



Oklahoma Incentive Evaluation Commission

Draft Incentive Evaluations' Findings and Recommendations

October 10, 2024

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Today's Agenda

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



Introduction

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



Activities Since Providing Incentive Evaluation Working Drafts

- Non-public working drafts were provided to the Commission members on August 16 and 19.
- Working drafts contain no findings or recommendations, and they do not include an economic impact analysis.
- Much of the work since mid-August has focused on conducting the economic impact analysis and developing the recommendations.
- In some instances, additional background work was done.
- The Commission members received red-lined copies that identify the changes from the working drafts.



Oklahoma Rural Jobs Program

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

Recommendation: Allow program to sunset in 2032, with another review in 2028.

- **Findings:**

- **The Department has issued \$20 million each to five rural funds.** These funds had to demonstrate that they invested at least \$100 million in nonpublic companies located in U.S. counties with a population of less than 75,000. They also had to provide a business plan prepared by an independent economic forecasting firm that included a 10-year revenue-impact assessment projecting state and local tax revenue to be generated by the applicant's proposed qualified investments.
- **Through May 2024, the five rural funds have committed to investing \$40.3 million in 15 businesses.** These businesses employ a cumulative 359 full time and 9 part time employees. The funding amounts ranged from \$440,000 to \$6.5 million.
- **Projects must be located in a rural area for 70 percent of the funds and have at least 60 percent of its employees or payroll located in Oklahoma.** These requirements open the potential for investments that are not in areas that the program was originally intended to support.
- **Performance reports for these funds are not due to the Department until December 2024.** The metrics provided in the performance report are the same metrics as those listed in the application. Given the timing of the performance reports, in some respects this evaluation is premature.



Oklahoma Rural Jobs Program (continued)

▪ Findings:

- **To date, the program has a net negative fiscal impact to the State.** It operated at a loss of \$36 million when comparing the amount of funding invested and the state tax revenue generated as a result.
- **Georgia’s Agribusiness and Rural Jobs Act, the model for Oklahoma’s program, operated at a net loss to the State.** In an evaluation of Georgia’s rural jobs incentive program, it was determined that the program generated less tax revenue than the amount of credits issued.
- **The Rural Jobs Act meets some of the best practices identified for incentive programs.** For example, it **leverages private capital** to provide **targeted investments** to rural areas of the state. It also requires the rural funds to provide summary **performance reports** after the first two years of the program, creating a level of **transparency** needed to operate a successful incentive. The program is also **capped** at \$100 million to be distributed over a period of six years, which was distributed equally to five rural funds in 2022. This protects the State’s financial health and allows the program to be reviewed before a potential renewal.

▪ Additional Recommendation:

- **Allow the program to sunset on schedule and revisit the program evaluation after the rural funds issue their required program reports in December 2024.** Given that the \$100 million has been allocated based on the statutory requirements, program changes in mid-stream are probably unwise. While other benchmarks demonstrate this program will likely operate at a net loss to the State, the logical course is to re-examine the program after program performance reports are provided by the five funds in December 2024.





Invest in Oklahoma Program

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

Recommendation: Retain with modifications and remove from future evaluation.

- **Findings:**

- **Public pension plans in the United States manage a combined \$5.3 trillion in assets, providing the potential for targeted investments that can benefit industries and areas that are generally not considered by private equity or venture capital firms.** However, pension fund managers generally prioritize the financial success of their investments and are bound by confidentiality rules that limit the amount of data about investments that can be shared externally.
- **Currently, this program does not meet the technical definition of an incentive to be evaluated within the Oklahoma incentive evaluation statute.** Participation in this program is encouraged but not mandatory. Further, participating pension funds do not receive any compensation or other forms of incentives in exchange for investing in the approved funds.
- **The current statute does not provide guidance or rules on reporting performance.** While Chapter 62 §2401 provides the factors used to select venture capital and growth funds to participate in the program, there are no statutory requirements for data reporting to understand the performance of the investment funds.
- **There are barriers to receiving performance reports.** The Department of Commerce reports that due to the proliferation of nondisclosure agreements in the financial sector, it is difficult to receive specific performance reports of how the pension funds' investments are performing, or whether they are specifically being invested in Oklahoma-based businesses.



