

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 780

By: Wilson of the Senate

and

Liebmann of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to public finance; amending Section
11 1, Chapter 85, 2nd Extraordinary Session, O.S.L. 2006
12 (62 O.S. Supp. 2006, Section 47), which relates to
13 Economic Development Generating Excellence Trust
14 Fund; modifying and adding duties for the Board of
15 Investors; requiring Board to discharge duties in
16 specified manner; providing for certain staff
17 assistance; amending Section 2, Chapter 85, 2nd
18 Extraordinary Session, O.S.L. 2006 (62 O.S. Supp.
19 2006, Section 52), which relates to the EDGE Fund
20 Policy Board; modifying provisions related to
21 compilation of list for purpose of appointments;
22 providing effective dates; and declaring an
23 emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 85, 2nd
Extraordinary Session, O.S.L. 2006 (62 O.S. Supp. 2006, Section 47),
is amended to read as follows:

Section 47. A. There is hereby created a trust fund for
Economic Development Generating Excellence to be known as the "EDGE

1 Fund". The trust fund principal shall consist of all funds
2 appropriated, transferred, donated or otherwise directed to the fund
3 by law.

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

6 1. Manage the assets of the EDGE Fund;

7 2. Invest monies in the manner in which a prudent person would
8 invest it and in accordance with laws applicable to the investment
9 of monies in state retirement funds; ~~and~~

10 3. Certify the amount of funds available for expenditure each
11 year from the EDGE Fund. The amount of funds available for
12 expenditure shall be limited to not more than five percent (5%) of
13 the assets of the EDGE Fund. Any amount not expended shall remain
14 in the EDGE Fund;

15 4. Retain qualified investment managers to provide for the
16 investment of the monies of the EDGE fund. The investment managers
17 shall be chosen by a solicitation of proposals on a competitive
18 basis pursuant to standards set by the Board of Investors. The
19 investment managers shall manage those monies of the EDGE fund
20 allocated to the investment managers in compliance with the overall
21 investment guidelines set by the Board of Investors. The monies of
22 the EDGE fund allocated to the investment managers shall be managed
23 by the investment managers in accordance with the investment
24 guidelines and other directions of the Board of Investors. The

1 investment managers may sell investments and realize losses if such
2 action is considered advantageous to longer-term return
3 maximization. Because of the total return objective, no distinction
4 shall be made for management and performance evaluation purposes
5 between realized and unrealized capital gains and losses. The Board
6 of Investors may have the State Treasurer manage those monies not
7 specifically allocated to the investment managers;

8 5. Select a custodial bank to settle transactions involving the
9 investment of funds in the EDGE fund and to hold custody of the
10 securities in the EDGE fund portfolio. The custodian shall be a
11 bank or trust company offering pension fund master trustee and
12 master custodial services. The custodian shall be chosen by a
13 solicitation of proposals on a competitive basis pursuant to
14 standards set by the Board of Investors. The Board of Investors may
15 also select professional investment consultants, auditors, and
16 actuaries to assist the Board of Investors in carrying out its
17 fiduciary responsibilities. All these professionals shall be
18 selected by a solicitation of proposals on a competitive basis
19 pursuant to standards set by the Board of Investors; and

20 6. Choose the professional custodians and managers of the
21 assets of the EDGE fund, shall establish investment and fund
22 management guidelines, and shall adopt an investment policy. The
23 selection and engagement of investment managers, investment
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1 consultants, auditors, and actuaries, and a custodian bank shall be
2 exempt from the provisions of The Oklahoma Central Purchasing Act.

3 C. The Board of Investors of the EDGE Fund shall be composed of
4 five (5) members as follows:

5 1. The State Treasurer, or a designee, who shall serve as
6 chair;

7 2. An appointee of the Governor;

8 3. An appointee of the State Auditor and Inspector;

9 4. An appointee of the Speaker of the House of Representatives;

10 and

11 5. An appointee of the President Pro Tempore of the Senate.

12 Each appointed member of the Board of Investors of the EDGE Fund
13 shall have demonstrated experience in public or private investment
14 fund management.

