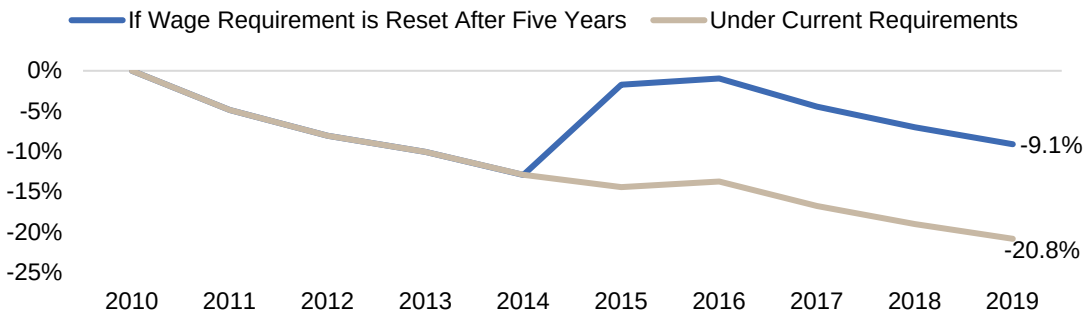
  The following chart shows the average county wage in Oklahoma County in 2010 relative to the actual average county wage over the next nine years. It shows that a company entering the program agreeing to pay at least the average county wage as of 2010 could continue to qualify for rebate payments in

[3] US Bureau of Labor Statistics, Quarterly Census of Employment and Wages

[4] This analysis compares the average county wage as of two years prior to the company's Quality Jobs start date, according to the US Bureau of Economic Analysis (Table CAINC30), to the median annualized wage reported by companies generating a rebate in 2018. The average wage two years prior to the company's start date is used in order to match the Department of Commerce's timeline for determining qualifying wage levels. Due to the lag time in data becoming available, data from two years prior to the company's start date is the latest available. For example, companies applying to start the program between February 1, 2021 and January 31, 2022 must meet wage thresholds based on 2019 data.

2019 while paying 21 percent less than the actual average county wage that year. If the wage requirement was reset after year five so participants were required to pay at least the 2014 county average wage for the remainder of the contract, wages would be considerably higher and only decline to about nine percent less than the actual average wage in 2019.

Figure 1: Average Wage in Oklahoma County in 2010, Relative to Actual Average County Wage, 2010-2019



Year	Average County Wage
2010	$43,839
2011	$46,086
2012	$47,679
2013	$48,749
2014	$50,340

Year	Average County Wage
2015	$51,231
2016	$50,824
2017	$52,680
2018	$54,133
2019	$55,384

Source: US Bureau of Economic Analysis

- **Require participants to file rebate claims within one year of a qualifying quarter.** Currently, companies have two years to submit a claim after their most recent submittal before potential dismissal from the program. This lag time between when a rebate is generated and claimed makes forecasting the costs of the program difficult. Controlling the timing of incentive payments is a key aspect of incentive design to manage budget impacts.[5] Furthermore, if a company waits two years to claim a rebate, it calls into question how important the rebate is in supporting the incented activity, as the relative value of the rebate (based on the time value of money) declines the later – it is claimed and received. Shortening the lag time to a maximum one year would still provide participants sufficient time to handle the administrative burden of filing claims while protecting the State from paying up to eight quarters of claims at once if a participant waits two years to file a claim.

- **Regularly review eligible industries to ensure the list reflects the State's economic development goals.** Since the program was created, industry eligibility has expanded several times, most often to include oil and gas related firms. Industries added since 2003 accounted for about 40 percent of rebates generated between 2011 and 2018. As time passes, the State should consider whether these and other industries are still the correct targets for the program, based on economic development goals.

[5] Pew Charitable Trusts, "Reducing Budget Risks," December 2015. Accessed electronically at: https://www.pewtrusts.org/~/media/assets/2015/11/cost-predictability_artfinal.pdf

Introduction

Oklahoma Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 of 2015 to produce objective evaluations of the State of Oklahoma's wide array of economic incentives. The Commission is made up of five members appointed by the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives, along with 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 incentive and effectiveness of administration, as well as criteria specific to each incentive.

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 a given 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 is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings from the 2017 evaluation of the Quality Jobs Program are summarized in the following table.

Table 2: Summary of 2017 Evaluation Findings

Evaluation Category	Significant Finding(s)
Overall Findings	- The program was found to be a net benefit to the State, but rebate payments have mostly gone to establishments in industries that underperformed State averages.
Fiscal and Economic Impact	- The program was found to be a net benefit to the State
Future Fiscal Impact Protections	- The program features cost controls related to quarterly requirements that have helped the State control costs
Administrative Effectiveness	- Program administration was found to be effective. The Department of Commerce thoroughly reviews applicant qualifications, and the Tax Commission verifies quarterly reports.
Achievement of Goals	- The program intends to support establishments creating quality jobs in industries with the "promise of significant development" of the State economy. While the program overall was found to be a net benefit, most payments reviewed for the period of 2012 to 2016 were made to establishments in industries growing slower than the State average.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the program be retained.
Other Recommendations	- Require companies to file information for payment each quarter - Establish regular review of eligible industries to better target the program - Centralize data collection across the Department of Commerce and the Tax Commission for more robust analysis.

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to retain the incentive. Two significant statutory changes have been made to the program since it was last reviewed. Five percent of quarterly payments made to participants are now to be deposited in the Oklahoma Quick Action Closing Fund (which aligned with a recommendation made in the evaluation for the Quick Action Closing Fund to create a regular revenue stream for that fund). Also, in response to the COVID-19 pandemic, the payroll threshold requirement was lifted for participants from April 1, 2020 through June 30, 2021.

2021 Criteria for Evaluation

The provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation. 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.

To assist in a determination of program effectiveness, the Incentive Evaluation Commission has adopted the following criteria:

- Change in jobs associated with the cash rebates
- Change in payroll associated with the cash rebates
- Ability of program administrative processes to establish the factual basis for claims related to hours, wages, and benefits
- Change in capital investment associated with the cash rebates
- "But-for" test – change in jobs/payroll/capital associated with the cash rebates versus state growth rates as a whole
- Change in jobs/payroll/capital in the qualifying industries versus state industries as a whole
- State return on investment

2021 Evaluation Approach

To conduct its 2021 review of the Quality Jobs Program, the project team conducted the following activities:

- Submitted a data request to the Oklahoma Department of Commerce and Oklahoma Tax Commission (OTC);
- Reviewed and analyzed provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from the Department of Commerce and OTC;
- Conducted external stakeholder interviews with industry representatives;
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission
21st Century Quality Jobs Program Evaluation

October 4, 2021

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Key Findings and Recommendations

Incentive Overview

Oklahoma's 21st Century Quality Jobs program was created in 2009 under the 21st Century Quality Jobs Incentive Act. The intent of the legislation is to "provide appropriate incentives to attract growth industries and sectors to Oklahoma in the twenty-first century through a policy of rewarding businesses with a highly skilled, knowledge-based workforce". The program offers quarterly payments of up to 10 percent of newly created payroll for a period of 10 years. To receive quarterly payments, companies must meet certain requirements related to new jobs and wages.

