

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 2182

By: Hickman

4  
5  
6 AS INTRODUCED

7 An Act relating to public finance; enacting the  
8 Incentive Evaluation Act; defining term; creating  
9 Incentive Evaluation Commission; providing for  
10 membership; requiring staff support; creating  
11 Incentive Approval Committee as subcommittee of  
12 Incentive Evaluation Commission; imposing duties upon  
13 Committee; imposing duties on Incentive Evaluation  
14 Commission; requiring development of schedule;  
15 requiring transmission of schedule to Governor,  
16 President Pro Tempore of the Oklahoma State Senate  
17 and the Speaker of the Oklahoma House of  
18 Representatives; authorizing contract; requiring  
19 scope of services request for proposal; prescribing  
20 procedures for evaluation of tax and related  
21 incentives; requiring report; prescribing content of  
22 evaluation; requiring criteria for evaluation;  
23 requiring compliance with Administrative Procedures  
24 Act; requiring information, records, data and  
analysis by governmental entities; providing for  
confidentiality of information; providing for  
codification; and providing an effective date.

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

26 SECTION 1. NEW LAW A new section of law to be codified  
27 in the Oklahoma Statutes as Section 7001 of Title 62, unless there  
28 is created a duplication in numbering, reads as follows:  
29

1        This act shall be known and may be cited as the "Incentive  
2 Evaluation Act".

3        SECTION 2.        NEW LAW        A new section of law to be codified  
4 in the Oklahoma Statutes as Section 7002 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6        As used in this act, "incentive" means a tax credit, tax  
7 exemption, tax deduction, tax expenditure, rebate, grant, or loan  
8 that is intended to encourage businesses to locate, expand, invest,  
9 or remain in Oklahoma, or to hire or retain employees in Oklahoma.

10       SECTION 3.        NEW LAW        A new section of law to be codified  
11 in the Oklahoma Statutes as Section 7003 of Title 62, unless there  
12 is created a duplication in numbering, reads as follows:

13       A. There is hereby established the Incentive Evaluation  
14 Commission consisting of:

15       1. The Director of the Office of Management and Enterprise  
16 Services or his or her designee;

17       2. The State Treasurer or his or her designee;

18       3. The Secretary of Commerce or his or her designee;

19       4. The Chairman of the Oklahoma Tax Commission or his or her  
20 designee;

21       5. An individual appointed by the President Pro Tempore of the  
22 Senate who is an economist representing an institution of higher  
23 education in this state;

1       6. An individual appointed by the Speaker of the House of  
2 Representatives who is a layperson holding no elective office; and

3       7. The president of the Oklahoma Professional Economic  
4 Development Council or his or her designee.

5       B. Appointees of the President Pro Tempore of the Senate and  
6 Speaker of the House of Representatives shall serve a term of four  
7 (4) years.

8       C. The Office of Management and Enterprise Services shall  
9 provide staff and administrative support to the Incentive Evaluation  
10 Commission. The Oklahoma Department of Commerce, Oklahoma Tax  
11 Commission and Office of the State Treasurer shall assist the Office  
12 of Management and Enterprise Services as needed in providing staff  
13 and administrative support to the Commission.

14       D. The Incentive Approval Committee is hereby created as a  
15 subcommittee of the Incentive Evaluation Commission and shall  
16 consist of the Director of the Office of Management and Enterprise  
17 Services or his or her designee, the Secretary of Commerce or his or  
18 her designee, and the Chairman of the Tax Commission or his or her  
19 designee. It shall be the duty of the Committee to determine:

20       1. Upon initial application on a form approved by the  
21 Committee, if an establishment is engaged in a basic industry as  
22 defined in subdivision (b) of division (7) or in subdivisions (a)  
23 through (n) of division (9) of subparagraph a of paragraph 1 of  
24 subsection A of Section 3603 of Title 68 of the Oklahoma Statutes or

1 as otherwise provided by subsection C of Section 3603 of Title 68 of  
2 the Oklahoma Statutes;

3 2. If an establishment would have been defined as a "basic  
4 industry" prior to the amendments to Section 3603 of Title 68 of the  
5 Oklahoma Statutes to convert from SIC Codes to NAICS Codes. If the  
6 Committee so determines, the establishment shall be considered as a  
7 "basic industry" for purposes of the Oklahoma Quality Jobs Program  
8 Act; and

9 3. If employees of an establishment as defined in division (10)  
10 of subparagraph a of paragraph 1 of subsection A of Section 3603 of  
11 Title 68 of the Oklahoma Statutes meet the requirements to be  
12 considered employed in new direct jobs as specified in paragraph 3  
13 of subsection A of Section 3603 of Title 68 of the Oklahoma  
14 Statutes.

