



# OKLAHOMA

STATE OF OKLAHOMA  
INCENTIVE EVALUATION COMMISSION

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PRIOR COMMISSION TAX INCENTIVE RECOMMENDATIONS REPORT  
2023



December 6, 2023

# Memorandum

**To:** Governor Stitt, Senate President Pro Tempore Treat, Speaker of the House McCall  
**From:** Incentive Evaluation Commission  
**RE:** Review of Prior Commission Recommendations

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Senate Bill 745 from the 2023 legislative session was enacted into law and was effective on July 1, 2023. A section of that bill directs the Incentive Evaluation Commission to provide ‘a review of prior Commission recommendations, and changes to statute or incentive administration related to incentive evaluation recommendations in a written report to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives.’ The following provides our report to you.

For purposes of the report, we have provided this review for the last incentive evaluation recommendations from the Commission, excluding the current year, as there would be no opportunity for the legislature or administering agencies to act on the 2023 recommendations. As a result, this encompasses statutory or administrative changes from Commission recommendations in 2019, 2020, 2021, and 2022. While we have asked the administering agencies for assistance in compiling this list, it is not possible to independently verify the information that has been provided to us. That said, this can serve as a useful point of discussion in future evaluations of these incentives.

It should be noted that this excludes several actions taken by the Legislature and Governor, as well as administering agencies for the years 2016-2018. This most notably includes the termination going forward from July 1, 2017 of the refundable tax credit for zero emission facilities. This was a recommendation of the Commission in 2016, and the Legislature and Governor acted on that recommendation in 2017.

## 2019 Commission Recommendations:

### Aircraft Facilities Sales Tax Exemption

1. Consider the policy goals of the exemption and modify them accordingly.
2. Explore the adoption of targeted tax preferences employed in other states.

*These would require changes in statute. No statutory changes consistent with the recommendations have been made.*

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### Spaceport Exemption

1. Consider supporting space-related startups with incubator/accelerator services and develop and expand supplier relationships.
2. Consider extending liability protections to those involved in spaceflight activities.

*It does not appear as if these recommendations have been enacted in statute or in policy.*

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#### **Railroad Modernization Tax Credit**

1. Standardize reporting to improve data collection and analysis.
2. To evaluate program success, require eligible recipients to provide additional information about eligible projects.

*These program administrative changes have not been implemented.*

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#### **Rural Economic Action Plan**

1. Consider increasing REAP funding and/or pair REAP funds with other rural economic strategies.
2. Consider eliminating split sharing provisions.
3. To measure program success, require communities to provide additional information regarding impact of REAP-funded projects.

*The legislature significantly increased REAP funding. The split sharing provision has not been eliminated.*

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#### **Local Development and Enterprise Zone Incentive Leverage Act**

1. Seek ways to increase program appeal and usage beyond Oklahoma City.
2. Improve data collection, including employment, capital investment and other impacts associated with enterprise zones (such as changes in assessed value).

*As demonstrated by recent projects outside of Oklahoma City, the Department of Commerce has worked to increase program appeal and usage. Senate Bill 317, enacted in the 2023 legislative session, requires Commerce to gather information on the performance of TIFs and provide additional information on them to the public.*

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#### **Computer Services and Data Processing Tax Exemption**

1. Repeal the program.

*The Legislature has not acted on this recommendation. The recommendation is moot, as the Commission evaluated it in 2023 and chose not to recommend repeal.*

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#### **Construction Materials Tax Exemption**

1. Repeal the program.

*The Legislature has not acted on this recommendation. The recommendation is moot, as the Commission evaluated it in 2023 and chose not to recommend repeal.*

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#### **Economic Development Pooled Finance**

1. Consider adding a claw back provision requiring a company to repay withholding taxes if it ends operations in the state prior to the end of the expected repayment period.
2. Establish regular reporting of awards and costs associated with programs.

