

**INCENTIVE EVALUATION COMMISSION  
HYBRID SPECIAL MEETING MINUTES**

**Oct. 22, 2020**

**Oklahoma Department of Commerce  
900 N. Stiles Avenue  
Gallery Rm. 1-1, 10:00 a.m.  
Oklahoma City, Oklahoma 73104  
Virtual WebEx Platform**

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 – *In-person*  
Carlos Johnson, Certified Public Accountant – *In-person*  
Mandy Fuller, CPA, Auditor of Private Company – *In-person*  
Dr. Cynthia Rogers, Economist – *Videoconference*  
Earl Sears, Layperson – *In-person*  
Comm. Charles Prater, Ex Officio; Non-voting (Tax Commission) – *In-person*  
Brandy Manek, Ex Officio; Non-voting (OMES) – *Videoconference*  
Brent Kisling, Ex Officio; Non-voting (Dept. of Commerce) – *Videoconference*

**MEMBERS ABSENT:** None.

**STAFF/GUESTS:**

|  |   |
|--|---|
| Beverly Hicks, OMES                    | Jon Chiappe, ODOC - virtual                 |
| Taylor Ferguson, OTC - virtual         | Deena Kimball, PFM - virtual                |
| Josh McGoldrick, ODOC                  | Ian Parnell, PFM - virtual                  |
| Leslie Blair, ODOC                     | Stanley Geberer, PFM - virtual              |
| Nicole Boyles, ODOC                    | Frank V. Roesler III, ODOT                  |
| Randall Bauer, PFM                     | David Oakley, LegisOK                       |
| Ellen Harpel, PFM - virtual            | Shawn Ashley, ECapitol - virtual            |
| Elizabeth Osburn, Mass Arch. - virtual | Brien Thorstenberg, Tulsa Chamber - virtual |

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

Chairman Roggow called this hybrid special meeting to order at 10:03 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 amendments to the Open Meeting Act made by enrolled Senate Bill 661 (2020).

**2. Approval of minutes from the October 1, 2020, Commission hybrid special meeting:**

Earl Sears moved to approve the special meeting minutes for August. Carlos Johnson seconded the motion. The following votes were recorded and the motion passed:

Mr. Johnson, aye; Ms. Fuller, abstain; Dr. Rogers, aye; Mr. Roggow, aye; Mr. Sears, aye.

### 3. Discussion and public comment on Year Five, 2020, Incentive Evaluations:

**Five Year Ad Valorem Tax Exemption** [*Retain with modifications: - Establish more targeted program requirements (wages, specific industries); - Increase notice and reporting requirements; Consider methods to increase local financial involvement.*] There were no public comments virtual or in-person.

**Tax Credit for Electricity Generated by Zero Emissions Facilities** [*Retain the existing sunset.*] There were no public comments virtual or in-person.

**Aerospace Employer and Employee Tax Credits** [*Retain: - The State should consider changes to the accreditation requirements; - There are also reporting requirement changes that would enhance the information available for evaluation.*]

Victor Bird, Oklahoma Aeronautics Commission (OAC)

Mr. Bird, Director of the Oklahoma Aeronautics Commission provided the following comments regarding IEC Draft reports addressing the Aerospace Employer and Employee Tax Credits:

#### Aerospace Employer and Employee Tax Credits Evaluation

At the outset I must note that this draft report is very good, particularly the information regarding the economic impact of these tax credits. I do not believe in the 12-year history of these tax credits (with a brief 6-month hiatus when the Legislature suspended them in the 2010 legislative session) that I have seen a better, more thorough analysis of the economic impact of these tax credits.

As the report points out on p. 4, there was a critical shortage of engineers in the aerospace industry in the early part of the 21st century that drove the introduction of the legislation in 2007. The industry must have adequate engineering talent in order to thrive. Whether it's the pressurized cabin, the jet engine, winglets, or the Apollo Space Program, those things do not happen without engineers. The purposes of the legislation were to encourage more engineers, in and out of the state, to go to work for an aerospace employer in Oklahoma, and to encourage aerospace employers to hire more engineers in Oklahoma. Both purposes have been well served by the legislation.

All I have are actually points of clarification with respect to the legislation. I wrote the original legislation, and the Aeronautics Commission championed their passage in the 2008 session. The credits were originally introduced in the 2007 session and were popularly known as the Engineer Workforce Bill for Aerospace. They are more widely known now as the Engineer Tax Credits for Aerospace.

P. 4: In footnote 1 you note that the credit for tuition reimbursement for aerospace employers is not in use. That is correct; it has been rarely used. I blame that more on the fact that neither the Aeronautics Commission nor the Commerce Department has publicized or explained this credit enough. I am aware of companies that do pay for or reimburse an engineer's education, but they do not claim this credit.





