

**Incentive Evaluation Commission
Special Meeting Minutes
Nov. 17, 2017
Oklahoma State Capitol
Rm. 419-C, 1:00 p.m.
Oklahoma City, Oklahoma**

AMENDED

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

MEMBERS PRESENT: Jim Denton, CPA, Auditor of Private Firm
Carlos Johnson, Certified Public Accountant
Dr. Cynthia Rogers, Economist
Lyle Roggow, President of the OK Professional Economic
Development Council
Commissioner Burrage, Ex Officio; Non-voting (Tax Commission)
Secretary Snodgrass, Ex Officio; Non-voting (Dept. of Commerce)

MEMBERS ABSENT: Ron Brown, Layperson
Denise Northrup, Ex Officio; Non-voting (OMES)

STAFF/GUESTS: Beverly Hicks, OMES Recording Secretary
Mary Ann Roberts, Deputy General Counsel, OTC
John Gilbert, OMES
Shelley Zumwalt, Gov/OMES
Randall Bauer, PFM
Leslie Blair, ODOC
Jamie J. Herrera, ODOC
Senator Julie Daniels
Denise Crosswhite Hader, House of Representatives
Dennis Adkins, A&A Advocates
Haley Blood, A&A Advocates
Craig Jackson, GCI
Eric Pollard, ACOG
Ryan Kilpatrick, FKG Consulting
Scott Minton, OnCue
Norman Herrera, Sparq
Lundy Kiger, AES Shady Point
Shawn Ashley, ECapitol
Molly Fleming, The Journal Record
Samantha Kiger, OK.Biz
Tres Savage, NonDoc Media

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

Chairman Lyle Roggow called the meeting to order at 1:05 p.m. A roll call was taken and a quorum established. The Chair was advised that notice of the meeting was given and an agenda posted in accordance with the Open Meeting Act.

2. Approval of minutes from the Nov. 3, 2017 Commission meeting. [Lyle Roggow]

Mr. Denton moved to approve. Dr. Rogers seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, abstain; Dr. Rogers, aye; Mr. Roggow, aye.

3. Discussion and possible action to approve 2018 meeting dates. [Lyle Roggow]

Jan. 25, 1:00 P.M.	Oct. 4, 10:00 A.M.	Nov. 15, 10:00 A.M.
April 26, 1:00 P.M.	Oct. 18, 10:00 A.M.	Dec. 6, 10:00 A.M.
Aug. 23, 1:00 P.M.	Nov. 1, 10:00 A.M.	

Mr. Denton moved to approve. Dr. Rogers seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

4. Discussion and possible action on the 2017 Twelve Incentives. Possible action may include to approve, disapprove, modify or take no action. [Lyle Roggow]

Discussion and possible action on Quality Jobs:

PFM: Recommend to retain, with modifications.

Secretary Snodgrass asked that the Commission accept the Department of Commerce's recommended changes as outlined in the November 3, 2017, meeting minutes.

Dr. Rogers moved to adopt the recommendations from the PFM Group as modified by the Oklahoma Department of Commerce. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Small Employer Quality Jobs:

PFM: Recommend to retain, with modifications.

Secretary Snodgrass said the Department of Commerce believes this incentive is important, particularly, to rural Oklahoma. They have changed their process, tightened up and have applied several restrictions. If there are concerns of a contractor breaching job protection, they have stipulations in place, where no money is received, until, they contact the Commission.

The Department of Commerce is doing everything they can to protect taxpayers in rural Oklahoma through their methodic process that is performance based.

Chairman Roggow reiterated that Commerce is supposed to create certain amount of jobs gauged against the size of a community before they receive any incentive. It is performance based; they have to go through the various established protocols and is essentially, a program that does work, is incentive driven and meant to help small businesses to add jobs.

Mr. Denton moved to recommend retaining with modifications, inclusive of the recommendations as modified by the Oklahoma Department of Commerce. Dr. Rogers seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on 21st Century Quality Jobs:

PFM: Recommend to retain, with modifications.