Invest in Oklahoma Program (continued)

▪ Findings (continued):

- **As a result of these performance reporting barriers, it is not possible to complete an economic impact analysis of this program.** The Department does not receive enough data from each fund to align the amount invested with specific NAICS codes or other economic indicators that would allow for a targeted economic impact analysis.
- **Benchmark programs vary in terms of their prioritized outcomes.** Some states, such as California, New Mexico and Florida, prioritize generating economic activity within the state, whereas other states, such as New York and Wisconsin, prioritize a positive return on investment for participating funds.
- **New Mexico's program, the model for Oklahoma, has attracted \$2 billion in investments to New Mexico from out-of-state investors as of 2017.** These funds have been invested in start-ups in the healthcare, aviation, software, cleantech, energy, and technology sectors. It should be noted that the New Mexico program invests state funds from a variety of non-pension funds, and this changes some of the nature of the concern for protecting the corpus of these funds.

▪ Additional Recommendations:

- **Retain the program with the addition of reporting guidelines to track the performance of investments made by participating pension funds and/or increased economic investment within the state, such as number of companies invested in within Oklahoma or each fund's annual return on investment.**
- The incentive evaluation statute defines an incentive as “a tax credit, tax exemption, tax deduction, tax expenditure, rebate, grant, or loan that is intended to encourage businesses to locate, expand, invest, or remain in Oklahoma, or to hire or retain employees in Oklahoma.” This program does not provide a tax credit, tax exemption, tax deduction, tax expenditure, rebate, grant, or loan. As a result it does not fall within the statutory definition of a program eligible for review by the Incentive Evaluation Commission. **It is recommended that it be removed from the list of incentives for future evaluations.**



Oklahoma Leverage Act

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

Recommendation: Retain with modifications.

▪ Findings:

- **The Leverage Act provides specific eligibility requirements for companies to receive the matching payments.** To be eligible, it must meet one of the following: 1) it must locate its facility within an Enterprise Zone or expand its existing facility after an Enterprise Zone is designated, 2) it must be in an Enterprise Zone or in support of a “major tourism destination project” which will “significantly benefit” contiguous or nearby enterprise zone census tracts, or 3) it must be in a community experiencing military growth impacts as the result of a nearby base.
- **There are limitations within each geographic area to how much of the incentive projects can receive.** For example, the maximum amount of aggregate investment projects within each county can receive cannot be more than the \$200 per individual residing in the county. The total amount within each county cannot exceed \$40 million, unless the population is less than 100,000 people, in which case the county is eligible for at least \$20 million.
- **Applicants must prove their eligibility for Leverage Act funding.** Companies must submit an estimate of incremental revenues likely to be derived from the project and a certification that all projects described within the related project plan will generate, in the aggregate, a minimum of either \$1 million in payroll or \$4 million in investment.
- The Enterprise Zone Incentive Leverage Act currently has six in its portfolio; five are enterprise zones located in Oklahoma City and one is a military growth area in Lawton. **The Department estimates that these zones will have 373,000 out-of-state visitors, employ 2,400 individuals, and contribute \$283 million in payroll. They will attract a combined \$536 million in investment.**



Oklahoma Leverage Act (continued)

- **Findings (continued):**

- **Current confidentiality requirements prevent an economic impact analysis of individual projects.**

Employment and payroll data is only able to be shared in the aggregate, preventing an analysis of individual projects.

- **The program had a net positive fiscal impact to the State.** However, these calculations are estimates given that employment and payroll data cannot be disaggregated by project.

Estimated Net Impact

Year	Total Appropriation	Estimated Oklahoma Tax Revenue	Net Impact
2023	\$541,990	\$18,466,429	\$17,924,439

- **Since its last evaluation, the Leverage Act has improved its reporting capacity to evaluate the success of the program.** Beginning July 2024, active TIF Districts are required to report progress to the Department of Commerce (Department). Additionally, the Department now uses the foot traffic software Placer Labs to measure the number of visitors from out of state before and after the project completion for tourism projects.

