

1 ENGROSSED HOUSE  
2 BILL NO. 1953

By: McNiell and Pittman of the  
House

3 and

4 Mazzei of the Senate  
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7 An Act relating to economic development; making  
8 legislative findings; creating the Oklahoma Quick  
9 Action Closing Fund; providing for sources of  
10 revenue; providing for expenditure of monies from  
11 fund; prescribing method for payment of expenditures;  
12 prescribing procedures; prescribing requirements for  
13 certain business establishments; requiring analysis  
14 by the Oklahoma Department of Commerce; requiring  
15 analysis of potential impact of business activity;  
16 imposing duties upon the Director of the Oklahoma  
17 Department of Commerce; prescribing certain selection  
18 criteria; requiring administrative rules; requiring  
19 evaluation to be submitted to President Pro Tempore  
20 of the Oklahoma State Senate and Speaker of the  
21 Oklahoma House of Representatives; providing for  
22 certain agreements; prescribing content of  
23 agreements; requiring certain information to be  
24 available through website; providing exemption for  
proprietary information; providing for imposition of  
lien; providing for repayment of certain amounts;  
providing for cessation of provisions based upon  
deposit, appropriation or apportionment to Quick  
Action Closing Fund; and providing for codification.

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

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

1       A. The Legislature finds the following to be beneficial goals  
2 of the state: attracting, retaining and providing favorable  
3 conditions for the recruitment and growth of certain high-impact  
4 business projects or facilities which provide widespread economic  
5 benefits to the public through high-quality employment opportunities  
6 or capital investment in such projects or facilities and net  
7 economic benefits to the state.

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

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

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

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

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

11           C. In order to qualify for any funds from the Oklahoma Quick  
12 Action Closing Fund, the establishment making application shall be  
13 engaged in a business activity described by a North American  
14 Industry Classification System (NAICS) Code used to define  
15 eligibility for incentive payments from the Oklahoma Quality Jobs  
16 Program Act as defined in Section 3603 of Title 68 of the Oklahoma  
17 Statutes or a business activity described by Section 3603 of Title  
18 68 of the Oklahoma Statutes or be engaged in a "basic industry" used  
19 to define eligibility for incentive payments from the 21st Century  
20 Quality Jobs Incentive Act as prescribed by Section 3913 of Title 68  
21 of the Oklahoma Statutes.

22           D. The Governor shall not approve payments from the Oklahoma  
23 Quick Action Closing Fund unless the Department of Commerce has  
24 conducted a complete analysis of the potential impact of the

1 applicant's business activity which shall include, but not be  
2 limited to:

3 1. The number of jobs to be created by a new business  
4 establishment;

5 2. The number of jobs to be retained by an existing business  
6 establishment;

7 3. The average salary of jobs to be created by a new  
8 establishment;

9 4. The average salary of jobs to be retained by an existing  
10 business establishment;

11 5. The total capital investment to be made by the business  
12 establishment;

13 6. The likelihood of other business establishments locating  
14 within the same vicinity or within the state as a result of the  
15 business activity to be conducted by the entity to receive payments  
16 from the Oklahoma Quick Action Closing Fund;

17 7. The impact on the economy of the area or community in which  
18 the business activity of the applicant is or will be conducted; and

19 8. Such other factors as the Governor and the Department of  
20 Commerce determine to be relevant.

21 E. The Oklahoma Department of Commerce shall administer the  
22 Oklahoma Quick Action Closing Fund, and expenditures from the fund  
23 shall be recommended by the Director of the Oklahoma Department of  
24 Commerce to the Governor after a thorough evaluation of selected

1 projects or facilities. The Director of the Oklahoma Department of  
2 Commerce shall only recommend expenditures that the Director  
3 determines are expected to result in a net economic benefit to the  
4 state through the following:

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

7 2. The maintenance of existing jobs which are at a risk for  
8 termination;

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

11 4. Additional revenues in either ad valorem, income or sales  
12 and use taxes.

13 F. The Oklahoma Department of Commerce shall develop rules for  
14 the process of reviewing proposed expenditures from the Oklahoma  
15 Quick Action Closing Fund and for the determination of whether or  
16 not proposed expenditures meet the criteria identified in subsection  
17 E of this section. Criteria shall include requirements for economic  
18 impact, local participation in the project, capital investment and  
19 average wage thresholds.

20 G. Upon receipt of an evaluation that recommends an expenditure  
21 from the Oklahoma Quick Action Closing Fund from the Director of the  
22 Oklahoma Department of Commerce, the Governor shall provide the  
23 evaluation and recommendation to the President Pro Tempore of the  
24 State Senate and the Speaker of the Oklahoma House of

1 Representatives before giving final approval for the expenditure on  
2 the project. The Executive Office of the Governor shall recommend  
3 final approval of an expenditure on a project pursuant to  
4 consultation with the President Pro Tempore of the State Senate and  
5 the Speaker of the Oklahoma House of Representatives.

6 H. Upon approval by the Governor, the Oklahoma Department of  
7 Commerce shall enter into an agreement that sets forth the  
8 conditions for payment of monies from the Oklahoma Quick Action  
9 Closing Fund. The agreement must include:

- 10 1. The total amount of funds awarded;
- 11 2. The performance conditions that must be met to obtain the  
12 award, including, but not limited to, net new employment in the  
13 state, average salary, and total capital investment;
- 14 3. If appropriate, a baseline of current service and measure of  
15 enhanced capability;
- 16 4. The methodology of validating performance; and
- 17 5. The schedule of payments from the fund, and claw-back  
18 provisions for failure to meet performance conditions.

19 I. The Department of Commerce shall make available on its  
20 website or other website dedicated for this purpose a complete  
21 disclosure of all payments made from the Oklahoma Quick Action  
22 Closing Fund. The disclosure shall include a description of the  
23 expenditures made by the business establishment with the payments  
24 made from the fund. No proprietary information of the business

1 establishment shall be subject to the requirements of this  
2 subsection.

3 J. If any or all of the amount to be awarded is used to build a  
4 capital improvement:

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

8 2. If the capital improvement is sold, the recipient of the  
9 award shall:

10 a. repay the state the money awarded to pay for the  
11 capital improvement, with interest at the rate and  
12 according to the other terms provided by the  
13 agreement, and

14 b. share with the state a proportionate amount of any  
15 profit realized from the sale.

16 K. If, as of the date certain provided in the agreement, the  
17 award recipient has not used monies awarded for the intended  
18 purposes, the recipient shall repay that amount and any related  
19 interest to the state at the agreed rate and on the agreed terms.

20 L. The provisions of this act shall cease to have the force and  
21 effect of law on the July 1 date of the sixth fiscal year after the  
22 first fiscal year for which any funds are deposited to, appropriated  
23 to, apportioned to or otherwise transferred to the Oklahoma Quick  
24 Action Closing Fund.

1 Passed the House of Representatives the 16th day of March, 2011.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2011.

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9 Presiding Officer of the Senate