*The Legislature has not acted on the first recommendation. The recommendation is moot, as, based on additional information, it is not necessary and was not included in the 2023*



*evaluation of the program. The Department of Commerce is incorporating program participants into its CRM system, including application materials and incentive payments (costs), and will report this information and impacts on an aggregate basis.*

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**Oklahoma Seed Capital Fund (this was also evaluated in 2022 and included in that year's listing as well)**

1. Improve data collection and reporting by relating job growth, capital investment and profitability growth to the timing of initial investment.

*Via i2E's annual Economic Impact Survey, it collects data from its clients and companies receiving investment from i2E-managed funds (annual revenues, annualized payroll, total FTE, new FTE during the past year, average annual wage, patents received during the past year and patents received since company inception, amount of grant funding received, and number of new products introduced into the market). This information is collected and reported (in the aggregate) to OCAST for the Seed Capital Fund companies. i2E calculates the annual growth rate based upon the number of reported FTE and the number of those FTE hired within the past year. i2E has indicated it is incorporating other Commission recommendations in its five-year strategic plan, which will be available in early 2024.*

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**Training for Industry Program**

1. Consider a minimum wage requirement or additional weighting criteria.
2. Collect data regarding wage increases and employee retention following training.
3. Consider requiring applicants to demonstrate the potential for trainee retention and career progression.

*The formula CareerTech uses to award funds is such that companies paying higher wages qualify for a higher reimbursement. It has also worked to ensure consistency in the information collected from participants from year to year.*

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**2020 Commission Recommendations:**

**Five-year Ad Valorem Tax Exemption**

1. 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.
2. Establish minimum wage requirements for qualifying facilities.
3. Require qualified facilities to at least maintain employment levels in addition to payroll throughout the five-year exemption period.
4. Require advanced notification in order to qualify for an exemption.
5. Increase program transparency. Data provided by applicants is not available for evaluation purposes.
6. Require local government financial participation. This will help ensure that local governments accurately assess and assist with administration of program requirements.



7. Improve annual reporting by including metrics on program benefits.
8. Report exemption data based on North American Industry Classification System (NAICS) code rather than OTC categories.

*There have been no statutory or administrative changes related to the Commission recommendations to the program. It should be noted that there have been statutory and administrative changes, but they were not aligned with the Commission recommendations.*

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### **Tax Credit for Electricity Generated by Zero Emissions Facilities**

1. Retain existing sunset.

*In 2016, the Commission recommended eliminating the refundable tax credit, and in 2017 the Legislature and Governor took action consistent with this recommendation.*

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### **Aerospace Employer and Employee Tax Credits**

#### ***Recommendations pertaining to employer tax credits:***

1. Enhance employer reporting to show overlap with the state's Quality Jobs incentives.
2. 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.
3. Clarify eligibility requirements in statute.

*While the legislature has considered changes to program eligibility, they have not been enacted to date.*

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### **Industrial Access Road Program**

1. Incorporate assistance from the Department of Commerce to evaluate the economic impact of projects that are applying for funding.
2. Collect average wage of new jobs for each project to further evaluate economic impact.
3. Collect information regarding other incentives received by the project.
4. Create clear standardized definitions of jobs and capital investment. The administrative rules governing the Industrial Access Road Program do not include definitions or requirements for jobs and capital investment.
5. Create a standard application form.

*The Department of Transportation (ODOT) now has a standard online application and has begun requesting the average wage of new jobs as part of the application process. When feasible, ODOT partners with Commerce to evaluate the economic impact of new projects, and when applicable, collaborates with Commerce or other agencies to understand other*



*incentives the industry may be receiving to encourage relocation or expansion. ODOT has not standardized definitions.*

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#### **Quality Events Incentive**

1. Replace “actual documentation” with a standardized economic impact study form that identifies all the information needed to determine economic impact.
2. Remove the statutory requirement that host communities submit the actual documentation 30 days after the event ends.
3. 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.

*The Department of Commerce is planning additional information gathering and reporting efforts related to visitors to events and is in the process of acquiring a data service to compile this information.*

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#### **Oklahoma Capital Investment Board**

1. Retain the existing program sunset.

*The Legislature’s action was consistent with the recommendation.*

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#### **Excise Tax Exemptions on Aircraft Sales**

1. Focus the excise tax exemptions on a specific policy goal.
2. 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.
3. 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.