- **Additional Recommendation:**

- **Create requirements to allow for more specific reporting regarding payroll and employment information.**

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



Seed Capital Fund

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

Recommendation: Retain.

▪ Findings:

- **From FY 2018 to FY 2023, appropriations from OCAST to the seed capital fund were similar and averaged \$2.9 million per year.** The fund is sustained from these state appropriations as well as returns on previous investments.
- **From FY 2019 to FY 2023, OSCF made a total of 41 investments.** These investments were distributed to 28 companies and amounted to \$16.6 million.
- **From FY 2019 to FY 2023, total capital investment in Oklahoma by companies receiving OSCF funding has reached \$192 million.** This is additional private investment leveraged independently of OSCF funds.
- **From FY 2019 to FY 2023, firms receiving seed capital funds created or retained 213 jobs in Oklahoma with \$14.5 million in payroll.** These jobs and payroll were directly reported by companies receiving funds in an annual survey conducted by OCAST.
- **The most common OSCF investment recipients are companies operating in the computer software/information technology or biotechnology/pharmaceutical industries,** accounting for 9 and 5 firms respectively. Other common industries that received funding were manufacturing, and healthcare.



Seed Capital Fund (continued)

- **Findings (continued):**

- **Most firms receiving funding are located in Oklahoma City or Tulsa**, accounting for 16 of 22 firms that are still operating.
- **The economic impact of OSCF in 2023 created 913 jobs, had \$39.7 million in labor income, \$124.0 million in economic activity, and \$2.6 million of state tax revenue.** Accounting for the \$16.6 million of funds advanced, for every \$1.00 of seed capital funds advanced, \$7.47 was generated in economic activity and \$0.16 in state tax revenue.
- **The pre-seed component of this program is intended to replace the Technology Business Finance Program (TBFP).** The TBFP, another program administered by OCAST, was discontinued as of July 1, 2024 and provided funding to qualified businesses, typically in the range of \$20,000 to \$50,000.

- **Additional Recommendation:**

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



Small Business Incubator Tenants Tax Exemption

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

Recommendation: Retain, with minor modifications.

Findings:

- **In 2023, 405 full-time jobs were provided by tenants and 1,135 full-time jobs were provided in 2022.** The number of certified incubators was 25 in 2023, down from 29 certified incubators in 2022. The number of certified incubators has decreased in recent years, thereby increasing the average number of tenants per incubator.
- **Nearly half of the incubators serve “mixed-use” tenants, accounting for 12 of the 25 certified incubators.** Of the remaining incubators, six target technology-centered businesses and five indicate they focus on manufacturing/distribution businesses.
- **For tenants generating income, their total payroll in 2023 was \$25.4 million. 114 tenants generated income in 2023 and accounted for 292 jobs.**
- **In 2023, income-generating tenants produced \$66.6 million in revenue, qualifying for \$3.3 million of income tax eligible for exemption.**
- **The economic activity associated with eligible income from 2022 – 2023 generated 86 jobs and \$12.7 million.** For every \$1.00 of income eligible for the exemption, it is estimated that \$1.95 of economic output was generated in the State in 2022 and \$1.97 of economic output was generated in the State in 2023.



Small Business Incubator Tenants Tax Exemption (continued)

- **Findings (continued):**

- **The economic activity associated with eligible income from 2022 – 2023 generated \$0.3 million in State tax revenue. This represents a roughly estimated state return on investment of \$0.06 for every \$1.00 of eligible income in 2022 and \$0.04 for every \$1.00 of eligible income in 2023.** While the return on investment is negative, there are other qualitative benefits from the incubators themselves that should also be taken into consideration.
- **Nearly half of the incubators serve tenants in rural areas. 11 of the 25 incubators are located in rural counties and 14 are located in urban counties.** Four incubators operate in Oklahoma City and three incubators operate in Tulsa, Oklahoma's two largest cities.

- **Additional Recommendations:**

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



Technology Business Finance Program

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

Recommendation: Repeal.