Recommendation: Retain, with modifications

Key Findings

- **Program use increased significantly from 2011 to 2018, with rebates increasing from about $0.3 million to $13.2 million.**[1] Growth in program usage was driven almost entirely by one company.

Table 1: Use of the Program, 2011 through 2018

Calendar Year	Companies Generating Rebates	Reported Jobs	Total Rebates Generated
2011	4	27	$318,074
2012	4	136	$1,880,148
2013	5	492	$5,692,162
2014	4	618	$8,003,444
2015	4	725	$9,808,354
2016	4	874	$11,301,907
2017	4	868	$11,318,613
2018	4	939	$13,170,693

Source: Oklahoma Department of Commerce

- **From 2011 to 2018, participants' median wages were significantly higher than the statewide average (as required by statute), and were often close to 300 percent of the statewide average.** Participants are required to meet the lesser of 300 percent of the statewide average or 300 percent of the state threshold wage calculated by the Department of Commerce. The state threshold wage is currently $35,376.

- **Nearly all rebates from 2011 to 2018 were generated by firms in the manufacturing and professional services sectors.** Manufacturing accounted for 92.0 percent of total rebates, while professional services accounted for 7.8 percent.

- **Program use is even more concentrated than the Quality Jobs program, with 97.7 percent of rebates from 2011 through 2018 generated in Oklahoma County.** Another 2.2 percent was generated in Tulsa County.

- **The economic and fiscal impact analysis of the program from 2011 through 2018 found the program to be a net fiscal benefit to the State, generating $64.1 million in additional State tax revenue compared to program costs of $61.5 million over the same period.** This results in a net

[1] The analysis of program usage in this evaluation focuses on data provided by the Department of Commerce that includes information on participants' reported jobs, payroll, and wages in the quarters in which a rebate payment was generated. Due to the potential lag time in filing a claim for rebate payment, the analysis of the Department's data, which was provided for 2011 through 2020, was truncated to include data out to 2018, the last full year of claims in the dataset.

benefit to the State of $2.6 million over the period, and a net positive return on Investment.

- **Economic impacts of the program from 2011 to 2018 reach $6.3 billion in total economic activity.** This level of economic activity is very large and compares favorably with a modest net positive return on investment.

- **All sectors receiving rebates from 2011 to 2018 outperformed overall State growth in average annual pay and mostly outperformed total State payroll growth.** These sectors also mostly outperformed average annual pay growth nationally. However, most of these sectors lagged national growth in total wages, and State and national employment growth.[2]

Recommendations

- **Base the program's wage requirements on the average county wage, regardless of the statewide threshold wage.** Currently, establishments pay average wages equal to at least 300 percent of the lesser of the county average or a state threshold wage equal to $35,376 as of 2021 – 15.1 percent lower than the statewide average wage of $44,025, and 36.1 percent lower than the average wage in Oklahoma County. For an establishment in Oklahoma County, where most program activity is occurring, entering the program today would mean the minimum wage requirement is actually about 192 percent of the average county wage.

  Eliminating the statewide threshold wage would ensure the program is encouraging the creation of jobs that actually pay 300 percent of the average county wage. Higher wages associated with reported jobs would also likely improve the program's performance in the economic and fiscal impact analysis. At this time, if the wage requirements are raised, it would not be the project team's recommendation that the rebate structure be revised.

- **Require participants to file rebate claims within one year of a qualifying quarter.** Currently, companies have two years to submit a claim after their most recent submittal before potential dismissal from the program. This lag time between when a rebate is generated and claimed makes forecasting the costs of the program difficult. Controlling the timing of incentive payments is a key aspect of incentive design to manage budget impacts.[3] Furthermore, if a company waits two years to claim a rebate, it calls into question how important the rebate is in supporting the incented activity, as the relative value of the rebate declines (based on the time value of money) the later is it received. Shortening the lag time to a maximum one year would still provide participants time to handle the administrative burden of filing claims while protecting the State from paying up to eight quarters of claims at once if a participant waits two years to file a claim.

- **Regularly review eligible industries to ensure the list reflects the State's economic development goals.** The 21st Century Quality Jobs program uses the same eligible industries list as the Quality Jobs program, excluding oil and gas industries, and including additional industries specific to the program. The list has expanded several times. Over time, the State should consider whether these and other industries are still the correct targets for the program, based on economic development goals.

- **Consider providing an option for firms who fail to meet program requirements to continue receiving the Quality Jobs program benefits, if qualified.** Conversations with Department of Commerce staff suggest firms that may qualify for the 21st Century Quality Jobs program, but are unsure if they will be able to meet the wage and payroll requirements, are hesitant to apply to the

[2] US Bureau of Labor Statistics, Quarterly Census of Employment and Wages
[3] Pew Charitable Trusts, "Reducing Budget Risks," December 2015. Accessed electronically at: https://www.pewtrusts.org/~/media/assets/2015/11/cost-predictability_artfinal.pdf

program. Currently, if a firm fails to meet program requirements within three years of starting the program and is removed from the program, it would be ineligible to apply for Quality Jobs benefits for the same activity, even if qualified. Allowing firms to try to achieve 21st Century Qualify Jobs requirements, while having some assurance that they would be able to still receive Quality Jobs benefits if qualified, may increase interest and participation in the program. This Quality Jobs benefit could be discounted by some percentage (perhaps 5 percent) to deter companies from applying to the 21st Century Quality Jobs program even when they had little likelihood of meeting its requirements.

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The Commission is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings from the 2017 evaluation of the 21st Century Quality Jobs program are summarized in the following table.

Evaluation Category	Significant Finding(s)
Overall Findings	- The program was a net benefit to the State and has supported industries with strong growth in the State.
Fiscal and Economic Impact	- The program was a net benefit to the State.
Future Fiscal Impact Protections	- The program features cost controls related to quarterly requirements that have helped the State control costs.
Administrative Effectiveness	- Program administration was effective. The Department of Commerce thoroughly reviews applicant qualifications and the Tax Commission verifies quarterly reports.
Achievement of Goals	- The program intends to provide incentives to attract growth industries with a highly skilled and knowledge-based workforce. The incentive has largely been used by such industries, although most benefits have been paid to one company.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the program be retained.
Other Recommendations	- Require companies to file information for payment each quarter - Establish regular review of eligible industries to better target the program - Centralize data collection across the Department of Commerce and the Tax Commission for more robust analysis.

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to retain the incentive. Since it was last reviewed, the program's statute was modified to require that five percent of rebate payments be deposited to the State's Quick Action Closing Fund.

2021 Criteria for Evaluation

The provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation. 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.

