

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1953

By: McNiell and Pittman of the  
House

and

Mazzei of the Senate

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

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

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

19 A. There is hereby created in the State Treasury a revolving  
20 fund for the Oklahoma Department of Commerce to be designated the  
21 Oklahoma Quick Action Closing Fund. The fund shall be a continuing  
22 fund, not subject to fiscal year limitations and shall consist of:  
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1 1. All monies apportioned or allocated to the fund pursuant to  
2 law;

3 2. Any amounts appropriated by the Legislature to the fund;

4 3. Interest earned on the investment of money in the fund; and

5 4. Gifts, grants, and other donations received for the fund.

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

16 C. The Oklahoma Department of Commerce shall administer the  
17 Oklahoma Quick Action Closing Fund, and expenditures from the fund  
18 shall be recommended by the Director of the Oklahoma Department of  
19 Commerce to the Governor after a thorough evaluation of selected  
20 projects or facilities. The Director of the Oklahoma Department of  
21 Commerce shall only recommend expenditures that the Director  
22 determines are expected to result in a net economic benefit to the  
23 state through the following:

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

3 2. The maintenance of existing jobs which are at a risk for  
4 termination;

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

7 4. Additional revenues in either ad valorem, income or sales  
8 and use taxes.

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

16 E. Upon receipt of an evaluation that recommends an expenditure  
17 from the Oklahoma Quick Action Closing Fund from the Director of the  
18 Oklahoma Department of Commerce, the Governor shall provide the  
19 evaluation and recommendation to the President Pro Tempore of the  
20 Oklahoma Senate and the Speaker of the Oklahoma House of  
21 Representatives before giving final approval for the expenditure on  
22 the project. The Executive Office of the Governor shall recommend  
23 final approval of an expenditure on a project pursuant to

1 consultation with the President Pro Tempore of the State Senate and  
2 the Speaker of the House of Representatives.

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

7 1. The total amount of funds awarded;

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

11 3. If appropriate, a baseline of current service and measure of  
12 enhanced capability;

13 4. The methodology of validating performance; and

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

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

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

21 2. If the capital improvement is sold, the recipient of the  
22 award shall:

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1 a. repay the state the money awarded to pay for the  
2 capital improvement, with interest at the rate and  
3 according to the other terms provided by the  
4 agreement, and

5 b. share with the state a proportionate amount of any  
6 profit realized from the sale.

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

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

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

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17 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM AND  
18 FINANCIAL SERVICES, dated 02-24-2011 - DO PASS, As Amended and  
19 Coauthored.  
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