

**FLOOR AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1953

Page 2 Section 2 Lines 16 Of the printed Bill  
Of the Engrossed Bill

By deleting Section 2 and by inserting in lieu thereof the following language:

"(INSERT ATTACHED)"

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Skye McNiel

Adopted: \_\_\_\_\_

Reading Clerk

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

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

8       1. All monies apportioned or allocated to the fund pursuant to  
9       law;

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

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

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

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

23      C. In order to qualify for any funds from the Oklahoma Quick  
24      Action Closing Fund, the establishment making application shall be

1 engaged in a business activity described by a North American  
2 Industry Classification System (NAICS) Code used to define  
3 eligibility for incentive payments from the Oklahoma Quality Jobs  
4 Program Act as defined in Section 3603 of Title 68 of the Oklahoma  
5 Statutes or a business activity described by Section 3603 of Title  
6 68 of the Oklahoma Statutes or be engaged in a "basic industry" used  
7 to define eligibility for incentive payments from the 21st Century  
8 Quality Jobs Incentive Act as prescribed by Section 3913 of Title 68  
9 of the Oklahoma Statutes.

10       D. The Governor shall not approve payments from the Oklahoma  
11 Quick Action Closing Fund unless the Department of Commerce has  
12 conducted a complete analysis of the potential impact of the  
13 applicant's business activity which shall include, but not be  
14 limited to:

15           1. The number of jobs to be created by a new business  
16 establishment;

17           2. The number of jobs to be retained by an existing business  
18 establishment;

19           3. The average salary of jobs to be created by a new  
20 establishment;

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

23           5. The total capital investment to be made by the business  
24 establishment;

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

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

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

9       E. 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       F. 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 E of this section. Criteria shall include requirements for economic  
6 impact, local participation in the project, capital investment and  
7 average wage thresholds.

8       G. 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 State 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 Oklahoma House of Representatives.

18       H. 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;

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       I. The Department of Commerce shall make available on its  
10 website or other website dedicated for this purpose a complete  
11 disclosure of all payments made from the Oklahoma Quick Action  
12 Closing Fund. The disclosure shall include a description of the  
13 expenditures made by the business establishment with the payments  
14 made from the fund. No proprietary information of the business  
15 establishment shall be subject to the requirements of this  
16 subsection.

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

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

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

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                K.   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               L.   The provisions of this act shall cease to have the force and  
12   effect of law on the July 1 date of the sixth fiscal year after the  
13   first fiscal year for which any funds are deposited to, appropriated  
14   to, apportioned to or otherwise transferred to the Oklahoma Quick  
15   Action Closing Fund."

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