

**INCENTIVE EVALUATION COMMISSION
HYBRID SPECIAL MEETING MINUTES**

Nov. 12, 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 – *Videoconference*
Mandy Fuller, CPA, Auditor of Private Company – *Videoconference*
Dr. Cynthia Rogers, Economist – *Videoconference*
Earl Sears, Layperson – *Videoconference*
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 – <i>In-person</i>	Jeremy Stoner, ODFa
Taylor Ferguson, OTC	Grayson Ardies, OAC
Leslie Blair, ODOC – <i>In-person</i>	Chase Beasley, American Airlines
Randall Bauer, PFM – <i>In-person</i>	Jamie Longacre
Ellen Harpel, PFM	Sieana Mackiewicz, ODOT – <i>In-person</i>
Jon Chiappe, ODOC	Bart Vleugels, ODOT
Deena Kimball, PFM	Gloria Ross, OMES
Ian Parnell, PFM	David Oakley, LegisOK – <i>In-person</i>
Stanley Geberer, PFM	Shawn Ashley, ECapitol
Julia Kirt, Senate	

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

Chairman Roggow called this hybrid special meeting to order at 10:13 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 22, 2020, Commission hybrid special meeting:

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

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

3. Discussion and possible action on Year Five, 2020, Incentive Evaluations. Possible action may include to approve, disapprove, modify or take no action.

Discussion and possible action on Five Year Ad Valorem Tax Exemption – PFM recommended to retain, with the following modifications:

- Establish requirements that better target the program toward the State’s economic development goals. Targeting the program toward more specific industries could help control costs, which have increased dramatically in recent years. Requirements related to average wage would also control costs and increase the potential economic impact of the program and return on investment for the State.
- Establish minimum wage requirements for qualifying facilities. The Quality Jobs Program requires wages equal to at least the minimum of the county average wage or a “State threshold wage.”
- Require qualified facilities to at least maintain employment levels in addition to payroll throughout the five-year exemption period. One of the State’s other major incentives, the Investment/New Jobs Tax Credit, requires that the incented capital investment not result in any decrease in employment. Incorporating a similar requirement for the ad valorem exemption could help protect against loss of employment.
- Require advanced notification in order to qualify for an exemption. A central goal of incentive programs in general is to induce activity that would otherwise not occur. However, under current program rules, a facility can apply for a tax exemption for construction or an expansion that has already occurred, meaning companies who did not consider the exemption in its project decision-making process can still benefit from the program.
- Increase program transparency. Data provided by applicants is not available for evaluation purposes.
- Require local government financial participation. This will help ensure that local governments accurately assess and assist with administration of program requirements.
- Improve annual reporting by including metrics on program benefits.
- Report exemption data based on North American Industry Classification System (NAICS) code rather than OTC categories.

Earl Sears moved to approve the recommendation of PFM to retain, with modifications. Cynthia Rogers seconded the motion. The following votes were recorded and the motion passed:

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

Tax Credit for Electricity Generated by Zero Emissions Facilities – PFM recommended to retain the existing sunset:

Earl Sears moved to approve the recommendation of PFM to retain the existing sunset. Cynthia Rogers seconded the motion. The following votes were recorded and the motion passed:

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

Aerospace Employer and Employee Tax Credits – PFM recommended to retain:

Recommendations Pertaining to Employer Tax Credits:

- Enhance employer reporting to show overlap with the State’s Quality Jobs incentives. There is possible overlap among the two incentives exists, but the current data does not support an analysis of this overlap. There are also reporting requirement changes that would enhance the information available for evaluation.

Recommendations Pertaining to Employee Tax Credits:

- Consider broadening the employee tax credit incentive eligibility. The employee tax credit is limited to employees who have been awarded an undergraduate or graduate degree from a qualified program accredited by the Engineering Accreditation Commission of ABET. The employee must not have been employed in the aerospace sector in Oklahoma immediately preceding employment with the employer. The State should consider these restrictions in conjunction with statewide economic development goals, as well as the goals of the incentive itself. It may be reasonable to loosen the ABET accreditation requirements to allow graduates of non-ABET accredited programs to qualify.
- Clarify eligibility requirements in statute.