To assist in a determination of program effectiveness, the Incentive Evaluation Commission has adopted the following criteria:

- Change in jobs associated with the cash rebates
- Change in payroll associated with the cash rebates
- Ability of program administrative processes to establish the factual basis for claims related to hours, wages, and benefits
- Change in capital investment associated with the cash rebates
- Number/amount of incentives by industry
- But-for-test – change in jobs/payroll/capital associated with the cash rebates versus state growth rates as a whole
- Change in jobs/payroll/capital in the qualifying industries versus state industries as a whole
- State return on investment

2021 Evaluation Approach

To conduct its 2021 review of the 21st Century Quality Jobs Program, the project team conducted the following activities:

- Submitted a data request to the Oklahoma Department of Commerce and Oklahoma Tax Commission (OTC);
- Reviewed and analyzed provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from the Department of Commerce and OTC;
- Conducted external stakeholder interviews with industry representatives;
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission
Small Employer Quality Jobs Program Evaluation

October 1, 2021

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Key Findings and Recommendations

Incentive Overview

Oklahoma's Small Employer Quality Jobs program was created in 1997 under the Small Employer Quality Jobs Incentive Act. The program provides qualifying companies with 500 or fewer employees quarterly rebate payments of up to five percent of newly created payroll, for up to seven years. To qualify for payments, participants must meet requirements related to job creation and wages.

Recommendation: Retain the program, with modifications

Key Findings

- **While overall firm participation in the program has declined in recent years, reported covered jobs is increasing.** Participation reached its lowest point over the period in 2014 with just four companies claiming rebates that year. Since then, the number of companies claiming a rebate increased to eight in 2018. The number of jobs reported by participants also increased each year since 2014.[1]

Table 1: Use of the Program, 2011 to 2018

Year	Companies Generating Rebates	Reported Jobs	Rebates Generated
2011	13	541	$938,288
2012	10	323	$544,757
2013	7	108	$248,764
2014	4	72	$178,074
2015	7	95	$224,197
2016	7	130	$255,210
2017	7	178	$349,426
2018	8	222	$445,949

Source: Oklahoma Department of Commerce

- **The median wage of reported jobs was about equal to or exceeded the statewide average wage each year from 2011 to 2018.** Participants are required to meet 110 percent of the average wage of county small employers.

- **Nearly all the rebates from 2011 to 2018 were generated by manufacturing firms.** Manufacturing firms accounted for 88.9 percent of total rebates, while Professional Services firms accounted for the remaining 11.1 percent.

- **Use of the program is dispersed across several counties and far less concentrated than the Quality Jobs program.** From 2011 to 2018, nine counties received at least five percent of the total amount of rebates generated.

[1]The analysis of program usage in this evaluation focuses on data provided by the Department of Commerce that includes information on participants' reported jobs, payroll, and wages in the quarters in which a rebate payment was generated. Due to the potential lag time in filing a claim for rebate payment, the analysis of the Department's data, which was provided for 2011 through 2020, was truncated to include data out to 2018, the last full year of claims in the dataset.

Table 2: Rebates Generated by County, 2011 through 2018

County	Rebates	Share of Total
Delaware	$432,981	13.6%
Payne	$352,698	11.1%
Ottawa	$331,785	10.4%
Garvin	$247,546	7.8%
Stephens	$240,922	7.6%
Bryan	$214,262	6.7%
Creek	$202,723	6.4%
Washington	$201,566	6.3%
Pushmataha	$174,027	5.5%
Logan	$156,900	4.9%
All Others	$629,255	19.8%
Total	**$3,184,665**	

Source: Oklahoma Department of Commerce

- **The economic and fiscal impact analysis of the program from 2011 through 2018 found the program to be a net fiscal benefit to the State, generating $6.0 million in additional State tax revenue compared to the program's cost of $3.2 million over the same period.**

- **The break-even point (related to the 'but for test') for this program is 50 percent.** This means, that if half of the jobs would have occurred regardless of the program, leaving half attributable to the availability of the incentive (the "but for" test), the program would still break even, with a net neutral impact to state tax revenues.

- **Industries receiving rebates from 2011 to 2018 outperformed state growth in average annual and total wages, but mostly lagged state and national growth in employment.**

Recommendations

- **Require participants to file rebate claims within one year of a qualifying quarter.** Currently, companies have two years to submit a claim after their most recent submittal before potential dismissal from the program. This lag time between when a rebate is generated and claimed makes forecasting the costs of the program difficult. Controlling the timing of incentive payments is a key aspect of incentive design to manage budget impacts.[2] Furthermore, if a company waits two years to claim a rebate, it calls into question how important the rebate is in supporting the incented activity, as the relative value of the rebate (based on the time value of money) declines the later it is received. Shortening the lag time to a maximum one year would still provide participants time to handle the administrative burden of filing claims while protecting the State from paying up to eight quarters of claims at once if a participant waits two years to file a claim.

- **Regularly review eligible industries to ensure the list reflects the State's economic development goals.** The Small Employer Quality Jobs program uses the same eligible industries list as the Quality Jobs program, excluding oil and gas industries. The list has expanded several times. Over time, the State should consider whether these and other industries are still the correct targets for the program, based on economic development goals.

[2] Pew Charitable Trusts, "Reducing Budget Risks," December 2015. Accessed electronically at: https://www.pewtrusts.org/~/media/assets/2015/11/cost-predictability_artfinal.pdf

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The Commission is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings from the 2017 evaluation of the Small Employer Quality Jobs program are summarized in the following table.

Table 3: Summary of 2017 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- The program was a net benefit to the State, but rebate payments have mostly gone to establishments in industries that underperformed State averages.
Fiscal and Economic Impact	- The program was found to be a net benefit to the State
Future Fiscal Impact Protections	- The program features cost controls related to quarterly requirements that have helped the State control costs
Administrative Effectiveness	- Administration of the program was effective. The Department of Commerce thoroughly reviews applicant qualifications, and the Tax Commission verifies quarterly reports.
Achievement of Goals	- The program intends to support small employers creating quality jobs in industries with the "promise of significant development" of the State economy. While the program overall was found to be a net benefit, most payments reviewed for the period of 2012 to 2016 were made to establishments in industries growing slower than the State average, and participation in the program has declined.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the program be retained.
Other Recommendations	- Require companies to file information for payment each quarter - Establish regular review of eligible industries to better target the program - Centralize data collection across the Department of Commerce and the Tax Commission for more robust analysis.

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to retain the incentive. Several changes were made to the program since it was last reviewed, including:

- Eligibility size of the applicants increased from 90 or less at the time of application to 500 or less
- Applicants must create a minimum number of new jobs based on either the size of the community (population) where the company is located (5, 10, or 15) or the percentage increase in the applicant's workforce (5, 7.5, or 10 percent).
- Out-of-state sales requirement was changed from 75 percent of revenue to 35 percent for the first two years and 60 percent in subsequent years.
- Five percent of quarterly payments are now deposited into the Oklahoma Quick Action Closing Fund.

2021 Criteria for Evaluation

The provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation. 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.

To assist in a determination of program effectiveness, the Incentive Evaluation Commission has adopted the following criteria:

- Change in jobs associated with the cash rebates
- Change in payroll associated with the cash rebates
- Change in capital investment associated with the cash rebates
- But-for-test – change in jobs/payroll/capital associated with the cash rebates versus state growth rates as a whole
- Change in jobs/payroll/capital in the qualifying industries versus state industries as a whole
- State return on investment

2021 Evaluation Approach

To conduct its 2021 review of the Small Employer Quality Jobs Program, the project team conducted the following activities:

- Submitted a data request to the Oklahoma Department of Commerce and Oklahoma Tax Commission (OTC);
- Reviewed and analyzed provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from the Department of Commerce and OTC;
- Conducted external stakeholder interviews with industry representatives;
- Benchmarked Oklahoma to other states.