▪ Findings:

- **The program was last granted state appropriations in 2020, totaling \$1.0 million.** Since then, the program has been funded from its return on investments.
- **As of FY 2023, the cumulative dollar amount of advances was \$13.1 million. In that same time period, there was a total of \$7.0 million in repayments, representing a negative return on investment, or about \$0.53 for every \$1 advanced.**
- **15 companies received funding from the program from FY 2020 to FY 2023.** Of those companies, 2 have since gone out of business and 13 continue to operate in state. 12 of those companies are located in an urban area with 1 located in a rural area.
- **The economic activity associated with program funding based on responses to the 2023 survey generated 39 jobs, \$9.4 million in economic activity, and \$0.2 million in state tax revenue.** For every \$1.00 of state investment, \$10.56 of economic activity and \$0.25 of state tax revenue was generated.
- **The program has ended and OCAST will not be accepting any new applications or disbursing any more advances.**
- **New legislative action will be required for any action to be taken on the remaining funds available.**



Five Year Ad Valorem Property Tax Exemption

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

Recommendation: Retain, with modifications.

▪ Findings:

- **From FY 2020 to FY 2024, total exemption reimbursement payments made by the State decreased more than 30 percent , from \$161.2 million to \$110.3 million.** The decrease is largely driven by statutory changes that removed certain industries (particularly wind generation) from the program. In FY2021, the state paid its final credits to wind generation firms. The program has ended and OCAST will not be accepting any new applications or disbursing any more advances.
- **Qualifying manufacturing facilities in the first year of exemption increased payroll by an average of \$642.2 million, in aggregate, from FY 2020 through FY 2024.** This figure is inflated by a significant increase in FY24 of more than \$2 billion. The average for the prior years is \$286.9 million.
- **The Oklahoma Tax Commission collects payroll information but does not collect the number of jobs associated with exempt manufacturing property as part of its application.** This data would allow for an additional level of analysis in terms of economic impact. Given the ability to report on geographies, too, it would improve transparency with county and local governments.



Five Year Ad Valorem Property Tax Exemption (continued)

▪ Findings (continued):

- **Aggregate capital investment by qualifying manufacturing facilities in the first year of exemption averaged \$2.5 billion from FY 2020 through FY 2024.** That represents an increase from \$1.9 billion in the 2020 evaluation.
- **Economic impact analysis suggests exemptions for manufacturing facilities provide a net return to the State.** In this study period, the average return on \$1.00 of tax exemption was \$9.42 (based on total payroll increase) or \$1.78 (based on construction related to facilities) in state tax revenue. This likely represents an underestimate of benefit due to data limitations on non-manufacturing facilities.
- **Since 2001, increases in costs to the State have not coincided with significant employment increases in eligible industries.** However, payrolls associated with the exemption have increased, as is required by the design of the program.
- **Exemptions for wind facilities peaked in their last year of eligibility, at \$60.5 million in FY 2018** and have been declining. The last reimbursement payments for wind facilities were made in FY 2022.
- **From FY 2016 through FY 2024, reimbursements have been paid to 60 counties.** Total exemption amounts among counties receiving reimbursements over this period range from \$20,322 (in Major County) to \$315.8 million (in Mayes County), with a median of \$5.7 million.
- **The Ad Valorem Reimbursement Fund’s dedicated funding equal to 1.0 percent of annual income tax collections continues to be insufficient to cover the cost of reimbursements.** From FY 2019 through FY 2024, the dedicated one percent of income tax revenue averaged just 30.5 percent of total reimbursement payments, necessitating additional appropriations each year, which have grown from \$105.7 million in FY 2019, peaking in \$125.2 million in FY 2020, and reduced to \$74.3 million in FY2023. The Legislature and Governor have funded the entirety of the exemption in every year of the program.



Five Year Ad Valorem Property Tax Exemption (continued)

- **Additional Recommendations:**

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



Historic Rehabilitation Tax Credit

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

Recommendation: Retain.

