

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 1957

By: Fisher of the Senate

and

Cargill of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance; creating EDGE Fund and providing for contents thereof; creating Board of Investors of EDGE Fund; establishing duties of Board of Investors; establishing limit on expenditures; providing for composition of, and appointments to, Board of Investors; providing for staggered terms and appointment of successors; providing for removal by cause; providing for travel reimbursement; providing for the election of officers and limiting terms; requiring minimum amount of meetings on specified schedule; requiring quorum to transact certain business; providing for application of certain acts to meetings of Board of Investors; requiring Board of Investors to submit certain report; creating EDGE Fund Policy Board; establishing responsibilities of Policy Board; providing projects and programs for purpose of expenditure of funds; establishing criteria for expenditures; providing for certain expenditure during initial cycle; requiring Policy Board to make certain annual review; providing for composition and qualifications of, and appointments to, Policy Board; requiring Oklahoma Department of Commerce to submit certain list of names; requiring consultation with specified entities; permitting appointing authorities to select appointees from list; providing for travel reimbursement; providing for the selection of officers by the Governor and limiting terms; requiring minimum amount of meetings on specified schedule; requiring quorum to transact certain business; authorizing Policy Board to employ executive director; providing for application of certain acts to meetings of Policy Board; providing for limited confidentiality of certain information submitted to Policy Board; authorizing executive sessions; limiting expenditures from EDGE Fund; authorizing Policy Board to provide certain supplemental funding; authorizing certain cooperative agreements; requiring Oklahoma Center for the Advancement of Science and Technology to provide certain assistance to Board of Investors and Policy Board; requiring Executive Director of Oklahoma Center for the Advancement of Science and Technology to provide certain staff assistance and providing for payment thereof; limiting amount of assets for expenditure on administrative expenses; requiring

certain collaboration by Policy Board; requiring the development of certain rules and timelines and providing for certain preference; requiring the Policy Board, with assistance from Oklahoma Center for the Advancement of Science and Technology, to develop certain rules and procedures; providing for audit; providing for codification; and declaring an emergency.

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 47 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a trust fund for Economic Development Generating Excellence to be known as the "EDGE Fund". The trust fund principal shall consist of all funds appropriated, donated or otherwise directed to the fund by law.

B. There is hereby created the Board of Investors of the EDGE Fund. The Board of Investors shall:

1. Manage the assets of EDGE Fund;
2. Invest monies in accordance with laws applicable to the investment of monies in state retirement funds; and
3. Certify the amount of funds available for expenditure each year from the EDGE Fund. The amount of funds available for expenditure shall be limited to not more than five percent (5%) of the assets of the Trust Fund. Any amount not expended shall remain in the EDGE Fund.

C. The Board of Investors shall be composed of five (5) members as follows:

1. The State Treasurer, or a designee, who shall serve as chair;
  2. An appointee of the Governor;
  3. An appointee of the State Auditor and Inspector;
  4. An appointee of the Speaker of the House of Representatives;
- and

5. An appointee of the President Pro Tempore of the Senate. Each appointed member of the Board of Investors shall have demonstrated experience in public or private investment fund management.

D. The initial appointed members shall serve staggered terms as follows:

1. The term of the appointee of the Governor shall expire on June 30, 2007;

2. The term of the appointee of the State Auditor and Inspector shall expire on June 30, 2008;

3. The term of the appointee of the Speaker of the House of Representatives shall end on June 30, 2009; and

4. The term of the appointee of the President Pro Tempore of the Senate shall expire on June 30, 2010.

Thereafter, successors shall be appointed for terms of four (4) years. An appointee may be removed for cause.

E. Members of the Board of Investors shall receive no salary for serving on the Board. All members shall receive necessary travel expenses for the performance of their duties from the Office of the Governor in accordance with the provisions of the State Travel Reimbursement Act.

F. The Board of Investors shall annually elect a vice-chair, who shall preside over meetings in the absence of the chair, and any other officers, provided that no member shall be elected vice-chair for more than two (2) consecutive years. The Board of Investors shall meet at least quarterly. A majority of the members of the Board of Investors shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Board.

G. The meetings of the Board of Investors shall be subject to the Open Meeting Act, Open Records Act and the Administrative Procedures Act.

H. The Board of Investors shall submit a report of the Fund's investments and asset value annually to the Governor and State Treasurer.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 52 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby created the EDGE Fund Policy Board. The Policy Board shall be responsible for the expenditure of funds certified as available by the Board of Investors, pursuant to subsection F of this section, for projects and programs which will increase private and public applied research and development, technology transfer and technology commercialization in Oklahoma. Such projects and programs include, but are not limited to providing:

- a. matching funds for applied research,
- b. funds for proof of concept,
- c. funds for purchasing equipment or applied research,  
and
- d. seed capital including, but not limited to, capital for the OCAST Seed Capital Revolving Fund.

2. In determining how funds from the EDGE Fund shall be expended, the EDGE Fund Policy Board shall consider only those projects and programs which satisfy one or more of the following criteria:

- a. direct expansion of the number of researchers, technicians, support services and associated business activity within Oklahoma,
- b. high potential to result in the formation and growth of advanced technology companies in Oklahoma,
- c. high potential to improve the health status and quality of life for Oklahomans, and

- d. leverage of additional federal research grants and/or privately-funded and sponsored research in Oklahoma research institutions.

3. The initial cycle of expenditures made after the effective date of this act pursuant to this section shall be for projects and programs which may include, but is not limited to:

- a. agriculture,
- b. aerospace/aviation,
- c. biology/biotechnology,
- d. genomics,
- e. weather science and technology,
- f. telecommunications,
- g. advanced materials, and
- h. sensors.