State of Oklahoma
Incentive Evaluation Commission
Home Office Tax Credit Evaluation

October 1, 2021

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Key Findings and Recommendations

Incentive Overview

Established in 1987, Oklahoma's Home Office Tax Credit provides insurance companies that establish or expand a home or regional home office in Oklahoma a tax credit against insurance premium tax liability, which varies depending on the company's employment in Oklahoma. To claim the credit, foreign insurers must have at least 200 employees in the State, while domestic insurers must have at least 400 employees.[1] The value of the credit ranges from 15 to 50 percent of insurance premium tax liability depending on the insurance company's status as foreign or domestic and its level of Oklahoma employment.[2]

Recommendation: Reconfigure the program to more directly encourage job creation.

Key Findings

- **Insurance industry employment is declining in Oklahoma.** Employment in the industry declined 22.0 percent, from 9,189 in 2010 to 7,170 in 2019.[3] Over the same period, industry employment increased nationally, and four of six neighboring states increased their share of national insurance employment as Oklahoma's has declined.

- **Use of the credit increased from $15.7 million in tax year 2010 to $18.6 million in tax year 2020.** Use steadily increased from 2010 to its peak in 2018 (at $25.7 million), before declining the next year when two insurance groups no longer qualified for the credit.

Table 1: Use of the Credit

Tax Year	Insurance Groups	Credit Amount Used
2010	9	$15,743,564
2011	9	$16,854,789
2012	9	$18,186,151
2013	10	$18,837,453
2014	10	$21,286,787
2015	10	$22,563,268
2016	10	$23,560,586
2017	10	$24,573,966
2018	10	$25,717,879
2019	8	$19,510,343
2020	8	$18,552,866

Source: Oklahoma Insurance Department

- **Growth in credit use is not commensurate with employment.** As the amount of credit generated increased by 17.2 percent from $15.7 million 2010 to $18.5 million in 2020, the total number of employees reported on credit claims declined by 24.7 percent, from 6,323 to 4,761.

- **From 2010 through 2020, there were 23 instances of an insurer claiming an increased credit amount while reporting fewer employees than the prior year.** One insurer did this in five consecutive years, and over this period its credit amount increased 25.4 percent while its employment decreased by nearly half.

[1] In this context, "foreign" and "domestic" refer to an insurer's state of domicile. An insurer domiciled outside Oklahoma is a foreign insurer.
[2] Effective credit percentages range from 7 to 24 percent after a portion of premium tax is allocated to the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma Police Pension and Retirement System and the Law Enforcement Retirement Fund
[3] US Bureau of Labor Statistics, Quarterly Census of Employment and Wages

Recommendations

- The program provides a credit based on employment, but it doesn't necessarily reward employment growth or wage growth. The program should be reconfigured to do so.

    - One option is to provide a credit against insurance premium tax that is either a flat amount per new job created, or equal to some portion of new payroll. Arkansas and Florida each offer a tax credit equal to a percentage of salaries paid to insurance employees in the State. These incentives have a direct relationship to employment and depending on qualification requirements for the credit, the State can ensure that only newly created jobs generate a benefit and that benefit is provided over a limited time period.

    - The Home Office Tax Credit currently has no requirements related to new payroll, new jobs, average wages paid or benefits offered to employees. Any reconfiguration of the program should consider these factors in awarding benefits. The Quality Jobs program, for example, features requirements related to each of these items and also places a limit on the length of time a firm can qualify for benefits for the same activity. Adopting a similar approach in this incentive would improve program results and help control costs.[4]

- **Require a specific job verification process.** Conversations with Oklahoma Insurance Department staff revealed challenges in finding resources for verification of applicants' job claims. Other State incentive programs, like the Quality Jobs program, include statutory provisions for assistance with employment verification from the Oklahoma Employment Security Commission. Adding a similar provision to assist the Department's verifications for the Home Office Tax Credit, would improve the administration of the program.

[4] It is worth noting that if the Home Office Tax Credit were repealed rather than reconfigured, insurance firms would still have access to job creation incentives through the Quality Jobs program.

Introduction

Incentive Evaluation Commission Overview

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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 incentive and effectiveness of administration, as well as criteria specific to each incentive.

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 a given 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 is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings from the 2017 evaluation of the Home Office Tax Credit program are summarized in the following table.

Table 2: Summary of 2017 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- Insurance industry employment declined from 2001 to 2015, despite the credit - Program benefits show little connection to employment growth. Program costs increased 43 percent from 2009 to 2015 while the number of employees reported by qualifying firms increased just 11 percent.
Fiscal and Economic Impact	- No economic impact could be attributed to the program due to its lack of connection to job growth - $20.9 million fiscal impact in 2015 (per 2017 evaluation)
Future Fiscal Impact Protections	- The incentive does not provide specific financial protections
Administrative Effectiveness	- Reporting and administrative issues exist.
Achievement of Goals	- Insurance industry employment declined from 2001 to 2016 as it increased in neighboring states.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the tax credit be reconfigured.
Other Recommendations	- If program is retained, reconfigure the tax credit to tie more directly to job creation.

2021 Criteria for Evaluation

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.

To assist in a determination of program effectiveness, the Incentive Evaluation Commission has adopted the following criteria:

- Change in employment for eligible insurers before/after credit;
- Distribution within the categories of number of full-time employees claimed;
- Change in payroll for eligible insurers before/after credit;
- Average wage for eligible insurers before/after credit;
- Change in employment for industry versus other states without credit;
- State return on investment.

State of Oklahoma
Incentive Evaluation Commission

Clean Burning Fuel Tax Credit Evaluation

October 1, 2021

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Key Findings and Recommendations

Incentive Overview

Oklahoma offers a one-time, non-refundable tax credit for investments in qualified clean-burning fuel and electric vehicle property; the credit can be carried forward for five years. Eligible purchases include certain vehicles, commercial fueling property and residential fueling property (as described in this report).

Recommendation: Retain – with certain modifications – the One-Time Credit Against Income Tax for Investments in Qualified Clean-Burning Motor Vehicle Fuel Property incentive.

Key Findings

- **Some studies have indicated that Oklahoma is an Electric Vehicle (EV)friendly state.** For example, one recent analysis found that Oklahoma is the number one state to own an electric vehicle. It also found that Oklahoma has one of the lowest average electricity rates in the U.S., a high ratio of charging stations to populations, and the highest year over year EV sales increase for the last two years.

- **Despite these findings, Oklahoma is not among the states with the most electric vehicles.** California has the most EV registrations of any state (more than 425,000), accounting for 41.7 percent of all EV registrations nationwide. With just over 3,400 EV registrations, Oklahoma ranks 29th among states. Further, according to a 2018 analysis, the U.S. has an average of 2.21 plug-in cars per 1,000 residents – but that varies widely from state to state. With an average of 8.64 plug-in cars per 1,000 residents, California led the group of eight states exceeding the two-car threshold, but there are 25 states with less than one plug-in car per 1,000 people, including Oklahoma.