There was some concern about the cost per jobs being too high; even though they are good jobs, there still should be some leveraging and modifications to address those concerns. Mr. Bauer stated the primary projects have been with Aerospace Industry and Boeing. They are jobs in the Oklahoma City area that would be \$150 thousand dollars a year, three times the average comp rate. They are good jobs, which also brings the remainder of the jobs as well. They fit into the Quality Jobs model and not the point per incentive. The programs are two different not meant to overlap one another. Mr. Bauer indicated there is some definite overlap and clearly, of the incentives reviewed from last year, when it comes to the aerospace credits, there would be some layering between the both of them, with a direct alignment to where some of the benefit goes to the employees, although a fair amount goes to the employers.

Dr. Rogers raised a point of developing a centralized database, which can be accessed for any of the programs in terms of differing employers and would be helpful for this type of analysis.

Mr. Denton motioned to retain with modifications. Mr. Johnson seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on High Impact Quality Jobs:

PFM: Recommend to reconfigure.

The Department of Commerce recommendation is to repeal this incentive. It is an incentive that is not being used and therefore no reason to keep it on the books.

Mr. Bauer said he would defer to the recommendation of the Department of Commerce.

Dr. Rogers motioned to repeal the High Impact Quality Jobs Program. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Capital Gains Deduction:

PFM: Recommend to repeal.

There was some debate amongst the members if this incentive is a tax policy or a true incentive. Some discussed to refer it to the legislature for legislative action. Commissioner Johnson said, “Even though it appears to be a tax policy, when you read the definition in the Act (HB2182), it is defined as a tax deduction and therefore it is an incentive as defined in HB2182.” Dr. Rogers discussed the lack of theoretical and empirical research supporting the efficacy of the program. She also noted the lack of data needed to evaluate. Mr. Denton mentioned the use of the program for tax planning purposes.

Mr. Denton motioned to retain. Mr. Johnson seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, nay; Mr. Roggow, aye.

Discussion and possible action on Home Office Tax Credit:

PFM: Recommend to reconfigure.

Mr. Bauer referred to comments in a memo that members had received related to some of what was discussed in the public hearing, and had also provided them with a report of some best practices prepared by a couple of practitioners in the area for the State of Alabama. In their report, they spoke on competitiveness for incentives and not just making them something that is a low bar for a specific industry with a specific tax and the incentive is why the insurance premium tax is just for an insurance industry, it is a gross receipts tax and is not related to creation of new jobs. It is a low bar of a number for jobs that they are required to have in a state to be eligible. PFM finds that kind of incentive to be generally a poor incentive, because it does not focus on what generally incentives are supposed to do, which is build an industry, create new jobs and grow payroll.

This is why PFM has issue with this tax credit and is why they suggest reconfiguring as it relates to making it a payroll-related incentive for specific employment improvement in the industry. His second suggestion for reconfiguration relates to improving the data.

Dr. Rogers motioned to accept PFM’s recommendation to reconfigure this program as stated in the meeting. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, nay; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Clean-Burning Fuel Vehicle Credit:

PFM: Recommend to retain.

Dr. Rogers motioned to modify the recommendation to not sunset the vehicle credit and retain it, to retain the infrastructure of the program and improve the reporting on the credit. Mr. Johnson seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Ethanol Fuel Retailer Tax Credit:

PFM: Recommend to repeal.

Mr. Bauer stated there is no real return on investment or an ethanol industry in the State of Oklahoma and is the reason for the recommendation.

Dr. Rogers motioned to accept the recommendation of PFM to repeal. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

The chair made known that the next three agenda items have been sunset by the legislature. When the schedule was initially set, the items were scheduled to review this year. The legislature took action, the Commission had already commenced the process of reviewing them and decided to go forward as planned in agreement with the legislature.

Discussion and possible action on Economically At-Risk Lease Tax Credit:

PFM: Recommended to repeal.

Dr. Rogers motioned to accept the recommendation of PFM to repeal and follow the legislation. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Production Enhancement Rebate:

PFM: Recommend to repeal.

