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Oklahoma's Quick Action Closing Fund

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*The Quick Action Closing Fund was first instituted in 2011, amended in 2012, 2018, and 2019, and is scheduled to sunset on July 1, 2024.**

Introduction

The State of Oklahoma maintains a fund that provides money for the governor to use as an enticement for businesses to locate facilities in the state, similar to that of several other states (Texas, Florida, Michigan, among others). Oklahoma's version is called the Quick Action Closing Fund. According to a 2018 Incentive Evaluation Commission (IEC) report, the program was instituted because "Oklahoma was at a competitive disadvantage with neighboring states because those states had a closing fund and Oklahoma did not."¹ Governor Stitt, in spite of his conservative track record, is a major proponent of the fund. In his 2021 State of the State address, he praised it as a "key tool" to close deals that bring new industries and businesses to our state.² This position is bolstered by language in the IEC report, which states that money from the fund is "offered at the discretion of the Department [of Commerce] and the Governor only when other State incentive programs...are not enough to close a deal."³

Current Law

To be considered for payments from the Quick Action Closing Fund, companies must fulfill two basic requirements. They must be engaged in "basic industry" as defined in the Quality Jobs Program Act or the 21st Century Quality Jobs Incentive Act, and they must offer wages greater than or equal to the average county wage in which the high-impact project would occur.⁴ However, an exception was added in 2019 to allow companies that qualified for the Film Enhancement Rebate to receive their rebate from the fund.** Such payments are exempt from any of the previous qualifications so long as the company qualified for an expense rebate under the Film Enhancement Rebate.⁵

In addition, the Department of Commerce must evaluate the application of any company (aside from those qualifying under the Film Enhancement rebate) wishing to receive a payment from the fund, and then present the governor with a recommendation.

The criteria for determining what constitutes a "net benefit" to the state are to be determined by the Department, but must include "requirements for economic impact, local participation in the project, capital investment and average wage thresholds." The Department is only allowed to recommend applications that would result in a "net benefit" to the state, and the governor is only allowed to grant payments to those that get the Department's recommendation. Finally, the governor must provide the Department's evaluation and recommendation to the President Pro Tem of the Senate and the Speaker of House before giving final approval to disburse funds.⁶

Awards

As of March 2020, approximately \$14 million has been awarded to companies via the fund. According to the 2019 Department of Commerce Annual Report on the Quick Action Closing Fund, seven companies have received at least one award from the fund since its inception in 2011. These companies include General Electric, Macy's, Commercial Metals Company, Boeing, Sofidel America Corp, the Greenheck Group, and Cerilon GTL, Inc.

Per Department of Commerce report, March 2020:

- In March 2013, the fund's first award was made to General Electric. The company was awarded \$3 million to be applied toward the cost of constructing a new facility in Oklahoma City.
- In March 2014, Macy's was awarded \$1.5 million for the cost of training employees who receive training certificates.
- Commercial Metals Company received a total of \$3 million to be used toward the cost of a new facility in Durant.
- The Boeing Company was awarded \$2 million in July 2015 for an expansion and relocation of its Aircraft

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* Two separate amendments were passed during the 2019 legislative session that were not reconciled. As a result, there are two versions of the Quick Action Closing Fund law listed in statute (listed as version 1 and version 2). Endnotes will clarify which is referenced.

** The Film Enhancement Rebate Program is no longer accepting new applications, and has been superseded by the Filmed in Oklahoma Act of 2021.

Modernization and Sustainment business unit. They were also awarded \$1 million in December 2018 (separate from the 2015 award).

- In October 2017, Sofidel America Corp was awarded \$1.3 million to fund relocation costs related to the construction of a new facility in Rogers County.
- The Greenheck Group was awarded \$0.2 million in 2017, and the award was paid in 2018 for building a new facility in Tulsa.
- Cerilon GTL, Inc., was awarded \$2 million to construct a gas-to-liquids facility in El Reno.⁷

1889 Evaluation

In *Policymaker's Guide to Evaluating Corporate Welfare*, 1889 Institute lays out a five-question test to help determine if certain subsidies or incentives are corporate welfare.⁸

Question 1: Is this a direct grant of funds or reduction in taxes to a private entity without an expectation of direct consideration (performance of services or provision of goods) to the government making the grant?

Yes. Direct cash payments are made from the fund to qualifying companies so long as they create jobs and pay their workers a decent wage. These do not constitute direct consideration because companies would do both *regardless* of the payment from the fund. Companies need workers and workers will not work unless they are paid.

