

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1861

By: Fugate

6 AS INTRODUCED

7 An Act relating to public finance; amending Section
8 5, Chapter 184, O.S.L. 2015, as amended by Section 1,
Chapter 154, O.S.L. 2017 (62 O.S. Supp. 2018, Section
9 7005), which relates to the Incentive Evaluation Act;
10 requiring special criteria and analysis of economic
data with respect to certain income tax provisions;
11 requiring assistance from designated state agencies;
providing an effective date; and declaring an
emergency.

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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY Section 5, Chapter 184, O.S.L.
15 2015, as amended by Section 1, Chapter 154, O.S.L. 2017 (62 O.S.
16 Supp. 2018, Section 7005), is amended to read as follows:

17 Section 7005. A. The Commission may contract with a private
18 company, nonprofit, or academic institution to assist with
19 evaluation of each incentive. The Commission shall develop a scope
20 of services for a request for proposals issued pursuant to The
21 Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of
22 the Oklahoma Statutes, for professional services necessary to
23 complete incentive evaluations pursuant to the Incentive Evaluation
24 Act. The cost of such contract shall be paid by the Office of

1 Management and Enterprise Services. No recipient or potential
2 recipient of an incentive or representative of a recipient or
3 potential recipient shall contact the entity or individual with whom
4 the Commission contracts pursuant to this subsection unless the
5 entity or individual specifically requests information or
6 documentation for purposes of the incentive evaluation process;
7 provided, this shall not be construed to prevent participation in a
8 public hearing conducted pursuant to subsection B of this section.

9 B. By November 1 of each year beginning in 2016, the Commission
10 or the Commission's chosen contractor shall evaluate each incentive
11 scheduled for review that year. The Commission or the Commission's
12 chosen contractor shall conduct each incentive evaluation in
13 consultation with the Oklahoma Department of Commerce division of
14 Research and Economic Analysis Services using criteria developed
15 pursuant to subsection D of this section. Between October 1 and
16 November 30 of each year beginning in 2017, the Commission shall
17 hold at least one public meeting to review, allow for public
18 comment, and vote to approve, disapprove or modify each incentive
19 evaluation conducted that year. By December 15 of each year
20 beginning in 2016, the Commission shall provide the results of each
21 incentive evaluation in a written report to the Governor, President
22 Pro Tempore of the Senate and Speaker of the House of
23 Representatives. If the Commission votes to modify an incentive
24 evaluation as provided in this subsection, such modification and the

1 original evaluation shall be documented in the annual written
2 report. The report shall be made publicly available on the Oklahoma
3 Department of Commerce website, the Commission website and
4 documents.ok.gov.

5 C. Each evaluation shall include the following:

6 1. An estimate of the economic and fiscal impact of the
7 incentive. This estimate shall take into account the following
8 considerations in addition to other relevant factors:

9 a. the extent to which the incentive changes business
10 behavior,

11 b. the results of the incentive for the economy of
12 Oklahoma as a whole. This consideration includes both
13 positive direct and indirect impacts and any negative
14 effects on other Oklahoma businesses, and

15 c. a comparison to the results of other incentives or
16 other economic development strategies with similar
17 goals;

18 2. An assessment of whether adequate protections are in place
19 to ensure the fiscal impact of the incentive does not increase
20 substantially beyond the state's expectations in future years;

21 3. An assessment of whether the incentive is being administered
22 effectively;

23 4. An assessment of whether the incentive is achieving its
24 goals;

1 5. Recommendations for how Oklahoma can most effectively
2 achieve the incentive's goals, including recommendations on whether
3 the incentive should be retained, reconfigured or repealed; and

4 6. Recommendations for any changes to state policy, rules, or
5 statutes that would allow the incentive to be more easily or
6 conclusively evaluated in the future. These recommendations may
7 include changes to collection, reporting and sharing of data, and
8 revisions or clarifications to the goal of the incentive.

9 D. Evaluation criteria shall be developed for each incentive
10 evaluated by the Commission. Each incentive shall be evaluated
11 using criteria specific to the individual incentive. The criteria
12 shall be developed by the Commission through the administrative
13 rulemaking process pursuant to the Administrative Procedures Act,
14 Section 250 et seq. of Title 75 of the Oklahoma Statutes, and
15 codified in the administrative code of the Oklahoma Department of
16 Commerce. The Commission shall develop specialized criteria and
17 economic data analysis for the capital gains deductions authorized
18 by Section 2358 of Title 68 of the Oklahoma Statutes and may require
19 the Oklahoma Tax Commission, the Oklahoma Employment Security
20 Commission or other state agencies to provide information for use in
21 the analysis and evaluation process.

22 E. At the request of the Incentive Evaluation Commission, state
23 agencies shall provide any records, information, data, or data
24 analysis necessary for the Commission or contractors to effectively

1 evaluate incentives. The Commission and contractors shall not
2 disclose or release any data received from other state agencies,
3 except as permitted under law.

4 SECTION 2. This act shall become effective July 1, 2019.

5 SECTION 3. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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