▪ Findings:

- **As of 2024, most states (37) provide historic rehabilitation tax credits, though significant variation exists in how these programs are structured.** At 20 percent of qualified rehabilitation expenditures, the amount of Oklahoma's credit ranks in the middle among other states, whose credits range from 5 to 50 percent. With a minimum investment requirement of \$5,000, Oklahoma's qualification threshold is among the lowest. Unlike Oklahoma, many states provide credits for non-income-producing properties.
- **As of July 2024, Oklahoma has 1,419 properties in 77 counties listed on the National Register of Historic Places.** Oklahoma County accounts for 170 properties (12.0 percent of the total) and Tulsa County accounts for an additional 105 properties (7.4 percent).
- **Between tax years 2019 and 2024, claims activity associated with the incentive decreased.** Claims peaked in 2020 at 16, and in 2023 the most recent full year, six claimants were approved.
- **Since 2010, the program has been associated with more than \$1 billion in qualified expenses.** In this evaluation period, 2019 to 2024, the total was \$505 million.



Historic Rehabilitation Tax Credit (continued)

- **Findings (continued):**

- **Changes to federal tax law and increases in the federal funds rate may be impacting the use of the credit. The Tax Cuts and Jobs Act (TCJA) modified the timing for claiming the 20 percent federal credit effective for taxable years beginning after 2017.** Under the new rules, the federal credit is claimed over a five-year period beginning with the taxable year that the certified historic building is placed in service after substantial rehabilitation. In addition, inflation concerns have caused the Federal Reserve Bank to raise interest rates, which has a direct impact on financing costs for real estate transactions. Finally, inflation related to land values, construction materials and labor, plus supply chain disruptions all brought about by the COVID-19 pandemic have also limited demand.
- **The credit appears to generate significantly more economic activity than what the State forgoes in revenue.** IMPLAN estimates a \$1.5 billion output associated with the program between 2014 and 2024. That includes more than 9,000 jobs.
- **However, the program’s fiscal return to the State is generally negative.** On a pure fiscal basis, the program has paid more in awards than it has generated in direct revenues. IMPLAN estimates this net loss at \$20,8 million over the study period.
- **The State historic rehabilitation tax credit is increasingly combined with the State’s affordable housing tax credit.** This strategy, which is also allowable under for the federal-level incentives, may account for the growth in housing-related projects as a share of total projects and total qualified expenditures in recent years (as opposed to multi-use, commercial, office, hotel or other projects).



Film Enhancement Rebate

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

Recommendation: Retain, with modifications.

▪ Findings:

- **Most states provide incentives specific to the entertainment industry, generally targeting motion picture and television production.** As of April 2024, 38 states and the District of Columbia provide this type of incentive (or in some states, more than one incentive).
- **Oklahoma uses a common form of incentive, which reimburses eligible productions for a percentage of eligible production costs.** There is wide variation among states, including the percentage of reimbursement; the types of costs that are eligible for reimbursement; requirements for use of state workers, or the percentage of a production located within the state; floors and ceilings on the production budget and amount of reimbursement; whether (in the case of tax credits) they are transferrable or refundable; and whether there are annual caps on program credits or reimbursements. Oklahoma uses rebates rather than tax credits, which removes the need to deal with tax credit refundability or transfer issues.
- **Oklahoma, as with many states, provides ‘uplifts’ for certain production activities.** Uplifts increase the percentage of eligible expenses that are rebated and are meant to further incent specific types of economic activity. Oklahoma has a number of uplifts that can increase the standard percent of rebated expenses from 20 percent to as much as 30 percent. The uplifts are provided for, among others, filming in a rural or less populated county or municipality, Oklahoma post-production or soundstage, and multi-film deals.