*The Legislature and the Tax Commission have not acted on these recommendations, either through statute or administrative activity.*

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### **2021 Commission Recommendations:**

#### **Capital Gain Deduction**

1. The Department of Commerce, the Tax Commission and the Office of Management and Enterprise Services (OMES) should develop a task force in regard to an interim study to look at the incentive; is it still effective for businesses, the impact it has on businesses, the impact it has on the individual taxpayers, and to have the findings reported back to the Incentive Evaluation Commission.

*This recommendation was not acted upon.*

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### **Quality Jobs Program**

1. Require participants to pay the average county wage regardless of the statewide threshold wage.
2. For new agreements, reset the minimum wage requirement after 5 years (only applies to new agreements, not existing ones).
3. Require participants to file rebate claims within one year of qualifying quarter (rather than the current two years).
4. Regularly review/update eligible industries to reflect the State's economic development goals.

*The Legislature has not made statutory changes to the program related to wages. The Department has not made the recommended administrative changes.*

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### **21st Century Quality Jobs Program**

1. Require participants to pay the average county wage regardless of the statewide threshold wage.
2. For new agreements, reset the minimum wage requirement after 5 years (only applies to new agreements, not existing ones).
3. Require participants to file rebate claims within one year of qualifying quarter (rather than the current two years).
4. Regularly review/update eligible industries to reflect the State's economic development goals.
5. Provide an option for firms who fail to meet program requirements to transfer to the Quality Jobs Program or Small Employer Quality Jobs Program and continue receiving incentives, if qualified.

*The Legislature has not made statutory changes to the program related to wages. Legislation is necessary to allow qualified firms to transfer to QJ or SEQJ. Language was included in SB 1707, but the bill did not advance through session.*

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### **Small Employer Quality Jobs Program**

1. Require participants to pay the average county wage regardless of the statewide threshold wage.
2. For new agreements, reset the minimum wage requirement after 5 years (only applies to new agreements, not existing ones).
3. Require participants to file rebate claims within one year of qualifying quarter (rather than the current two years).
4. Regularly review/update eligible industries to reflect the State's economic development goals.

*The Legislature has not made statutory changes to the program related to wages. The Department has not made the recommended administrative changes.*

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### **Home Office Tax Credit**

1. Modify the credit to either an amount per new job or some portion of new payroll.
2. Require a specific job and payroll verification process.



*The Legislature and agency have not acted on these recommendations.*

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**Clean Burning Fuel Tax Credit**

1. Clarify statutory language related to eligible investments in commercial fueling activity.

*The Tax Commission has not acted on this recommendation.*

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**Ethanol Fuel Retailer Tax Credit**

1. Repeal.

*The Legislature has not acted on this recommendation.*

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**Coal Tax Credits**

1. Repeal via existing sunsets.

*The Legislature's action was consistent with this recommendation.*

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**2022 Commission Recommendations:**

**Oklahoma Affordable Housing Tax Credit**

1. Provide the option for the credit to be refundable or transferable.

*The Legislature has not acted on this recommendation.*

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**Small Business Incubators Incentives**

1. Establish standards for tenant occupancy to qualify for tax exemption. The program statute does not require businesses to be tenants in an incubator for a designated amount of time or performance before becoming eligible for the exemption. A business could establish tenancy then immediately depart the incubator while becoming eligible for the exemption for 10 years.
2. Increase data collection and require participation in the annual survey as a condition of occupancy in State-certified incubators.

*The Department of Commerce is requesting more information from certified incubators regarding their tenants and usage of the incentive. The Department would require legislation in order to establish standards for tenants to qualify for the incentive. In the 2023 legislative session, the Department requested language to implement this recommendation, and it was included in SB 337; however, the bill did not advance through session.*

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**Applied Research (OARS) Program**

1. Further refine and improve data collection and reporting processes. While Oklahoma Center for the Advancement of Science and Technology (OCAST) has begun collecting additional data points from its OARS grantees in recent years, it remains





difficult to effectively evaluate the effectiveness of the program due to data collection and reporting process issues.