Question 2: Does a grant of funds or tax consideration apply to every similarly situated business?

No. Payments from the fund only apply to businesses that are specially selected by the Governor and the Department of Commerce. As stated above, only seven companies have received payments from the fund since it was created in 2011. This indicates that payments from the fund are very exclusive, putting the Governor and the Department of Commerce in the position of picking winners and losers.

Question 3: Does an apparent tax advantage put businesses on an equal footing?

No. There is no reason to believe that companies such as Boeing, Macy's, and General Electric are at a tax disadvantage and need to be given subsidies in order to compete on a level field.

Question 4: Is the purpose of this policy to avoid tax pyramiding?

No. Tax pyramiding occurs when a product is taxed at multiple stages of production, meaning the tax on final goods and services partially be a tax *on taxes* paid at earlier production stages. This inflates the cost of the final product, distorts consumer purchasing decisions, and distorts production chains. This is clearly not occurring in the instance of the Quick Action Closing Fund. Again, so long as they follow the procedures set forth in statute, funds are simply doled out at the whim of the Governor and the Department of Commerce.

Question 5: Is the policy compensating a company for public infrastructure the company provided?

No. Public infrastructure consists of roads, sewers, and other public investments that benefit everyone. The wide variety of companies represented by the payouts from the fund show no such public infrastructure benefit.

Conclusion

The results from the guide are clear: the answer to question 1 is Yes, and the answer to questions 2-5 is No. Therefore, it is fair to conclude that the Quick Action Closing Fund is corporate welfare. It is the epitome of corporate welfare, a "ribbon-cutting fund" that politicians can use to buy photo-ops cutting red ribbons at new facilities. The legislature should move to immediately eliminate the Quick Action Closing Fund. However, the Quick Action Closing Fund is merely a symptom. The legislature needs to pursue a viable solution to the arms race that is corporate welfare subsidies in order to truly eliminate the disease of corporate welfare.

The 1889 Institute and the Mackinac Center for Public Policy have outlined a solution to the problem of corporate welfare, including a model compact, in *Multilateral Disarmament: A State Compact to End Corporate Welfare*.⁹ In essence, states sign onto a compact that bars them from attempting to lure businesses (via subsidy) from other states within the compact. However, states are not required to unilaterally refrain from competition via subsidy. The cessation of subsidies would only begin once a threshold number of states have joined the compact. This allows states to adopt the compact knowing that they will only be held to it if other states join as well. Oklahoma should lead the way in becoming the first state to adopt a compact to end corporate welfare.

End Notes

1 Oklahoma, Incentive Evaluation Commission, *Quick Action Closing Fund Final Report 2018*, https://iec.ok.gov/sites/g/files/gmc216/f/Quick%20Action%20Closing%20Fund_11.20.18_FINAL.PDF

2 Governor Kevin Stitt, "State of the State Address" (speech, Oklahoma City, OK, February 1, 2021), https://www.governor.ok.gov/articles/press_releases/governor-stitt-delivers-2021-state-of-the-state-ad

3 *Quick Action Closing Fund Final Report 2018*, p. 9.

4 Oklahoma Department of Commerce, *Oklahoma Business Incentives and Tax Guide*, FY 2020, <https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Business-Incentives-and-Tax-Guide.pdf>

62 O.S. § 48.2 (Version 1) (1) C. (OSCN 2021) <https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=463681>

5 62 O.S. § 48.2 (Version 2) D. (OSCN 2021) <https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=463681>

6 62 O.S. § 48.2 (Version 1) E. (OSCN 2021) <https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=463681>

7 Oklahoma Department of Commerce, *Governor's Quick Action Closing Fund Annual Report, 2019*, <https://www.okcommerce.gov/wp-content/uploads/Governor%E2%80%99s-Quick-Action-Closing-Fund-Annual-Report-2019.pdf>

8 Tyler Williamson, Spencer Cadavero, and Byron Schlomach, *Policymaker's Guide to Evaluating Corporate Welfare*, 1889 Institute, 2020, <https://1889institute.org/policymakers-guide-to-evaluating-corporate-welfare/>

9 Byron Schlomach, Steven Slivinski, and James Hohman, *Multilateral Disarmament: A State Compact to End Corporate Welfare*, Mackinac Center for Public Policy and the 1889 Institute, 2019, <https://1889institute.org/multilateral-disarmament-a-state-compact-to-end-corporate-welfare/>