The aircraft excise tax is, on average, responsible for 90% of the funding to the Aeronautics Commission, which then invests, on average, 83% of its revenue into aviation infrastructure across the state. Between 2001 and 2015, the Aeronautics Commission received 100% of the aircraft excise tax collected. Starting in FY 2016, a \$4.5 million cap was placed upon the amount of revenue from this tax that went to Aeronautics. While the amount of money that has gone to the general fund, a little over \$1.1 million, is not much from the perspective of the overall state budget, to the Oklahoma Airport System (OAS) that is significant as this amount would pay for a major runway rehabilitation, several terminal grants (\$500,000 each as part of the Aeronautics Terminal Grant Program), several airport lighting systems, etc. \$1.2 million will actually pay for a lot in the airport world, particularly general aviation airports that are in almost every county in the state. The cap contradicts the implied trust fund agreement (similar to that at the federal level) existing between aircraft owners, the users of the OAS, and the State of Oklahoma.

As stated in your report, on p. 6, the exemptions to the aircraft excise tax need to be examined to determine if they have an explicit policy goal and make sense. They also need to be examined to make sure that the OTC has the tools to ensure the exemptions are administered with accountability and integrity. House Bill 2253, as noted in your report on p. 16 of your report, is an example of making sure OTC has the tools needed to ensure accountability in administering these tax credits.

HB 2253 was the culmination of a 15-year effort by the Aeronautics Commission to have accountability in the administration of the exemption addressed in HB 2253, commonly referred to as the “charter exemption.” The first time the IEC addressed this particular exemption and pointed out this problem helped Aeronautics in its advocacy of HB 2253. Of the 26 states that provide a charter exemption to the payment of an aircraft excise or sales tax (24 states do not allow such an exemption), Oklahoma was the only one that had no requirement that the exempted aircraft actually be used for charter operations. In other words, in Oklahoma it was enough that you simply quacked like a duck, you did not need to walk like one. All other states required that at least 50% of the aircraft’s operations be charter in order to receive the exemption (Kentucky requires exclusive charter use, and Maine requires exclusive for the first two years and 80% charter operations thereafter). Incredibly, we simply had no requirement that the aircraft actually be used for charter operations. HB 2253 changed that, and now 50% of the exempted aircraft’s operations have to be charter. Over the last several years, this requirement has probably been the major reason the amount of revenue lost through these exemptions has declined.

All these exemptions need to be examined as recommended in your report. The OTC must be given more tools to ensure accountability in the administration of these exemptions. Another specific exemption that begs for examination is the exemption for aircraft owned by dealers noted in p. 15 of your report. The critical issue with respect to this particular exemption is the definition of *aircraft dealer* in the Oklahoma Statutes. The definition is very loose as certain requirements (e.g., selling 3 aircraft within 18 months) that ensured more accountability were removed in approximately 2004 to provide some relief to dealers that had been negatively impacted by the 2003 recession. As recent as a year ago, I discussed the restoration of these requirements to ensure more accountability with respect to the dealer exemption with the OTC. At that time it appeared that the OTC wanted to do just that. The requirements need to be restored.

Your report brings into sharp focus the way in which the state has chosen to fund investment in its airport system through the aircraft excise tax as compared to other states that have chosen their aircraft fuel tax. Most of the states around us utilize this fuel tax for the purpose of making a reasonable investment in their airport systems. The aircraft fuel tax garners on average for Louisiana, \$25-28 million, Arkansas, \$11-14 million, and Colorado, \$13-20 million. That Oklahoma has chosen the aircraft excise tax as its primary investment vehicle exacerbates the need to ensure that the exemptions make sense and that there is accountability in their administration. On behalf of the Aeronautics Commission, I sincerely thank you for bringing the needed focus to this issue.

These will be the last comments I submit to you as the Director of Aeronautics for the State of Oklahoma as I have announced my retirement effective November 1. As such, I would like to sincerely thank the Incentive Evaluation Commission and your consultant for the critical work it has done with respect to the tax incentives offered by the state. As the brainchild of former Representative Dave Dank (my Representative), and certainly former Representative Earl Sears, your work has proven invaluable insofar as protecting the citizens of Oklahoma and making sure that we get the best bang for the buck when it comes to incentives. I know several of you and I admire your dedication to this endeavor that I am sure seems thankless at times. Please know that is not the case. Please continue your good work that some may see as “good trouble.” Good for you.

Public comment only.

#### **4. Announcements:**

Chairman Roggow made known that the next meeting will be held at the Oklahoma Department of Commerce on Thursday, November 12, 2020 at 10 a.m.

#### **5. Adjourn**

There being no further business, Mr. Sears made the motion to adjourn. Ms. Fuller seconded the motion. Seeing no opposition, the meeting adjourned at 10:52 a.m.