Special Meeting Minutes
Incentive Evaluation Commission
Dec. 21, 2016
Oklahoma State Capitol
Rm. 419-C, 2:00 p.m.
Oklahoma City, Oklahoma

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

MEMBERS PRESENT: Ron Brown, Layperson
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
Denise Northrup, Ex Officio; Non-voting (OMES)
Secretary Snodgrass, Ex Officio; Non-voting (Dept. of Commerce)

MEMBERS ABSENT: Commissioner Cash, Ex Officio; Non-voting (Tax Commission)

STAFF/GUESTS: Michael Baker, OMES Public Information Officer
Beverly Hicks, OMES Recording Secretary
Randall Bauer, PFM
Jordan Perdue, State Bond Advisors Office
Mary Ann Roberts, OK Tax Commission
Jeremy Stoner, OK Finance Authority
Andrew Messer, OST
Ryan Kilpatrick, FKG Consulting
Jon Chiappe, ODOC
Jamie J. Herrera, ODOC
Jim Dunlap, American Airlines
Kalen Taylor, Senate staff
Jonna Kirschner, CNI
Norman Herrera, Sparq
Shawn Ashley, eCapitol

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

   The meeting was called to order by Chairman Roggow at 2:06 p.m. A roll call was taken and a quorum was established. He 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 Nov. 4, 10, 22, 29, of 2016, Commission meetings. [Lyle Roggow]**

   Mr. Johnson moved to approve the meeting minutes of November 4. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

   Mr. Denton moved to approve the meeting minutes of November 10. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

   Mr. Denton moved to table the meeting minutes of November 22. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

   Mr. Denton moved to table the meeting minutes of November 29. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

3. **Sub-Committee Reports. [Lyle Roggow]**

   ***Vendor Committee*. [Dr. Rogers, Mr. Brown]**
   No updates.

   ***Scheduling Committee*. [Mr. Roggow, Mr. Johnson]**

   Mr. Johnson spoke to the fact that he and Mr. Roggow had some conversation in regards to the scheduling for 2017 that will be addressed later in the meeting.

   ***Criteria Committee*. [Dr. Rogers, Mr. Denton]**
   No updates.

4. **Presentation by PFM Consultant, Randall Bauer about 2017 Incentives. [Lyle Roggow]**

   Mr. Bauer passed out a memo to the members that identified the criteria of the initial fourteen incentives of 2017. He stated the following for the record: 1) Capital Gain Deduction, 2) Home Office Tax Credit, 3) Quality Jobs Program, 4) 21st Century Quality Jobs, 5) Small Employers Quality Jobs Program, 6) Impact Quality Jobs Program, 7) Clean Burning Fuel Vehicle Tax Credit, 8) Production Enhancement Credit, 9) Economically At-Risk-Lease Program, 10) Reestablish Production Rebate, 11) Coal Production Credit, 12) Energy Efficient Residential Construction Credit, 13) Ethanol Fuel Retailer Tax Credit,

14) Alternative Fuel Vehicle Loans Program. These were originally identified on the schedule where the Commission approved and had years one through four separated out.

There had been discussion and suggestion that the Alternative Fuel Vehicle Loans Program be removed from consideration. After discussing the matter with the Department of Commerce, the program is federal funded and was the result of old lawsuits related to oil overcharge issues. The spending has to be approved at the federal government level that established the program. They are not funds that are under control of the state and likely should not be reviewed. Also, in discussions with the Department of Commerce there was suggestion that there are a couple of programs (Opportunity Zone and Enterprise Zone) listed for review in year three that have a fair amount of connectivity with programs (Quality Jobs) that are going to be evaluated in year two and as a result it would be helpful to do some shifting so that they get reviewed in year two. Mr. Bauer suggested as a reconfigure to move the Energy Efficient Residential Construction Credit into year three from year two. Noting, that while there is an emphasis on energy kinds of issues, when looking at the credit, it is used by developers and is part of the overall resources available to incent certain kinds of housing. He believes it is more of a housing program than an energy efficient program and could be moved into year three where there are other housing programs that will be evaluated.