15 D. The initially appointed members shall serve staggered terms
16 as follows:

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

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

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

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

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

3 E. The members of the Board of Investors of the EDGE Fund shall
4 discharge their duties as trustees of the EDGE Fund:

5 1. With the care, skill, prudence, and diligence, under the
6 circumstances then prevailing, that a prudent person acting in a
7 like capacity and familiar with such matters would use in the
8 conduct of an enterprise of a like character and with like aims;

9 2. By diversifying the investments in the trust fund so as to
10 minimize the risk of large losses, unless, under the circumstances,
11 it is clearly prudent not to do so; and

12 3. In accordance with the laws, documents, and instruments
13 governing the trust fund.

14 F. Members of the Board of Investors of the EDGE Fund shall
15 receive no salary for serving on the Board of Investors of the EDGE
16 Fund. All members shall receive necessary travel expenses for the
17 performance of their duties from the Office of the Governor in
18 accordance with the provisions of the State Travel Reimbursement
19 Act.

20 ~~F.~~ G. The Board of Investors of the EDGE Fund shall annually
21 elect a vice-chair, who shall preside over meetings in the absence
22 of the chair, and any other officers, provided that no member shall
23 be elected vice-chair for more than two (2) consecutive years. The
24 Board of Investors of the EDGE Fund shall meet at least quarterly.

1 A majority of the members of the Board of Investors of the EDGE Fund
2 shall constitute a quorum to transact business, but no vacancy shall
3 impair the right of the remaining members to exercise all of the
4 powers of the Board of Investors of the EDGE Fund.

5 ~~G.~~ H. The Board of Investors of the EDGE Fund shall be subject
6 to the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and
7 the Administrative Procedures Act.

8 ~~H.~~ I. Staffing for the Board of Investors of the EDGE Fund
9 shall be provided by the Office of the State Treasurer.

10 ~~I.~~ J. The Board of Investors of the EDGE Fund shall submit a
11 report of the EDGE Fund's investments and asset value annually to
12 the Governor and the State Treasurer.

13 SECTION 2. AMENDATORY Section 2, Chapter 85, 2nd
14 Extraordinary Session, O.S.L. 2006 (62 O.S. Supp. 2006, Section 52),
15 is amended to read as follows:

16 Section 52. A. 1. There is hereby created the EDGE Fund
17 Policy Board. The EDGE Fund Policy Board shall be responsible for
18 the expenditure of funds certified as available by the Board of
19 Investors of the EDGE Fund, pursuant to subsection F of this
20 section, for projects and programs which will increase private and
21 public applied research and development, technology transfer and
22 technology commercialization in Oklahoma. Such projects and
23 programs include, but are not limited to providing:

24 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 are not limited to:

- a. agriculture,
- b. aerospace/aviation,

- 1 c. biology/biotechnology,
- 2 d. genomics,
- 3 e. weather science and technology,
- 4 f. telecommunications,
- 5 g. advanced materials, and
- 6 h. sensors.

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

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

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

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

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

1 4. One venture capitalist with experience in the
2 commercialization of technology and investment in technology-based
3 companies appointed by the Speaker of the House of Representatives.

4 The members of the EDGE Fund Policy Board shall serve at the
5 pleasure of their appointing authorities. ~~The Oklahoma Department~~
6 ~~of Commerce shall submit to the Governor, President Pro Tempore of~~
7 the Senate and Speaker of the House of Representatives shall make
8 appointments to the Board from a list of names meeting one or more
9 of the criteria provided in this subsection. ~~The Department shall~~
10 ~~develop the list in consultation with~~ list shall be compiled by the
11 largest statewide organization representing commerce and industry
12 and the two largest metropolitan organizations representing commerce
13 and industry. ~~Not less than one-third (1/3) of the list shall~~
14 ~~contain names of individuals who reside outside the two largest~~
15 ~~metropolitan statistical areas in the state.~~ Each person recommended
16 by each of the two largest metropolitan organizations representing
17 commerce and industry shall be residents of the metropolitan area
18 represented by the organization that makes the recommendation for
19 inclusion of such person on the list. Each person recommended by
20 the largest statewide organization representing commerce and
21 industry shall be a resident of an area other than the metropolitan
22 areas represented by the two largest metropolitan organizations
23 representing commerce and industry. The list shall be maintained in
24 a manner to provide that at least one qualified person is eligible

1 for appointment to each and every position to which appointments may
2 be made. The organizations described by this subsection shall
3 prepare a new list from which appointments can be made within sixty
4 (60) days after the effective date of this section.