Film Enhancement Rebate (continued)

- **Findings (continued):**

- **Oklahoma updated its program to the Filmed in Oklahoma Act in 2021. Among the notable features was an increase in the cap on annual rebates to \$30 million from the prior \$8 million.** While this significantly changed the levels and percentages of rebate for eligible expenses, the preceding Filmed in Canada Act is still making eligible reimbursements but has not been authorized to make additional awards as of July 2, 2021.
- **While the program cap is in place, the actual reimbursements by year of approval have not approached that level since it was raised.** Of course, the industry has dealt with COVID-related disruptions in production in 2020 and 2021, and screenwriters and actors strikes during much of 2023. As a result, it will likely be 1-3 years before activity returns to expected levels.
- **In general, Oklahoma’s program cap falls into the middle of a range that includes states with no cap or very large dollar caps and other states with significantly lower caps.** Among the major players are Georgia, with no cap and years with tax credits of over \$1 billion, and New York (\$700 million) and California (\$330 million).
- **While Oklahoma has attracted several noteworthy film and television productions, the industry is still dominated by California and New York.** While these two states’ share of the market is eroding, it was still two-thirds of the market in 2022 – but down from 82 percent in 1975. Oklahoma has a small share of the national market. Establishing additional production infrastructure will be a requirement to grow the industry in relationship to the rest of the states.
- **The Department’s OF+MO has dramatically improved its administration of the program.** In the 2016 evaluation of the program, it was noted that data necessary to undertake evaluation was not available, and the data that was available had internal inconsistencies or was incomplete. To its credit, the OF+MO revised its data collection processes, and the data they collect is quite useful for evaluation purposes. There are opportunities for some refinement in the data collection that would improve the confidence level of the calculations of economic impact.



Film Enhancement Rebate (continued)

■ Findings (continued):

- **The incentive aligns with several incentive best practices.** Among these are the fact that the incentive is **discretionary**, and the OF+MO is **selective** in determining program eligibility. The available data and information makes the program relatively **transparent**, although some aspects of the scoring process are not available to the general public. The program has a **dollar cap**, and through the uplifts it seeks to take into consideration **local economic conditions** in its awards. At the same time, the statute is complicated, which leads to complexity, but that is not the fault of OF+MO in terms of administration. Perhaps most telling, from an incentives best practice standpoint, is that **this incentive meets the ‘but for test’** (whether the incentive is necessary for the economic activity to occur). It is generally accepted that this is a nomadic industry, and it will, in many cases, locate where incentives are readily available.
- **On a purely quantitative basis, the incentive does not yield a positive return on investment for the state. When comparing economic activity that generates state tax revenue, the incentive returns about \$0.25 for every \$1.00 of rebate.** Of course, that does not include local tax revenue, and there are positive qualitative impacts associated with the industry and the publicity it may generate for the state. However, given the ‘nomadic’ nature of the industry and the generally small number of Oklahoma employees associated with it on a permanent basis, it is unlikely that the incentive will change significantly in terms of return on investment in the near future. It remains to be seen whether the industry can build the necessary infrastructure in the state to allow for significant growth.

■ Additional Recommendations:

- **Target the credit more directly at post-production activities.** Film and other productions are generally the largest portion of the rebates, but they tend to support surges of economic activity that are temporary. To the extent that the state can grow its post-production industry, there is the opportunity to create longer-lasting economic impact.



Film Enhancement Rebate (continued)

■ Additional Recommendations (continued):

- **Expand the content creation eligible for the rebate.** The current program is primarily geared toward film, television, streaming content, and commercials. Other states have expanded eligible activities, for example to video game production. That industry is growing - the video game industry is projected to see a rise in revenue from \$262 billion in 2023 to \$312 billion in 2027.
- **Target the credit more directly at post-production activities.** Film and other productions are generally the largest portion of the rebates, but they tend to support surges of economic activity that are temporary. To the extent that the state can grow its post-production industry, there is the opportunity to create longer-lasting economic impact.
- **Build out the content on the OF+MO website.** While there is a lot of information available on the website, including a useful FAQ, it requires visiting several locations to get complete information on eligibility, uplifts, the application process, etc. Also, at least one hyperlink to information on the incentive leads to an 'under construction' page.
- **Refine the existing data collection.** The project team recommends that OF+MO include the year that funds were spent in the reporting requirements for productions. This will be used to determine when the economic impacts took place as different productions have different timelines and are awarded funds over different time periods. As part of the reporting requirements, OF+MO should include the full-time equivalent of all jobs associated with the production, including extras. This may be calculated by OF+MO based on data provided by applicants, or by applicants themselves. For example, it may be given as an estimate based on average number of hours worked per day or per production for jobs where the individual number is high, such as extras. This will be used to enhance the economic impact associated with the reported jobs.
- **Maintain the existing \$30 million program cap.** While this is a popular program (as exhibited by the number of letters of support that were directed to the program team), it is also notable that current award activity has not approached the program cap. Even if that would be the case, the state should focus on aspects of the industry that will create recurring, regular activity and demonstrate that for several years before considering to raise the cap.