The EDGE Fund Policy Board shall annually review areas of research and commercialization emphasis, with consideration given to the strategic strengths of Oklahoma's research infrastructure.

B. The EDGE Fund Policy Board shall be composed of seven (7) members, as follows:

1. Four individuals who serve as senior officers of an Oklahoma business or financial company who have knowledge of the current Oklahoma economy and the potential to advance to a technology-based economy; two appointed by the Governor and one each appointed by the President Pro Tempore of the Senate and Speaker of the House of Representatives;

2. One scientist, engineer or officer of a technology-based Oklahoma company or public or private research institution appointed by the President Pro Tempore of the Senate;

3. One attorney licensed to practice law in Oklahoma, who has experience with start-up companies and business practices appointed by the Governor; and

4. One venture capitalist with experience in the commercialization of technology and investment in technology-based companies appointed by the Speaker of the House of Representatives. The members of the Board shall serve at the pleasure of their appointing authority. The Oklahoma Department of Commerce shall submit to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives a list of names meeting one or more of the criteria provided in this subsection. The Department shall develop the list in consultation with the largest statewide organization representing commerce and industry and the two largest metropolitan organizations representing commerce and industry. Not less than one-third (1/3) of the list shall contain names of individuals who reside outside the two largest metropolitan statistical areas in the state. The appointing authorities may select appointees from the list submitted to serve on the EDGE Fund Policy Board.

C. The members of the EDGE Fund Policy Board shall receive no salary for serving on the Policy Board. All members shall receive necessary travel expenses for the performance of their duties from the Office of the Governor in accordance with the provisions of the State Travel Reimbursement Act.

D. The Governor shall select a chair and a vice-chair, who shall preside over meetings in the absence of the chair, and any other officers, provided that no member shall serve as chair for more than two (2) consecutive years. The Policy Board shall meet at least quarterly. A majority of the members of the Policy Board shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Board. The Policy Board may employ an Executive Director, who shall serve at the pleasure of the Board.

E. The meetings of the EDGE Fund Policy Board shall be subject to the Open Meeting Act, Open Records Act and the Administrative

Procedures Act. Any information submitted to or compiled by the Policy Board with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the extent that the person or entity providing such information or the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Policy Board.

F. Expenditures from the EDGE Fund shall be subject to the following requirements and limitations:

1. At least twenty-five percent (25%) of the monies available for distribution in any fiscal year shall be allotted to support technology transfer and technology commercialization; and

2. No more than twenty percent (20%) of the monies available for distribution in any fiscal year shall be used for the purchase of equipment pursuant to subsection A of this section.

G. The EDGE Fund Policy Board may elect to provide supplementary funding for existing programs including, but not limited to, the Oklahoma Health Research program, the Oklahoma Applied Research Support program, or such other programs as it may deem are necessary to advance the technology-based economy in Oklahoma.

H. The EDGE Fund Policy Board is hereby authorized to enter into cooperative agreements with the Oklahoma Center for the Advancement of Science and Technology to provide assistance in program development, due diligence, project selection and the administration and management of research and technology development programs.

I. The Oklahoma Center for the Advancement of Science and Technology shall provide administrative, planning, and other

assistance to the Board of Investors of the EDGE Fund and the EDGE Fund Policy Board, including the preparation of an annual report from each to the Governor, President Pro Tempore of the Senate and Speaker of the House on the status of the Fund and impact of funded projects and programs. The Executive Director of the Oklahoma Center for the Advancement of Science and Technology shall employ one full-time-equivalent employee to provide staff assistance for the purposes of implementing this subsection. Subject to the availability of funding, the Executive Director, pursuant to a request from and approval by the EDGE Fund Policy Board, may employ additional full-time-equivalent employees. Individuals employed by the Oklahoma Center for the Advancement of Science and Technology pursuant to this subsection shall be paid from the expenditures authorized by subsection A of this section. In no event shall more than one percent (1%) of the total assets of the EDGE Fund be expended annually for administrative expenses associated with the Trust Fund and Policy Board.

J. The EDGE Fund Policy Board shall attempt to leverage the research dollars of the Trust Fund through collaboration with the following entities:

1. Oklahoma Center for the Advancement of Science and Technology;
2. Oklahoma State Regents for Higher Education;
3. Oklahoma Experimental Program to Stimulate Competitive Research (EPSCoR);
4. Oklahoma Department of Commerce;
5. Oklahoma Capital Investment Board;
6. Any private, not-for-profit corporation created pursuant to Section 2060.26 of Title 74 of the Oklahoma Statutes; and
7. Any not-for-profit organization which is a contractor of the Oklahoma Center for the Advancement of Science and Technology

pursuant to Sections 2060.20a and 2060.20b of Title 74 of the Oklahoma Statutes.

K. The EDGE Fund Policy Board shall develop rules and timelines governing the review of annual proposals. Such rules shall give preference to cooperative proposals that include researchers from multiple institutions, including higher education, nonprofit research institutions, and private enterprise.

L. With assistance from the Oklahoma Center for the Advancement of Science and Technology, the EDGE Fund Policy Board shall develop:

1. Rules, procedures and protocols for establishing technical advisory panels, selection review criteria and competition criteria; and

2. Procedures to account for funds and to measure the progress of projects and deliverables.

M. The projects and funds of the EDGE Fund shall be subject to audit by the State Auditor and Inspector.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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