- **Oklahoma accounts for an above-average share of the U.S.' compressed natural gas (CNG) and propane stations, but a below-average share of EV charging stations.** Oklahoma accounts for more than 10 percent of the nation's CNG stations, 1.7 percent of its propane stations and 0.5 percent of its EV charging stations. Given that Oklahoma comprises 1.2 percent of the total population of the U.S., its share of CNG and propane stations is relatively high.

Table 1: Alternative Fuel and EV Charging Stations

	Number of Stations	Oklahoma Stations	Oklahoma as % of Total
CNG	888	97	10.9%
LNG	61	0	0.0%
Propane	1,865	32	1.7%
Electric	49,623	266	0.5%

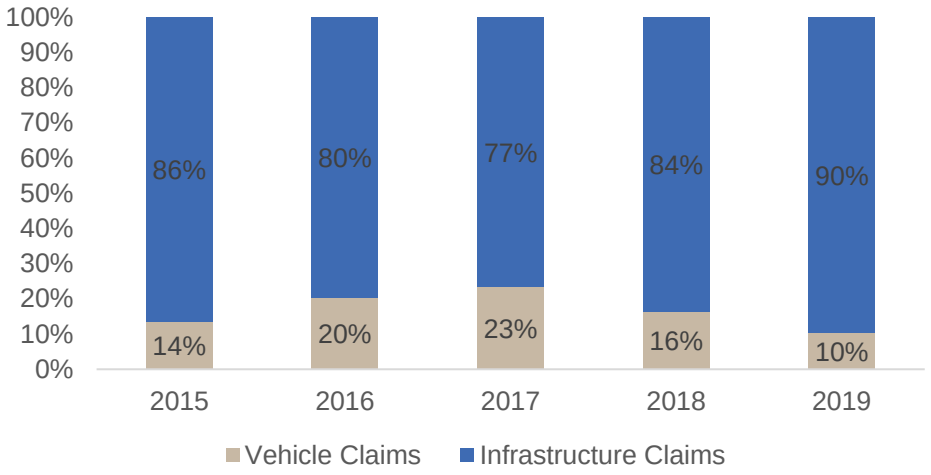
Source: Alternative Fuels Data Center

- **In the aggregate, credit activity has varied considerably in recent years.** Between 2008 and 2019, the number of taxpayers making claims increased by just under 2 percent annually, while the cost to the State (in terms of foregone tax revenue) increased by more than 27 percent. On average, more than 600 claimants make claims each year, resulting in more than $8 million annually in foregone revenue to the State.

- **The economic impacts of infrastructure related investments that result in claims is from two to four times greater than the cost of the foregone revenue.** Investments are mainly in the purchase and construction of clean burning fueling stations and charging hubs. This creates 240 jobs per year.

- **Infrastructure-related claims have accounted for the vast majority of claims over the past five years**. From 2015 to 2019, infrastructure investments were between 77 and 90 percent of all funds claimed under the incentive; vehicle-related investments made up the remaining 10-23 percent.

Figure 1: Share of Claims by Credit Type, 2015-2019



Source: Oklahoma Tax Commission

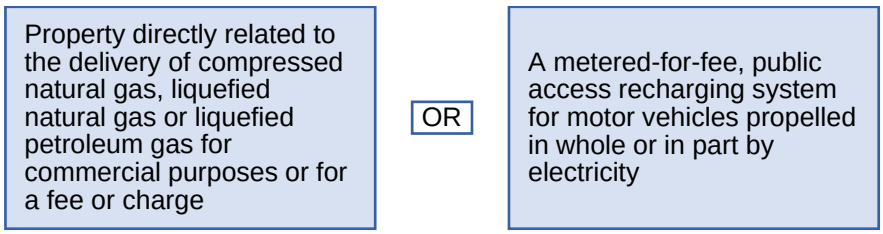
- **Legislation passed in 2019 made several significant modifications to the incentive.** HB 2095 included, among other changes, the adoption of an annual statewide cap of $20 million (effective tax year 2020 and after); a reduction in the credit percentage for commercial fueling property from 75 percent to 45 percent of the cost of property by location; and a shift in the vehicle credit calculation methodology. While the amount was previously equal to 45 percent of the cost of the vehicle, it is now based on vehicle weight, as follows:

Table 2: Maximum Vehicle Credit by Weight

Vehicle Weight	Maximum Credit
6,000 lbs. or under	$5,500
6,001-10,000 lbs.	$9,000
10,001-26,500 lbs.	$26,000
26,501 lbs. or above	$50,000

- **Certain eligibility parameters – particularly related to investments made in commercial fueling property – may lack the necessary clarity.** As outlined in current statute, to be eligible for the credit for investments made in commercial fueling property, the property purchased must meet one of the following two criteria:

Figure 2: Eligible Commercial Fueling Property Investments



In speaking with stakeholders and industry representatives as part of the evaluation process, the project team was told anecdotally that the phrases “for a fee or charge” and “metered-for-fee, public access recharging system” had been the sources of confusion for some potential claimants.

- **Administrative and reporting issues exist.** The Oklahoma Tax Commission (OTC) currently reports claims in two high-level categories: credits for vehicles, and credits for infrastructure. Because more detailed data is not collected and reported, it is not possible to know factors driving incentive usage, including the type of vehicle where the credit is being claimed (i.e. CNG, LNG or propane) and whether infrastructure-related claims are for commercial delivery of clean-burning fuel, commercial delivery of electricity, or residential delivery of clean-burning fuel.

Recommendations

- **Retain the One-Time Credit Against Income Tax for Investments in Qualified Clean-Burning Motor Vehicle Fuel Property incentive.** In 2019, HB 2095 made significant changes to the incentive program – and the impacts of those changes are not yet discernable.

- **Clarify statutory language related to eligible investments in commercial fueling property.** To avoid past and potential future confusion, the State should clarify its definitions of “for a fee or charge: and “metered-for-fee, public access recharging system.”

Introduction

Oklahoma Incentive Evaluation Commission Overview

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The Commission is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings and recommendations from the 2017 evaluation of the Ethanol Fuel Retailer Tax Credit program are summarized in Table 3:

Table 3: Summary of 2017 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- Total credits claimed peaked in 2013 but declined in the two tax years that followed. - The number of compressed natural gas (CNG) and electric vehicle fueling stations increased significantly in recent years. - Oklahoma has an above average share of CNG stations. - Oklahoma's program is comparable to other states' and was not found to be an outlier in any aspects.
Fiscal and Economic Impact	- There is insufficient data to accurately estimate or verify the total economic or tax revenue impacts of the credit.
Future Fiscal Impact Protections	- Adequate fiscal impact protections are not in place.
Administrative Effectiveness	- Data collection and reporting issues exist, but improvements are being made.
Retain, Reconfigure or Repeal	- Reconfigure by retaining infrastructure credit while sunsetting the vehicle credit.
Other Recommendations	- Structure the incentive to phase out. - Improve reporting on the credit.

Source: Incentive Evaluation Commission, 2017 Final Report: Clean Burning Fuel Vehicle Tax Credit

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation, but with modifications that included retaining the vehicle credit and the infrastructure of the program.