Dr. Rogers made known to Mr. Bauer that there was a fair amount of layering that existed with some of the programs they reviewed. To have better continuity as it related to the analysis, it would be helpful to move a couple of the programs into year two. Mr. Bauer recommended to move the two programs into year two and move one permanently out and then another one out of year two and into year three.

Commissioner Johnson expressed his concern that the Commission needs enough time given to review incentives, such as the Quality Jobs Program, by spacing the incentives out so there is not so much of a workload and a better balance. Commissioner Roggow made the point that the Quality Jobs Program works in conjunction with the Opportunity and Enterprise Zones and this kind of grouping makes sense, since the research is already there. In addition, Dr. Rogers said with stimulating employment or economic activity in looking at them together is a better picture of the options of program choices that the legislators would have. It is better to view the programs at the same time.

No action taken.

5. Discussion and possible action regarding updated evaluation criteria for 2017 incentive evaluations. [Lyle Roggow]

1. **Capital Gain Deduction**
2. **Quality Jobs Program**
3. **21st Century Quality Jobs**
4. **Small Employer Quality Jobs Program**
5. **High Impact Quality Jobs**
6. **Home Office Tax Credit**
7. **Clean Burning Fuel Vehicle Credit**
8. **Production Enhancement Rebate**
9. **Coal Production**
10. **Energy Efficient Residential Construction Tax Credit**

11. **Ethanol Fuel Retailer Tax Credit**
12. **Economically At-Risk-Lease**
13. **Reestablish Production Rebate**

Mr. Bauer reiterated his earlier suggestions by adding the Opportunity and Enterprise Zones programs from year three to year two, removing the Alternative Fuel Vehicle Loans Program in its entirety, and moving the Energy Efficient Residential Construction Credit from year two to year three.

Dr. Rogers and Mr. Denton worked with PFM on the 2017 criteria. Mr. Bauer explains below on the places where the list is slightly different from what the Committee had originally presented to PFM.

The **Capital Gain Deduction** is related to a deduction for realized capital gains for Oklahoma based businesses that meet certain criteria. It is one of the incentives that PFM has less of a handle on than some others. There was discussion with Commissioners' Johnson and Denton as it relates to the tax consequences related to this and how it is used in preparing taxes in Oklahoma. PFM has criteria related to the gains themselves, the number, the employment capital payroll associated with them, their change in them before after the deduction, or return on investment. PFM originally recommended a cost benefit analysis. PFM changed its recommendation to be consistent with other language around the criteria and proposed a standard for return on investment verses financial net cost. A simple change in what the criteria reads.

The **Home Office Tax Credit** is for insurance premium taxes and is what insurance companies pay as opposed to corporate income tax. It has criteria related to employment, number of employees, change in employees, payroll, average wage, change in employee for the industry versus other states that do not provide this type of credit and the return on investment analysis. Previously it read cost benefit analysis as opposed to return on investment.

The **Quality Jobs Program** suggest that the primary focus of Quality Jobs is job related, but, the aspect of capital investment is found in several of the incentives as it relates to quality jobs. These are slightly different because they each have a little bit different focus. Where there is a criteria that relates to evaluating the change in capital investment, it was suggested that it would be difficult to evaluate because it is not really a focus of the program. As a result, Mr. Bauer suggested to remove the capital investment evaluation criteria where such exists in the set of the Quality Jobs Programs. Generally for the main program, it is looking at jobs, payroll, administrative processes related to establishing the actual basis for the claims, and the typical but-for-test, in terms of how does it function for this state versus growth rates for industries as a whole or in other states that do not necessarily have the same type of program and the return on investment criteria. Because each of them have a slightly different angle the criteria have been, where it is appropriate, changed for the focus on that area. Most of them are focused on jobs and payroll associated with the tax that are generated from those programs.

Dr. Rogers asked that Mr. Bauer add the criteria from the 21st Century Quality Jobs to carry through to all the Quality Jobs Programs. – [Ability of program administrative processes to establish the factual basis for claims related to hours, wages and benefits].

The **Clean Burning Fuel Vehicle Tax Credit** provides a tax credit for vehicles that clean burning fuel technology. This is an incentive to get people to use clean burning fuel vehicles. The focus is on changing the number of vehicles versus prior to the credit. You are looking at the number of those credits by the categories. A change versus priority credit and a change in Oklahoma vehicles as opposed to other states that they may not have that particular credit.