Mandy Fuller moved to approve the recommendation of PFM to retain. Cynthia Rogers seconded the motion. The following votes were recorded and the motion passed:

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

Film Enhancement Rebate – PFM recommended to retain but monitor:

- While the program has a potentially low return on investment and is limited to a small group of beneficiaries, there has been an increase in activity since the program cap was raised and the sunset extended. Given improved program administration and some of the expected economic activity for FY2020 has, because of COVID-19 been put on hold, the project team recommends that this incentive “stay the course,” and revisit the program after the impacts of increasing the annual cap to \$8 million can be more fully analyzed and understood.

Earl Sears moved to approve the recommendation of PFM to retain, but monitor. Cynthia Rogers seconded the motion. The following votes were recorded and the motion passed:

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

Historic Rehabilitation Tax Credit – PFM recommended to retain and revisit in the future:

- Currently, the program has no cap as it provides a one-for-one match with the federal credit. The lack of a cap could theoretically increase the cost burden to the State beyond the point of desirability. However, given the recent trend of decreased program utilization, in terms

of the foregone revenue to the State, the project team does not believe the lack of a cap poses a real financial threat at this time.

Mandy Fuller moved to approve the recommendation of PFM to retain and revisit in the future. Carlos Johnson seconded the motion. The following votes were recorded and the motion passed:

Mr. Johnson, aye; Ms. Fuller, aye; Dr. Rogers, aye; Mr. Roggow, aye; Mr. Sears, no.

The vote was 4 to 1 in favor of PFM's recommendation. After the motion passed and before moving onto the next item Chairman Roggow asked Mr. Sears for clarification on his vote. Mr. Sears reconfirmed his vote of no and said that he tried to speak up before the vote took place, but was having technical issues with virtual connection to the meeting. He fully understands the recommendation and supports the credit, but believes a cap is needed for this particular incentive. Dr. Rogers concurred and said she also supports a cap and believes that caps are useful and for fiscal protection. Chairman Roggow asked both members to write a letter to be added into the end-of-the-year report addressing their beliefs in the program including a recommendation to the Legislature to consider adding a cap.

Chairman Roggow asked commission member Mandy Fuller who made the initial motion to approve the recommendation made by PFM, if she would allow an amendment made to her motion. Ms. Fuller accepted and agreed that a cap is a good idea and understands there is not a huge risk at this point and time, but a cap could not hurt by any means. Commissioner Carlos Johnson who seconded the original motion agreed with the amendment. There was discussion about what the recommendation for the cap should be. PFM Consultant Randall Bauer, recalled back in 2016, that their firm made the recommendation of a cap, but could not recall the specific amount and asked for additional time to look it up during the meeting.

Carlos Johnson moved to table the recommendation of PFM for further consideration during the meeting. Earl Sears seconded the motion. The following votes were recorded and the motion passed:

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

Carlos Johnson moved to bring back the discussion and possible action on the Historical Rehabilitation Tax Credit. Mandy Fuller seconded the motion. The following votes were recorded and the motion passed:

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

Mr. Bauer reported that on page 27 of the 2016 Historic Rehabilitation Tax Credit report PFM recommended that the Legislature should put a cap on the program. That recommendation did not include a specific dollar figure. He read the last paragraph of the report that stated, "The project team recommends that Oklahoma adopt an annual cap to ensure some measure of future budget predictability. Further, in order to keep administration burdens to a minimum, once a program cap has been placed, the team recommends the projects be accepted on a first-come-first-serve basis in lieu of a supplementary assessment procedure."