2. OCAST should collect additional information from grant recipients as part of its data collection and reporting processes, including jobs, payroll, economic activity, and success or failure rate.
  3. OCAST should conduct longitudinal case studies over a meaningful period of time for select companies. This would track the advance and development of the effects and benefits of applied research funded by the program, showing the synergy between grants, follow-on funding, and capital investment.
  4. OCAST should obtain data when funds are spent and the purpose for fund expenditures for follow-on funding attained.
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1. *OCAST is actively working to identify opportunities for improvement in our current data collection process as we wrap up the 2023 survey period. Enhancements to our survey processes and practices will be implemented for the FY24 survey, which is anticipated to be deployed shortly after the end of the fiscal year.*
  2. *OCAST has reviewed the metrics currently included in our annual survey of grantees and has begun the early stages of focusing, redefining, and expanding metrics as necessary for the FY24 survey to capture information required by key stakeholders, including federal funders, the legislature, and the public.*
  3. *Does intend to begin conducting case studies again. The agency's workforce has just been too low over the last few years to make this happen. OCAST only recently regained the workforce to once again conduct longitudinal case studies. We believe these studies are important for ensuring the most effective use of agency appropriations and we look forward to relaunching this effort in the very near future.*
  4. *OCAST believes desk audits are the solution to address this need, matching state funds expenditure claims with receipts. OCAST hasn't had the workforce to accomplish these audits until recently, so we will restart this important activity soon.*
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#### **Health Research Support Program**

1. Further refine and improve data collection and reporting processes. While Oklahoma Center for the Advancement of Science and Technology (OCAST) has begun collecting additional data points from its OARS grantees in recent years, it remains difficult to effectively evaluate the effectiveness of the program due to data collection and reporting process issues.
  2. OCAST should collect additional information from grant recipients as part of its data collection and reporting processes, including jobs, payroll, economic activity, and success or failure rate.
  3. OCAST should conduct longitudinal case studies over a meaningful period of time for select companies. This would track the advance and development of the effects and benefits of applied research funded by the program, showing the synergy between grants, follow-on funding, and capital investment.
  4. OCAST should obtain data when funds are spent and the purpose for fund expenditures for follow-on funding attained.
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1. *Although this program is not currently funded, OCAST still surveys Health Research awardees annually. We are actively working to identify opportunities for improvement in*



*our current data collection process as we wrap up the 2023 survey period.*

*Enhancements to our survey processes and practices will be implemented for the FY24 survey, which is anticipated to be deployed shortly after the end of the fiscal year.*

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#### **Quick Action Closing Fund**

1. Require more robust reporting on awards. Oklahoma publicly reports only the award amount, the company name, award date and a very brief description of how the award is to be used. Nearly all comparable programs have more detailed public reporting on projects that have received awards.
2. Include an explanation of why each awarded project was considered "high impact." Statute dictates the QACF may be used when the award would "likely be a determining factor in locating a high-impact business project or facility in Oklahoma." However, no definition of "high impact" is provided in statute.

*The Department of Commerce is incorporating program participants into its CRM system, including application materials and incentive payments (costs), and will report this information and impacts on an aggregate basis.*

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#### **Investment/New Jobs Tax Credit**

1. Limit the carryforward period to seven years. The carryforward period for capital investment credits is indefinite, contributing to the continued growth in the State's unused tax credit liability. This is in line with the Commission's recommendation following the last evaluation of this credit.
2. Require claims to be filed with the Tax Commission each year of the carry forward period, regardless of whether the credit is used to offset tax liability. Regular annual claims can require claimants to attest that the capital investment is still in use, and in aggregate, these annual claims would provide the State a clearer picture of how much credit is still available to be used.
3. Require an application and approval process, using the Incentive Approval Committee, before allowing claims. The application would be submitted within 60 days of the capital investment being placed in service and would need to be approved before the taxpayer could claim the credit on a tax return. Applying in a timely manner would increase the likelihood that firms would have to plan on taking the credit when making a qualifying investment.