The **Production Enhancement Credit** is looking at capital investment. In this case, you are looking at production changes, also in jobs, revenue associated with leases for these particular wells and a cost benefit analysis as it relates to them.

The **Economically At-Risk Lease** and **Reestablishing Production Rebate** both relate to benefits at certain price points as it relates to oil and gas wells. PFM would develop a price model that will look at what is the fiscal impact to the state, and govern with the concept being that, if oil is at $75. a barrel, wells are going to be productive, that are not necessarily productive at $50. a barrel. If those come back into production what does that mean at those different price points for fiscal impact for the state. One of the arguments for these is to increase production. Change in production would be one of the considerations, the change of value in leases and its economic impact for the state.

The **Coal Production Credit** provides a credit production when coal is below a certain price point. If coal is $68. or more per ton, there is no credit provided. It is an incentive production when coal is below price point. PFM would look at jobs associated with a credit payroll, capital investment (Mr. Bauer is not sure if that would be a good measure or not), change in production, a but-for-test and a return on investment analysis as it relates to this particular credit.

The **Energy Efficient Residential Construction Credit** is a credit for certain types of energy efficient applications to residential construction that goes to the developer. PFM originally thought that there may be issues related to the administrative requirements for qualifications for this credit, it was determined that the criteria data is based on certain types of changes that are made in the actual construction and is not something that they have to measure. Mr. Bauer suggest removing this particular evaluation criteria. The number of properties and market share of buildings that qualify for this before and after the credit are before and after types of criteria. These credits can be transferred. The incentive is associated with energy efficient residential construction, then determining what energy savings are, would be the logical goal of the program.

The **Ethanol Fuel Retailer Tax Credit** incentives is going to incent greater use of ethanol blended fuels for vehicles. It incentivizes changes in production and consumption of blended verses unblended fuel. The change and production in other states that do not provide the credit would also be useful in terms of determining impact. The cost benefit analysis are those changes in production and what it does for the associated industry in the state versus the cost of the credit. PFM suggests, and has had discussion on removing the alternative fuel vehicle loans program because it is not really under the State's control.

Mr. Bauer suggested using the same criteria for both the **Opportunity** and **Enterprise Zones programs** as a Quality Jobs Program as a starting point in terms of jobs, payroll, program, administrative processes, not the change in capital investment. A change in a but-for-test and the return on investment analysis.

Commissioner Brown would like to see where it is relevant on the schedule, if the tax credit is sellable, transferable and whether it sunsets.

Dr. Rogers motioned to remove the Alternative Fuel Vehicle Loans from the list and to move the Energy Efficient Residential Construction Credit to year three and add the Enterprise Zones and the Opportunity Zones to year two. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

Dr. Rogers motioned to amend the initial motion and put Enterprise Zones into year three. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

Chairman Johnson made known the reason for the amendment by Dr. Rogers was based on information subsequently presented from Mr. Bauer and Mr. Chiappe.

Dr. Rogers motioned to accept the criteria with the changes mentioned, removing the change in the Capital Investment Criteria from the Quality Jobs Program and also evaluating the ability of the program administrative process. Mr. Brown seconded the motion; the motion passed and the following votes were recorded:

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

6. Discussion on the 2016 process and how to improve it moving forward. [Lyle Roggow]

There was discussion and input on moving forward to make the process in 2017 smooth and transparent as possible.
Mr. Bauer believes there is an overarching issue that relates to the availability of data. He would like to figure out a method of gathering this kind of data as it relates to the programs and those entities that use the programs. The continuation of working with the state stakeholders to figure out how to build that kind of a system for data capturing and use for the Commission and PFM.

No action taken.

7. Announcements. [Lyle Roggow]

Chairman Roggow made note that the next meeting will be January 26, 2017, at 2:00 p.m., in Room 419C.

8. Adjourn. [Lyle Roggow]

There being no further business, Mr. Brown made the motion to adjourn. Mr. Denton seconded the motion. Seeing no opposition, the meeting adjourned at 3:12 p.m.