Mandy Fuller moved to approve the recommendation of PFM to retain and revisit in the future, but with modification to include a cap. Cynthia Rogers seconded the motion. The following votes were recorded and the motion passed:

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

Industrial Access Road Program – PFM recommended to retain with the following modifications:

- Incorporate assistance from the Department of Commerce to evaluate the economic impact of projects that are applying for funding. Some level of joint administration with an economic development agency provides expertise to Departments of Transportation which are typically not well-equipped to evaluate the economic impact of projects.
- Collect average wage of new jobs for each project to further evaluate economic impact. Without this information, it is difficult to determine State economic impact.
- Collect information regarding other incentives received by the project. Formal collection of this information would help evaluators to determine how meaningful the incentive is in inducing location or expansion.
- Create clear standardized definitions of jobs and capital investment. There is the lack of detail regarding the jobs and capital investment associated with projects receiving funding. For many of the State's incentive programs, these terms are defined within the program's establishing statute. However, the administrative rules governing the Industrial Access Road Program do not include definitions or requirements for jobs and capital investment. While ODOT has collected jobs and capital investment figures for each of its projects, without these standards there is room for different interpretation from project to project.
- Create a standard application form. ODOT currently administers the Industrial Access Road Program via a request letter process. Introducing a standard application form to be completed would streamline administration of the program and provide an opportunity to ask specific questions of applicants.

Mandy Fuller moved to approve the recommendation of PFM to retain with modifications. Cynthia Rogers seconded the motion. The following votes were recorded and the motion passed:

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

Quality Events Incentive – PFM recommended to retain, with modifications:

- Replace “actual documentation” with a standardized economic impact study form that identifies all the information needed to determine economic impact. The “actual documentation” that is required to be submitted after the event is not clearly defined in statute, and stakeholders sometimes submit information that is not useful to OTC's determination of incremental state sales tax revenue.
- Remove the statutory requirement that host communities submit the actual documentation 30 days after the event ends. Stakeholders believe that 30 days is not enough time to gather all the materials necessary for OTC to determine the event's economic impact. Stakeholders need to obtain this data from their vendors, and the time it takes to do so varies.

- Collect data that will better help determine the program's economic impact on the State. This includes the number of event attendees, number of event participants, length of the event, ratio of local to non-overnight attendees, ratio of local to non-overnight participants, average daily spending, and total cost of the event.

Carlos Johnson moved to approve PFM's recommendation to retain, with modifications. Earl Sears seconded the motion. The following votes were recorded and the motion passed:

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

Oklahoma Capital Investment Board – PFM recommended to retain the existing program sunset:

- The goals of OCIB are currently advanced by State programs that are better aligned with the principles of well-designed state venture capital programs.

Carlos Johnson moved to approve PFM's recommendation to retain the existing program sunset. Mandy Fuller seconded the motion. The following votes were recorded and the motion passed:

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

Excise Tax Exemption on Aircraft Sales – PFM recommended to reconfigure with a specific policy goal:

- Focus the excise tax exemptions around a specific policy goal. As currently structured, none of the State's excise tax exemptions for aircraft sales include policy goals. Well-defined goals facilitate the identification of policy targets (e.g., private sector jobs) and the identification and design of specific policy instruments (e.g., wage-based corporate tax credits to promote employment creation). In this case of this incentive, a specific policy goal might be to increase aerospace manufacturing industry employment.
- Improve the data collection process. The OTC may consider updating its exemption application form to require that the dealer explain whether the sale was taxable or exempt, and if exempt, for what reason.
- Identify the history of/basis for each excise tax exemption and evaluate whether it aligns with the State's economic and policy goals. If an exemption is found to be out of alignment, consider repealing the specific tax preference.

Earl Sears moved to approve PFM's recommendation to reconfigure with a specific policy goal. Carlos Johnson seconded the motion. The following votes were recorded and the motion passed:

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

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

Carlos Johnson moved to approve acceptance of final report by PFM. Earl Sears seconded the motion. The following votes were recorded and the motion passed:

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

4. Discussion and possible action to approve 2021 meeting dates, all at 10 a.m.

Jan. 21	Oct. 14	Dec. 9
Mar. 25	Oct. 28	
Aug. 26	Nov. 18	

Mandy Fuller moved to approve the IEC meeting dates of 2021. Earl Sears seconded the motion. The following votes were recorded and the motion passed:

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

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 11:39 a.m.