15 E. For an establishment defined as a "basic industry" pursuant  
16 to division (4) of subparagraph a of paragraph 1 of subsection A of  
17 Section 3603 of Title 68 of the Oklahoma Statutes, the Incentive  
18 Approval Committee shall consist of the members provided by  
19 subsection B of this section and the Executive Director of the  
20 Oklahoma Center for the Advancement of Science and Technology, or a  
21 designee from the Center appointed by the Executive Director.

22 SECTION 4. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 7004 of Title 62, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. The Incentive Evaluation Commission shall ensure that each  
2 incentive is evaluated at least once every four (4) years unless the  
3 Commission determines that the incentive is exempt from evaluation.  
4 The Commission may exempt from evaluation any incentive that it  
5 concludes has a minimal fiscal impact.

6       B. By January 1, 2016, and by January 1 each year thereafter,  
7 the Incentive Evaluation Commission shall develop a four-year  
8 schedule for evaluating incentives. Each schedule shall include a  
9 list of all incentives in the state, including any it exempts from  
10 evaluation. In determining whether a program is an incentive, the  
11 Incentive Evaluation Commission may consider legislative intent and  
12 may also consider whether the program is promoted as an incentive by  
13 any state agency. For each incentive listed in the schedule, the  
14 Commission shall attempt to identify the goal or goals of the  
15 incentive.

16       C. Upon approval of the schedule, the Commission shall provide  
17 the schedule to the Governor, President Pro Tempore of the Senate  
18 and Speaker of the House of Representatives.

19       SECTION 5.       NEW LAW       A new section of law to be codified  
20 in the Oklahoma Statutes as Section 7005 of Title 62, unless there  
21 is created a duplication in numbering, reads as follows:

22       A. The Commission may contract with a private company,  
23 nonprofit, or academic institution to assist with evaluation of each  
24 incentive. The Commission shall develop a scope of services for a

1 request for proposals issued pursuant to The Oklahoma Central  
2 Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma  
3 Statutes, for professional services necessary to complete incentive  
4 evaluations pursuant to the Incentive Evaluation Act. The cost of  
5 such contract shall be paid by the Office of Management and  
6 Enterprise Services.

7 B. By November 1 of each year beginning in 2016, the Commission  
8 or the Commission's chosen contractor shall evaluate each incentive  
9 scheduled for review that year. The Commission or the Commission's  
10 chosen contractor shall conduct each incentive evaluation in  
11 consultation with the Oklahoma Department of Commerce division of  
12 Research and Economic Analysis Services using criteria developed  
13 pursuant to subsection D of this section. Between November 1 and  
14 November 30 of each year beginning in 2016, the Commission shall  
15 hold at least one public meeting to review, allow for public  
16 comment, and vote to approve or disapprove each incentive evaluation  
17 conducted that year. By December 15 of each year beginning in 2016,  
18 the Commission shall provide the results of each incentive  
19 evaluation in a written report to the Governor, President Pro  
20 Tempore of the Senate and Speaker of the House of Representatives.  
21 The report shall be made publicly available on the Oklahoma  
22 Department of Commerce website and *documents.ok.gov*.

23 C. Each evaluation shall include the following:  
24

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

4            a. the extent to which the incentive changes business  
5 behavior,

6            b. the results of the incentive for the economy of  
7 Oklahoma as a whole. This consideration includes both  
8 positive direct and indirect impacts and any negative  
9 effects on other Oklahoma businesses, and

10           c. a comparison to the results of other incentives or  
11 other economic development strategies with similar  
12 goals;

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

16        3. An assessment of whether the incentive is being administered  
17 effectively;

18        4. An assessment of whether the incentive is achieving its  
19 goals;

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

23        6. Recommendations for any changes to state policy, rules, or  
24 statutes that would allow the incentive to be more easily or

1 conclusively evaluated in the future. These recommendations may  
2 include changes to collection, reporting and sharing of data, and  
3 revisions or clarifications to the goal of the incentive.

4 D. Evaluation criteria shall be developed for each incentive  
5 evaluated by the Commission. Each incentive shall be evaluated  
6 using criteria specific to the individual incentive. The criteria  
7 shall be developed through the administrative rulemaking process  
8 pursuant to the Administrative Procedures Act, Section 250 et seq.  
9 of Title 75 of the Oklahoma Statutes, and codified in the  
10 administrative code of the Oklahoma Department of Commerce.

11 E. At the request of the Incentive Evaluation Commission, state  
12 agencies shall provide any records, information, data, or data  
13 analysis necessary for the Commission or contractors to effectively  
14 evaluate incentives. The Commission and contractors shall not  
15 disclose or release any data received from other state agencies,  
16 except as permitted under law.

17 SECTION 6. This act shall become effective November 1, 2015.

18  
19 55-1-5593 MAH 01/22/15  
20  
21  
22  
23  
24