Film and Television Companies Sales Tax Exemption

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

Recommendation: Retain, with modifications.

▪ Findings:

- **The sales tax exemption pre-dates the Film Production Rebate, and the rebate may not be taken in conjunction with the sales tax exemption.** This was a requirement of the Film Rebate when it was enacted as the Compete with Canada Act. The requirement was also included in the subsequent Filmed in Oklahoma Act. It is clear the Legislature intended that the programs not be layered.
- **The sales tax exemption has been relatively little used.** The Oklahoma Tax Expenditure Report identifies the high-water mark for the incentive as the 2022 biennium, with estimated foregone revenue of \$763,000. Since 2006, no other tax expenditure report has estimated the foregone revenue as reaching \$150,000.
- **There are no minimum requirements related to film production budget, wages and salaries paid, or number of Oklahoma residents employed on the project.** It is an ‘as of right’ credit, meaning if the necessary documentation is provided to the OTC, the production is eligible for the exemption. As a result, the incentive criteria for evaluation related to job creation or employment and wages cannot be quantified.
- **Most productions will choose the tax rebates under the Film Production Rebate.** The Film Production Rebate is 20-30 percent of qualified expenditures, which includes a large share of crew salaries. By contrast, the sales tax exemption will forego sales taxes for taxable purchases (primarily tangible goods). The average combined state and local sales tax rate in Oklahoma is 9 percent.



Film and Television Companies Sales Tax Exemption

▪ Findings (continued):

- **Oklahoma is not alone in offering this type of sales tax exemption, but a few states target film production infrastructure.** Benchmarking identified nine states with some form of sales tax exemption for the motion picture industry. These can be split into those similar to Oklahoma's (for film production taxable purchases) and those that apply to film production infrastructure. Of the latter, Texas allows for an exemption for the construction, maintenance, expansion, improvement or renovation of a qualified media production facility. California has a similar exemption.
- **The return on investment, in terms of foregone state sales tax revenue compared to economic activity that translates into state tax revenue, is negative.**
- **The administrative aspects of the program are straightforward.** The statute identifies the requirements for a film production to receive the credit, which are clear. When that is the case, the OTC certifies the exemption.
- **The exemption is neutral on incentive best practices.** It does **target a specific industry**, although it is probably not the right tool for that targeting. The OTC tax expenditure report does estimate its foregone revenue (**transparency**). It is an 'as of right' credit and **not discretionary**. There is **no dollar cap** associated with it (although past use suggests this isn't a major issue).

▪ Additional Recommendation:

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



Tourism Development Act

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

Recommendation: Retain.

▪ Findings:

- **Tourism spending can be a significant revenue source for both state and local governments.** Statewide spending on tourism was \$11.8 billion in Oklahoma and \$1.2 trillion nationally in 2022. Traveling spending between 2021 and 2022 increased by 12.3 percent, supporting an approximate gain of 5,230 jobs.
- **Tourism in Oklahoma has grown, despite national trends.** While domestic tourism on the national level has remained stagnant, the number of visitors to Oklahoma grew by 3.3 percent between 2021 and 2022.
- **The Tourism Development Act provides a specific definition of what constitutes a tourism attraction.** It is defined as one of the following: a cultural or historic site, a recreational or entertainment facility, an area of natural phenomena or scenic beauty, a theme park, an amusement or entertainment park, an indoor or outdoor play or music show, a botanical garden, a cultural or educational center, an Entertainment District, or a destination hotel whose location and amenities make the hotel itself a destination for tourists.
- **There are checks in place to ensure fiscal accountability.** Once approved, a company is eligible for up to \$1 million in sales tax credits if it spends at least \$500,000, or a tax credit of up to 25 percent of the project costs if the company spends more than \$1 million. The sales tax credits are not transferable or assignable and the Tax Commission must receive proof of expenditures.