Dr. Rogers motioned to accept the recommendation of PFM to repeal and follow the legislation. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Re-Established Production Rebate:

PFM: Recommend to repeal.

Dr. Rogers motioned to accept the recommendation of PFM to repeal and follow the legislation. Mr. Denton seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Discussion and possible action on Coal Tax Credit Program:

PFM: Recommended to repeal.

Mr. Bauer addressed discussion made at the public hearing on the questioning of the data they used for their analysis. He made known they always rely on public source data for the analysis they conduct, to be sure that it has been duly vetted and compared to other public resource data. As it relates to the credit as a whole, it is also something along the lines of what was discussed about on the insurance industry. It is an industry specific credit, not competitive in nature in terms of how the industry will receive it. It relates to the price of coal.

Upon conclusion of their metrics, as it relates to the industry as a whole and when viewed in relationship to other incentives, PFM concluded in relationship to other incentives, it does not stand up in terms of what it provides to the state. Understanding, that there is a component of the state, where the industry is important; it is not clear that the credit going away is going to make the industry go away. There are aspects of the industry that will continue, particularly, as it relates to parts of the coal production used for non-generational electricity. There is strong indication that parts of the industry will continue to do well. In terms of jobs and payroll of what would normally be the kind of metrics they use for incentives, PFM could not justify nor identify it as being a high performer compared to other high performing incentives that had been analyzed in the past couple of years.

Commissioner Burrage respected and appreciated the recommendation of PFM, but strongly advocated for the coal industry and begged the Commission to retain the credit, due to the hardship it would cause on the people living in rural Southeastern Oklahoma. He pointed out some of those jobs are the highest paying jobs in that part of the state, but also has a high unemployment rate. The benefit of the incentive to that part of the state is tremendous, as it relates to filling stations, schools, truck drivers, sales tax and withholding tax. He implored the Commission not put another nail in the coffin of rural Oklahoma, and the people who benefit from the credit. The economic benefit that industry produces is a tremendous benefit to that part of the state.

It is debatable if it is much of an incentive. Oklahoma is the only state that provides a credit for consumers. Mr. Bauer reported it gives benefit to the power company that uses Oklahoma coal. Whether or not the industry will exist, with or without the power company burning the coal is in question. Who receives the benefit could not be determined, due to insufficient data information provided to PFM, on not being able to separate the consumer from the producer. Therefore, the voting members are not able to determine who is getting the credits and whether this is a net benefit, or a net cost to the state.

It was clear that during testimonies given at the public hearing, that the change of employment had a lot more to do with federal legislation and the ability to get permits to do mining. The job of the Commission is to assess whether the incentive gets a return on investment and whether it does what it is supposed to do, which is to increase employment in coal.

Commissioner Burrage argued that the incentive has been beneficial, maybe not to this area or the whole State of Oklahoma, but it has been beneficial to the people in four counties in Southeastern Oklahoma.

Mr. Denton motioned to accept the PFM report on the repeal of the coal credit. Dr. Rogers seconded the motion; the motion split and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, nay; Dr. Rogers, aye; Mr. Roggow, nay.

*The Commission vote was split due to one of the voting members being absent.

5. Discussion and possible action on the acceptance of the final report provided by PFM. [Lyle Roggow]

Note: The Chair asked this agenda item be moved up in front of agenda item 4.

The Commission members received a copy of the report ahead of time for review before the meeting. The only changes to the report were Mr. Bauer added a paragraph to the discussion on the Capital Gains Deduction, to reflect a common perception that it could be considered a tax policy issue, as opposed to an incentive issue. There were no changes to the specific recommendations for each of the twelve incentives.

Mr. Denton motioned to accept. Dr. Rogers seconded the motion; the motion passed and the following votes recorded:

Mr. Denton, aye; Mr. Johnson, aye; Dr. Rogers, aye; Mr. Roggow, aye.

Secretary Snodgrass arrived at 1:08 p.m.

6. Adjourn. [Lyle Roggow]

There being no further business, Mr. Denton made the motion to adjourn. Dr. Rogers seconded the motion. Seeing no opposition, the meeting adjourned at 3:28 p.m.