In 2019, HB 2095 was passed, enacting several changes to the incentive, including:

- An extension of the program's sunset date from December 31, 2019 to December 31, 2027
- The adoption of a statewide cap of $20 million annually, effective tax year 2020 and after; if credits exceed the annual cap, the OTC will annually calculate and publish a percentage by which all credits will be reduced[1]
- The commercial fueling property credit percentage was reduced from 75 percent to 45 percent of the cost of property by location
- The vehicle credit amount was previously equal to 45 percent of the cost of the vehicle but is now based on vehicle weight:

Table 4: Maximum Vehicle Credit by Weight

Vehicle Weight	Maximum Credit
6,000 lbs. or under	$5,500
6,001-10,000 lbs.	$9,000
10,001-26,500 lbs.	$26,000
26,501 lbs. or above	$50,000

2021 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 Clean Burning Fuel Vehicle Tax Credit, the program's intent is to increase the number of clean burning fuel and electric vehicles in Oklahoma. 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:

- Number of qualified credits
- Change in number qualified vehicles versus prior to credit
- Change in clean burning fuel vehicles Oklahoma versus other states

To conduct its 2021 review of the Clean Burning Fuel Vehicle Tax Credit (based on the criteria described in the preceding), the PFM project team conducted the following activities:

- Submitted a data request to the OTC
- Reviewed and analyzed OTC-provided data
- Completed subject matter expert/internal stakeholder interviews with representatives from OTC
- In collaboration with the Oklahoma City, Tulsa and State Chambers of Commerce, conducted external stakeholder interviews with industry representatives; and
- Benchmarked Oklahoma to other states.

[1] If credits reach 80 percent of the total annual limit, the OTC must notify the Office of the State Secretary of Energy and Environment.

State of Oklahoma
Incentive Evaluation Commission
Ethanol Fuel Retailer Tax Credit Evaluation

October 1, 2021

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Key Findings and Recommendations

Incentive Overview

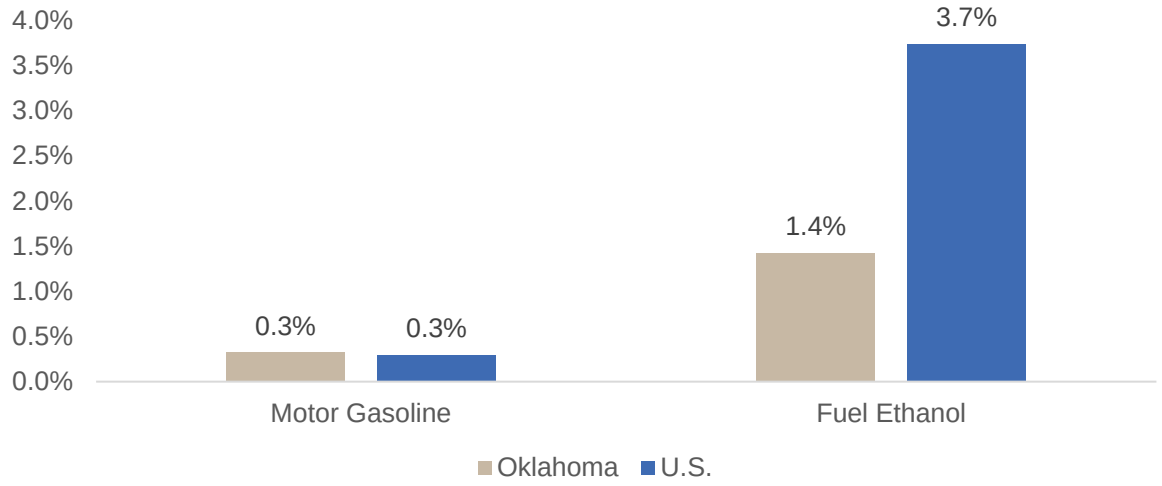
Oklahoma retailers that sell gasoline containing up to 15 percent ethanol by volume (E15) are eligible for a motor fuel tax credit of $0.016 per gallon of ethanol blended into gasoline and sold in Oklahoma. To receive the credit, the retailer must provide a price reduction to the purchaser of the ethanol fuel in the same amount.

Recommendation: Repeal the Ethanol Fuel Retailer Tax Credit incentive and re-allocate the program's financial resources to the Tax Credit for Investments in Qualified Clean-Burning Motor Vehicle Fuel Property incentive.

Key Findings

- **Growth in Oklahoma's consumption of fuel ethanol exceeds that of its consumption of motor gasoline, but it lags growth in fuel ethanol consumption for the U.S. as a whole.** Since 2008, Oklahoma's consumption of fuel ethanol has increased by a CAGR of 1.4 percent, greater than its increased consumption of motor gasoline (0.3 percent). However, the State's increase in fuel ethanol consumption is surpassed by the U.S. as a whole (3.7 percent).

Figure 1: Annual Growth in Consumption, 2008-2019



Source: U.S. EIA

- **Fuel ethanol's share of finished motor gasoline has remained relatively constant in recent years.** In 2020, the nearly 123.5 billion gallons of finished motor gasoline consumed in the U.S. contained approximately 12.6 billion gallons of fuel ethanol. This is equal to about 10 percent of the total volume of finished motor gasoline consumption. This share has ranged from 9.2 to 10.2 percent since 2010.

- **While ethanol blended fuels are widely available in Oklahoma and nationwide, the most common blend does not qualify for the incentive.** According to statute, only retailers selling fuel blends of up to 15 percent ethanol are eligible. According to the Alternative Fuels Data Center, E10 is available at nearly every fueling station, and E15 is sold at more than 2,000 stations in 30 states. By contrast, there are more than 3,500 public stations in 42 states offering E85, which does not qualify. Some stations offer multiple ethanol blends in one location, often through blender pumps.

- **Use of the incentive by Oklahoma fuel retailers has remained relatively consistent over time.** The tax expenditures associated with the incentive have ranged between $0.9 and $1.6 million annually since 2008, averaging approximately $1.2 million per year over the timeframe and increasing by a compound annual growth rate (CAGR) of 2.6 percent. The total number of companies claiming the credit in a given year has fluctuated but generally remained flat in the aggregate over the same period – a CAGR of -0.2 percent.

- **The program does not provide adequate protections – but the State is unlikely at risk of significant increases.** Currently there are no controls or caps built into the program to limit the fiscal impact of the incentive on the State. However, it appears unlikely that the credits claimed will increase significantly. In fact, given that the credit is passed along directly to the consumer, retailers do not currently have an added incentive to increase ethanol sales at their stores in order to receive refunds that exceed their investments.

- **The State's return on investment for the credit is negative.** Over the past 5 years, the additional income passed along to consumers from the ethanol fuel retailer tax credit has generated approximately $218,124 in new state tax revenue. Over this same period, the state has provided $6.6 million in tax credits. The state's return on investment (ROI) is an average loss of approximately $1.36 million per year – equal to a net loss of $6.6 million from 2016-2020.**Oklahoma's incentive structure is unique among state ethanol incentives.** Oklahoma's program is structured as a pass-through from a fuel retailer, effectively providing the benefit indirectly to consumers. Only one other state – Oregon – was found to have a program that either directly or indirectly benefits the consumer, and that incentive expired nearly a decade ago. It is more typical for states to offer incentives that benefit retailers, as opposed to consumers. Most commonly, states provide incentives for retailers aimed not at promoting ethanol blended fuels themselves, but instead at reducing the cost of necessary infrastructure investments.