Tourism Development Act (continued)

▪ Findings (continued):

- **All participating projects in the program are hotels undergoing renovations.** Two are located in Oklahoma City, and two are located in Tulsa.
- **In most cases, there were quality of life improvements in census tracts with participating tourism projects.** When adjusted for inflation, on average there was a 15.7 percent increase in per capita income in the census tracts that contained participating projects. The total number of jobs increased by 43.4 percent.
- **The Tourism Development Act has produced a positive impact for the State.** Through 2023, the State has provided \$4.7 million in program tax incentives for projects that total \$184 million in expenditures. The Department estimates that these projects have produced \$33 million in state tax revenue. There is significant importing of tax revenue, as 28 percent of the visitors to these sites originate from out of state.
- **The program generated \$8 million more in state tax revenue than was appropriated.**
- **The Tourism Development Act incorporates multiple best practices that support its intent as a mechanism to promote improve the “material well-being” of Oklahoma’s residents.** First, the program is **capped** at a maximum allocation of \$15.0 million each year, ensuring it does not create a large financial liability to the State. It requires participants to **demonstrate they meet multiple requirements**, such as the percent of visitors to each site that originate from out-of-state, the minimum amount invested in each project, and the forecasted economic impacts of the project. It requires companies to submit expenditures as part of the application for the tax credit, allowing for full **accountability** of tax credits issued.

▪ Additional Recommendation:

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



Quality Events Act

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

Recommendation: Retain.

▪ Findings:

- **Oklahoma communities have been reimbursed about \$1.5 million for events hosted from FY 2018 through FY 2024, with five events still to be evaluated.** Pending the additional event awards, which include Cattleman’s Congress and a Korn Ferry Tour professional golf tournament, FY 2024 could be the largest single year of awards since the program’s inception.
- **The Quality Events program has reimbursed hosts for 25 events from FY 2018 through FY 2024, including three events that repeated three times each in the period.** Only one event in the period is not a sporting event (the Cattlemen’s Congress).
- **The Oklahoma Tax Commission reimbursed about 7.3 percent of the statutory maximum from FY 2018 through FY 2024.**
- **The change in the requirement for an economic impact study has improved the quality of data and reporting.** However, there is no comprehensive data source for inputs related to the individual event analyses. Therefore, the evaluation does not include a full IMPLAN analysis.



Quality Events Act (continued)

- **Findings (continued):**

- **The program has demonstrated a positive ROI in the study period, with a net gain of \$395,000 in state sales tax revenues.** This net gain is due to incremental sales tax revenues exceeding eligible expenses reported for certain events.
- **Additional data retained by the Department of Commerce (Department) would enable additional analysis and reporting.** As mentioned, the collection of input data related to event attendance, hotel room nights, etc. would allow for a comprehensive look at economic impacts, as opposed to isolated analyses using inconsistent methodologies. The change in the requirement for an economic impact study has improved the quality of data and reporting. However, there is no comprehensive data source for inputs related to the individual event analyses. Therefore, the evaluation does not include a full IMPLAN analysis.

- **Additional Recommendation:**

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



Next Steps

- As in past years, PFM will be present at the public hearing (scheduled for October 24th).
- PFM will then provide final evaluations to the Commission.
- PFM will be available to answer questions/make comments at the Commission's decision-making meeting on November 14th.
- PFM will also prepare the draft report on changes to incentives resulting from Commission recommendations, on December 5th.
- As with last year, there is a requirement that, by December 15th, the Commission provide to the Legislature and Governor 'a review of prior Commission recommendations, and changes to statute or incentive administration related to incentive evaluation recommendations . . .'
- This requires reviewing statutes and administrative processes, which PFM will do as we did last year.



Questions and Discussion