4. Eliminate the new jobs credit, in favor of incenting manufacturing job creation through the Quality Jobs Program. The Investment-New Jobs Tax Credit needs significant updates to its job creation requirements. As noted in key findings, the minimum annual pay required of \$7,000 is equal to 11.2 percent of the manufacturing's average annual pay in Oklahoma. There is also no requirement related to benefits provided to new jobs. Only one new job is required to receive a new job tax credit.

*The Legislature has not acted on the recommendations.*

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#### **New Products Development Exemption**

1. Repeal.
2. If not repealed, improve data processing in order to collect and report the total cost of corporate tax exemptions. In order to improve future evaluations of this program and any other program associated with corporate tax exemptions, the OTC should improve its data processing to allow for the disaggregation of the total cost of each corporate tax exemption.
3. Modify program requirements to require companies to provide key data on a yearly basis to be eligible for the tax exemption. Currently, those wishing to take the tax exemption must register with OCAST, but there is no requirement that the inventor or manufacturer provide additional information that would be useful in determining the effectiveness or efficacy of the program. The inventor or manufacturer should be required to provide information on annual revenues, annual payroll, and FTEs, both the total number and the number located in Oklahoma to be eligible for the tax exemption.

*The Legislature and/or administering agencies have not acted on the recommendations.*

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#### **Seed Capital Fund**

1. Current focus in software and biotech firms could be shifted over time to align with other statewide programs and incentives.
2. Given the maturation of the venture capital industry in Oklahoma, it could be valuable to reexamine Oklahoma Seed Capital Fund's (OSCF) role and mission in the market. Implementation of the new pre-seed capital program in FY23 solves a major challenge for firms accessing the Technology Business Finance Program (TBFP). Additional research – in the form of surveys, in-depth interviews, and/or focus groups – should be conducted to identify remaining gaps for entrepreneurs that can be supported through the OSCF and its associated programs.
3. Improve data collection and reporting. Annual data collection and reporting should be modified to collect data that better ties business performance to the initial investment made by the fund. This would improve future evaluations and more accurately describe the benefits of the program. The annual survey should collect growth in employment, wages, revenue and profitability measures.

*Via i2E's annual Economic Impact Survey, it collects data from its clients and companies receiving investment from i2E-managed funds (annual revenues, annualized payroll, total FTE, new FTE during the past year, average annual wage, patents received during the past year and patents received since company inception, amount of grant funding received, and*



*number of new products introduced into the market). This information is collected and reported (in the aggregate) to OCAST for the Seed Capital Fund companies. i2E calculates the annual growth rate based upon the number of reported FTE and the number of those FTE hired within the past year. i2E has indicated it is incorporating other Commission recommendations in its five-year strategic plan, which will be available in early 2024.*

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#### **Technology Business Financing Program (TBFP)**

1. Require program participants to respond to annual surveys. There is currently no requirement that companies receiving funding through the TBFP respond to i2E's annual survey, at least for a certain period of time after receiving funding.

*The TBFP Financing Agreement with each company receiving funds has an explicit requirement that the Recipient complete and submit i2E's annual Economic Impact Survey. i2E portfolio management staff work to enforce this covenant on an ongoing, regular basis.*

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#### **Technology Transfer Income Tax Exemption**

1. Enhance data collection through changes to current corporate tax forms.
2. Shift administration of the program to a contract-based agreement with the Department of Commerce. The authorizing statute could require that those wishing to take the exemption must be approved by the Department of Commerce. The Department of Commerce could then make data reporting an annual requirement for program approval.
3. Consider reconfiguring the program to incorporate best practices from benchmark programs. This might include converting the income tax exemption to a grant, as has been successful in the Arkansas example.
4. Funding can also be diverted to support services such as technical assistance for small businesses that are applying for a Small Business Technology Transfer Program (STTR) awards or to connecting small businesses and entities such as colleges and universities that frequently develop these desirable technologies to generate additional opportunities to commercialize these products and services.

*The Legislature has not made statutory changes, and the Tax Commission has not made changes to its tax forms.*

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