- **While generally straightforward, the administrative processes associated with the incentive are not particularly efficient, which impacts the Oklahoma Tax Commission (OTC) and retailers making claims.** Claim forms are not required to be submitted on any specific schedule, so the receipt of claims can be unpredictable for the OTC staff charged with reviewing and processing them. Further (and perhaps more significantly), a separate claim form must be completed for each retail location, which may be particularly cumbersome for larger retailers with multiple locations but also comes at a cost to the State. Many studies have been done related to the cost of processing a single invoice (when taking into consideration the staff time and resources necessary to accomplish this). For example, the Institute of Finance and Management has determined that the invoice processing cost varies between $1 and $21 per invoice, while other common industry benchmarks place the cost at around $10 per invoice.

Recommendations

- **Repeal the Ethanol Fuel Retailer Tax Credit incentive and re-allocate the program's financial resources to the State's Tax Credit for Investments in Qualified Clean-Burning Motor Vehicle Fuel Property incentive.** Given the economic impact of Oklahoma's the oil and gas industry, combined with the State's lack of ethanol production facilities (despite prior efforts to spur their development), the State should sunset this incentive program and direct its funds (approximately $1.2 million a year in tax expenditure) to the State's Tax Credit for Investments in Qualified Clean-Burning Motor Vehicle Fuel Property. This incentive, also subject to evaluation by the Incentive Evaluation Commission in 2021, is targeted to the same industry (perhaps more directly, given the Ethanol incentive's pass-through structure).

Introduction

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The Commission is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings and recommendations from the 2017 evaluation of the Ethanol Fuel Retailer Tax Credit program are summarized in Table 1:

Table 1: Summary of 2017 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- Consumption of ethanol in Oklahoma has increased significantly, while consumption of gasoline has flattened. - Previously lagging the nation, per capita ethanol consumption in Oklahoma now mirrors the U.S., but its per capita gasoline consumption continues to exceed the national average. - Oklahoma's incentive is not as robust as in other states.
Fiscal and Economic Impact	- Based on economic and fiscal impact analysis, annual incentives exceed the tax revenue generated by additional household spending by Oklahoma residents. - The return on investment (ROI) for the incentive is negative. The net impact to the State is estimated to be -$6.2 million between 2011 and 2015.
Future Fiscal Impact Protections	- The incentive does not provide specific financial protections, but the State is unlikely to be at risk of significant increases.
Administrative Effectiveness	- Reporting and administrative issues exist. - There is no specific reporting requirement associated with the credit.
Achievement of Goals	- While there is some evidence that the credit had some initial effect on increasing the use of ethanol, there is little evidence that the incentive continues to 'grow the base' of those using ethanol blended fuels.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the tax credit be repealed.

Evaluation Category	Significant Finding(s)
Other Recommendations	- If the program is retained, reconfigure the tax credit application process.

Source: Incentive Evaluation Commission, 2017 Final Report: Ethanol Fuel Retailer Tax Credit

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to repeal the incentive. During the most recent session of the 58th Oklahoma Legislature, SB 412[1] was introduced to repeal the program, but the measure failed to meet necessary procedural deadlines to continue progression in the legislative process. No statutory or programmatic changes have occurred since the 2017 Commission review.

2021 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 Ethanol Fuel Retailer Tax Credit, the program's stated purpose at the time of adoption was to "increase the sale of ethanol-blended gasoline in Oklahoma." 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:

- Incentive usage over time (number and value of claims);
- Change in ethanol-blended fuel consumption versus non-blended fuel over time in Oklahoma and relative to other states;
- Change in ethanol-blended fuel as a share of total fuel consumed over time in Oklahoma and relative to other states;
- Change in number/share of fueling stations selling ethanol-blended fuel over time in Oklahoma and relative to other states; and
- State return on investment.

To conduct its 2021 review of the Ethanol Fuel Retailer Tax Credit (based on the criteria described in the preceding), the PFM project team conducted the following activities:

- Submitted a data request to the OTC;
- Reviewed and analyzed OTC-provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from OTC;
- Conducted external stakeholder interviews with industry representatives; and
- Benchmarked Oklahoma to other states.

[1] 58th Oklahoma Legislature, "Senate Bill 412." Accessed electronically at https://legiscan.com/OK/text/SB412/id/2242983

State of Oklahoma
Incentive Evaluation Commission
Coal Tax Credits Evaluation

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Key Findings and Recommendations

Incentive Overview

For nearly three decades, the State of Oklahoma has provided tax credits to incent coal production and promote the use of Oklahoma coal within the State. Since that time, however, both coal production and related employment have declined, suggesting that the industry, which was never a major employer in the State, may continue to shrink as alternative energy options continue to emerge. As currently constructed, the State's coal tax program is effectively subsidizing a few companies – with negative return on investment and support of comparatively few jobs. Currently, the State's coal tax incentives are scheduled to sunset on December 31, 2021.

Recommendation: Repeal Oklahoma's Coal Tax Incentives and reallocate the program's financial resources into industry retraining opportunities.

Key Findings

- **The electric power sector accounts for the vast majority of current U.S. coal consumption.** In the mid-20th century, the industrial sector was the primary consumer of coal in the U.S., accounting for 45 percent of total consumption. As this share declined over time, the electric power sector's share increased – and as of 2010, it accounted for 93 percent of total consumption.

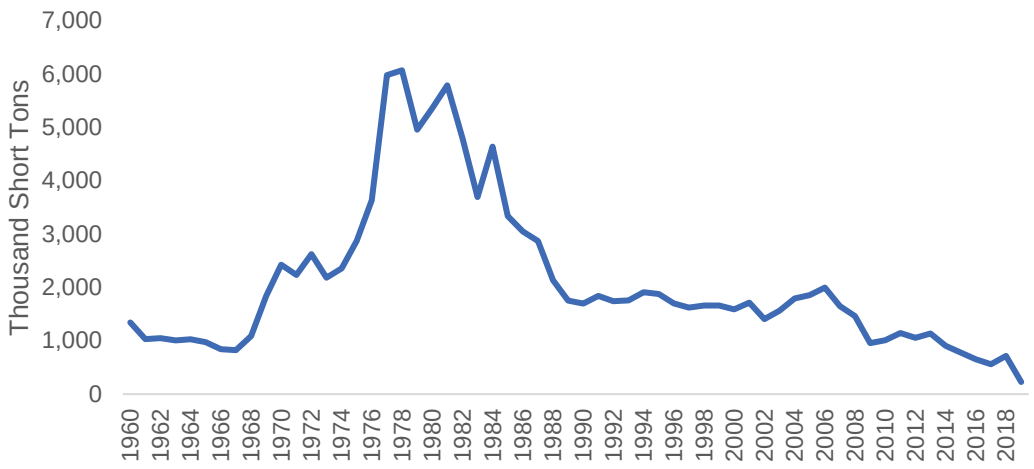
- **U.S. coal consumption and production have steadily declined in recent years.** The nation's compound annual growth rate (CAGR) of coal consumption was 6.9 percent since 2008; its annual production totals declined by a CAGR of 6.3 percent over the same time period.

