

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1953

6 By: McNiell

7 COMMITTEE SUBSTITUTE

8 An Act relating to economic development; making  
9 legislative findings; creating the Oklahoma Quick  
10 Action Closing Fund; providing for sources of  
11 revenue; providing for expenditure of monies from  
12 fund; prescribing method for payment of expenditures;  
13 prescribing procedures; imposing duties upon the  
14 Oklahoma Department of Commerce; imposing duties upon  
15 the Director of the Oklahoma Department of Commerce;  
16 prescribing certain selection criteria; requiring  
17 administrative rules; requiring evaluation to be  
18 submitted to President Pro Tempore of the Oklahoma  
19 State Senate and Speaker of the Oklahoma House of  
20 Representatives; providing for certain agreements;  
21 prescribing content of agreements; providing for  
22 codification; providing an effective date; and  
23 declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 48.1 of Title 62, unless there  
is created a duplication in numbering, reads as follows:

A. The Legislature finds the following to be beneficial goals  
of the state: attracting, retaining and providing favorable

1 conditions for the recruitment and growth of certain high-impact  
2 business projects or facilities which provide widespread economic  
3 benefits to the public through high-quality employment opportunities  
4 or capital investment in such projects or facilities and net  
5 economic benefits to the state.

6 B. The Legislature further finds that there exists serious  
7 competition for these projects and facilities, and that without a  
8 workable closing fund, Oklahoma continues to be at a competitive  
9 disadvantage in vying with states that have such a fund for  
10 attracting and/or retaining these business projects.

11 SECTION 2. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 48.2 of Title 62, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. There is hereby created in the State Treasury a revolving  
15 fund for the Oklahoma Department of Commerce to be designated the  
16 Oklahoma Quick Action Closing Fund. The fund shall be a continuing  
17 fund, not subject to fiscal year limitations and shall consist of:

- 18 1. All monies apportioned or allocated to the fund pursuant to  
19 law;
- 20 2. Any amounts appropriated by the Legislature to the fund;
- 21 3. Interest earned on the investment of money in the fund; and
- 22 4. Gifts, grants, and other donations received for the fund.

23 B. All monies accruing to the credit of the fund are hereby  
24 appropriated and may be budgeted and expended by the Governor for

1 the purposes of economic development and related infrastructure  
2 development in instances in which expenditure of such funds would  
3 likely be a determining factor in locating a high-impact business  
4 project or facility in Oklahoma or in retaining such project or  
5 facility within the state. Expenditures from the fund shall be made  
6 upon warrants issued by the State Treasurer against claims filed as  
7 prescribed by law with the Director of the Office of State Finance  
8 for approval and payment.

9 C. The Oklahoma Department of Commerce shall administer the  
10 Oklahoma Quick Action Closing Fund, and expenditures from the fund  
11 shall be recommended by the Director of the Oklahoma Department of  
12 Commerce to the Governor after a thorough evaluation of selected  
13 projects or facilities. The Director of the Oklahoma Department of  
14 Commerce shall only recommend expenditures that the Director  
15 determines are expected to result in a net economic benefit to the  
16 state through the following:

17 1. The creation of new jobs which offer a basic health benefit  
18 plan, as defined in the Oklahoma Quality Jobs Program Act;

19 2. The maintenance of existing jobs which are at a risk for  
20 termination;

21 3. Investment in new real property, plant or equipment or in  
22 the improvement or retooling of existing plant or equipment; or

23 4. Additional revenues in either ad valorem, income or sales  
24 and use taxes.

1 D. The Oklahoma Department of Commerce shall develop rules for  
2 the process of reviewing proposed expenditures from the Oklahoma  
3 Quick Action Closing Fund and for the determination of whether or  
4 not proposed expenditures meet the criteria identified in subsection  
5 C of this section. Criteria shall include requirements for economic  
6 impact, local participation in the project, capital investment and  
7 average wage thresholds.

8 E. Upon receipt of an evaluation that recommends an expenditure  
9 from the Oklahoma Quick Action Closing Fund from the Director of the  
10 Oklahoma Department of Commerce, the Governor shall provide the  
11 evaluation and recommendation to the President Pro Tempore of the  
12 Oklahoma Senate and the Speaker of the Oklahoma House of  
13 Representatives before giving final approval for the expenditure on  
14 the project. The Executive Office of the Governor shall recommend  
15 final approval of an expenditure on a project pursuant to  
16 consultation with the President Pro Tempore of the State Senate and  
17 the Speaker of the House of Representatives.

18 F. Upon approval by the Governor, the Oklahoma Department of  
19 Commerce shall enter into an agreement that sets forth the  
20 conditions for payment of monies from the Oklahoma Quick Action  
21 Closing Fund. The agreement must include:

22 1. The total amount of funds awarded;

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1           2. The performance conditions that must be met to obtain the  
2 award, including, but not limited to, net new employment in the  
3 state, average salary, and total capital investment;

4           3. If appropriate, a baseline of current service and measure of  
5 enhanced capability;

6           4. The methodology of validating performance; and

7           5. The schedule of payments from the fund, and claw-back  
8 provisions for failure to meet performance conditions.

9           G. If any or all of the amount to be awarded is used to build a  
10 capital improvement:

11           1. The state retains a lien or other interest in the capital  
12 improvement in proportion to the amount awarded by the written  
13 agreement for the capital improvement; and

14           2. If the capital improvement is sold, the recipient of the  
15 award shall:

16           a. repay the state the money awarded to pay for the  
17 capital improvement, with interest at the rate and  
18 according to the other terms provided by the  
19 agreement, and

20           b. share with the state a proportionate amount of any  
21 profit realized from the sale.

22           H. If, as of the date certain provided in the agreement, the  
23 award recipient has not used monies awarded for the intended  
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1 purposes, the recipient shall repay that amount and any related  
2 interest to the state at the agreed rate and on the agreed terms.

3 SECTION 3. This act shall become effective July 1, 2011.

4 SECTION 4. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

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