- **Oklahoma is not a major coal-producing state.** A total of 23 states produced approximately 706 million short tons of coal in 2019. Among those states, just five account for more than 70 percent of the annual total. Oklahoma produces less than one-tenth of one percent of the nation's total.

- **Coal comprises a very small component of overall mining activity in the State.** In 2019, limestone, sand and gravel, granite and gypsum collectively accounted for approximately 94 percent of all Oklahoma mining production. Coal accounted for less than one-half of one percent (0.35 percent) of Oklahoma's mining totals.

- **Oklahoma's coal production totals have varied over the past six decades.** Production steadily increased in the 1960s and 1970s before peaking in 1978 at nearly 6.1 million short tons. Annual production totals have declined steadily since, and in 2019, total production in Oklahoma was just 227,000 short tons. As shown in the following figure, between the peak in 1978 and 2019, the CAGR of total production in the state was -7.7 percent.

Figure 1: Oklahoma Coal Production Estimates, 1960-2019



Source: U.S. EIA Table PT1 – Primary Energy Production Estimates, Oklahoma

- **Today, Oklahoma's coal production industry is comprised of just four companies operating seven mines with commercially viable reserves in five counties**. By comparison, in 2011, five companies operated nine mines across six counties to produce a total of nearly 1.2 million tons of coal (a reduction of 46 percent in production between 2011 and 2019).

Table 1: Oklahoma Coal Producer Information, 2019

Permittee	County	Mine	Tonnage
Phoenix Coal	Craig	Most Mine	112,883
		Spur Mine	53,331
	Rogers	Kelley Ranch	918
Total, Phoenix Coal			167,132
Farrell Cooper	Latimer	Bull Hill #2	17,386
	Le Flore	Bull Hill	73,680
Total, Farrell Cooper			91,066
Georges Colliers	Le Flore	Pollyanna #8	374,972
Joshua	Okmulgee	Metropolis	1,282
Total Coal Production			**634,452**

Source: Oklahoma Department of Mines

Credits earned and claimed under the program have generally trended downward in recent years. Between 2014 and 2019, total credits earned declined from $6.4 million to $3.2 million, and total claims used to offset tax liability declined from $4.0 million to $3.2 million,

- The state return on investment is negative, with program cost of $14.1 million compared with new tax revenue of $10.1 million from 2014-2018

- **Recent evaluations of coal tax incentives in other states have found the programs to be unnecessary and relatively ineffective.** A 2020 study of Virginia's coal tax credits determined that they generate negligible economic benefits and are no longer warranted to maintain competitiveness with other coal-producing states. Similarly, a 2020 evaluation of Colorado's coal severance tax tonnage exemption found that, while the program was meeting its purpose to some extent in the short-term, it likely did not have a significant impact on the long-term viability of mines in Colorado.

Recommendations

- **Allow Oklahoma's Coal Tax Incentives to sunset.** The program is currently set to expire on December 31, 2021. Given recent industry trends – coupled with the incentive's negative return on investment – the State should allow the program to sunset.

  Reallocate the program's financial resources into industry retraining opportunities. Oklahoma should re-allocate the incentive's (relatively minor) foregone revenue into a retraining program that prepares the State's coal miners for work in other industries – a growing trend and topic of discussion. For example, the United Mine Workers of America (UMWA) has come out in support of the transition from reliance on fossil fuels to renewable energy and has outlined principles that will preserve coal jobs, create new jobs and preserve coalfield families and communities. Among its recommended actions, the UMWA has proposed a national training program for dislocated miners and spouses to prepare workers to meet jobs associated with or other industrial jobs. This program would be delivered by career training centers with proven track records of successfully training miners.

Introduction

Incentive Evaluation Commission Overview

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 of 2015 to produce objective evaluations of the State of Oklahoma's wide array of economic incentives. The Commission is made up of five members appointed by the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives, along with 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 incentive and effectiveness of administration, as well as criteria specific to each incentive.

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 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 is charged with considering the independent evaluator's facts and findings – as well as all public comments – before voting to retain, repeal or modify each inventive under review. It then submits a final report to the Governor and Legislature.

Summary of 2017 Evaluation Findings and Recommendations

Based on the preceding framework, significant findings and recommendations from the 2017 evaluation of Oklahoma's Coal Tax Credits program are summarized in Table 2:

Table 2: Summary of 2017 Evaluation Findings and Recommendations

Evaluation Category	Significant Finding(s)
Overall Findings	- Coal production in Oklahoma has decreased over time. - Coal industry jobs in the State have decreased over time. - Average annual pay in the mining industry is consistently higher than the average annual pay across all private industries in Oklahoma. - There is no evidence of increased capital investment associated with the coal credits. - It is difficult to evaluate the importance of the coal tax credits on the long-term outlook for the sector. - Relative to other states, Oklahoma's coal incentives are generous.
Fiscal and Economic Impact	- It is not possible to evaluate the State's full return on investment (ROI) due to data limitations.
Future Fiscal Impact Protections	- Adequate protections appear to be in place.
Administrative Effectiveness	- Reporting and data collection issues exist, but improvements are being made.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the incentive be repealed.
Other Recommendations	- If program is retained, modify to create a more direct link between industry jobs and eligibility for the credit.

Evaluation Category	Significant Finding(s)
	- If program is retained, continue to improve data collection associated with the credits to allow for increased ability to analyze program impacts.

Source: Incentive Evaluation Commission, 2017 Final Report: Coal Tax Credits

Based on PFM's analysis and consideration of other factors, the Commission recorded a split vote (due to a member absence). Subsequently, the Legislature passed HB 1034 which, effective January 1, 2018, capped the program at $5 million annually. The Oklahoma Tax Commission (OTC) is to calculate and publish a percentage by which credits will be reduced if aggregate credits exceed the cap.[1]

2021 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 Oklahoma's Coal Tax Credits, the stated purpose at the time of adoption was not explicitly stated, but presumably is to incent the use and production of Oklahoma-mined coal. 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:

- Incentive usage over time (number and value of claims);
- Change in coal production over time in Oklahoma and relative to other coal-producing states;
- Change in Oklahoma's share of coal production over time;
- Change in number of coal producers/sites over time in Oklahoma and relative to other states;
- Change in number of consumers of Oklahoma coal over time; and
- State return on investment.

To conduct its 2021 review of Oklahoma's Coal Tax Credits (based on the criteria described in the preceding), the PFM project team conducted the following activities:

- Submitted a data request to the OTC;
- Submitted a data request to the Oklahoma Department of Mines;
- Reviewed and analyzed OTC and Department of Mines-provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from OTC; and
- Benchmarked Oklahoma to other states.

Oklahoma's Coal Tax Credits are currently scheduled to sunset on December 31, 2021.

[1] Reference HB 1034 of 2018. The formula is as follows: $5 million (cap) divided by the credits claimed in the second preceding year. In the event that total credits authorized exceed $5 million per calendar year, the OTC will permit any excess over $5 million but will factor the excess into the percentage adjustment formula for subsequent years. Credits authorized but not able to be used due to this rule can be carried over until fully used.