5 The appointing authorities shall select appointees from the list
6 submitted to serve on the EDGE Fund Policy Board.

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

12 D. The Governor shall select a chair and a vice-chair, who
13 shall preside over meetings in the absence of the chair, and any
14 other officers, provided that no member shall serve as chair for
15 more than two (2) consecutive years. The EDGE Fund Policy Board
16 shall meet at least quarterly. A majority of the members of the
17 EDGE Fund Policy Board shall constitute a quorum to transact
18 business, but no vacancy shall impair the right of the remaining
19 members to exercise all of the powers of the EDGE Fund Policy Board.
20 Any vacancy in a position shall be filled by the appointing
21 authority in the manner prescribed by subsection B of this section.

22 The EDGE Fund Policy Board may employ an Executive Director, who
23 shall serve at the pleasure of the EDGE Fund Policy Board.

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1 E. Except as provided by law, the EDGE Fund Policy Board shall
2 be subject to the Oklahoma Open Meeting Act, the Oklahoma Open
3 Records Act and the Administrative Procedures Act. Any information
4 submitted to or compiled by the EDGE Fund Policy Board with respect
5 to the marketing plans, financial statements, trade secrets,
6 research concepts, methods or products, or any other proprietary
7 information of persons, firms, associations, partnerships, agencies,
8 corporations, institutions of higher education, nonprofit research
9 institutions or other entities shall be confidential, except to the
10 extent that the person or entity providing such information or the
11 subject of such information consents to disclosure. Executive
12 sessions may be held to discuss such materials if deemed necessary
13 by the EDGE Fund Policy Board.

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

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

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

22 G. The EDGE Fund Policy Board may elect to provide
23 supplementary funding for existing programs including, but not
24 limited to, the Oklahoma Health Research program, the Oklahoma

1 Applied Research Support program, or such other programs as it may
2 deem are necessary to advance the technology-based economy in
3 Oklahoma.

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

10 I. The Oklahoma Center for the Advancement of Science and
11 Technology shall provide administrative, planning, and other
12 assistance to the Board of Investors of the EDGE Fund and the EDGE
13 Fund Policy Board, including the preparation of an annual report
14 from each to the Governor, President Pro Tempore of the Senate and
15 Speaker of the House on the status of the EDGE Fund and impact of
16 funded projects and programs. The Executive Director of the
17 Oklahoma Center for the Advancement of Science and Technology shall
18 employ one full-time-equivalent employee to provide staff assistance
19 for the purposes of implementing this subsection. Subject to the
20 availability of funding, the Executive Director, pursuant to a
21 request from and approval by the EDGE Fund Policy Board, may employ
22 additional full-time-equivalent employees. Individuals employed by
23 the Oklahoma Center for the Advancement of Science and Technology
24 pursuant to this subsection shall be paid from the expenditures

1 authorized by subsection A of this section. In no event shall more
2 than one percent (1%) of the total assets of the EDGE Fund be
3 expended annually for administrative expenses associated with the
4 EDGE Fund and the EDGE Fund Policy Board.

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

8 1. Oklahoma Center for the Advancement of Science and
9 Technology;

10 2. Oklahoma State Regents for Higher Education;

11 3. Oklahoma Experimental Program to Stimulate Competitive
12 Research (EPSCoR);

13 4. Oklahoma Department of Commerce;

14 5. Oklahoma Capital Investment Board;

15 6. Any private, not-for-profit corporation created pursuant to
16 Section 5060.26 of Title 74 of the Oklahoma Statutes; and

17 7. Any not-for-profit organization which is a contractor of the
18 Oklahoma Center for the Advancement of Science and Technology
19 pursuant to Sections 5060.20a and 5060.20b of Title 74 of the
20 Oklahoma Statutes.

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

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

5 1. Promulgate rules and develop procedures and protocols for
6 establishing technical advisory panels, selection review criteria
7 and competition criteria; and

8 2. Develop procedures to account for funds and to measure the
9 progress of projects and deliverables.

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

12 SECTION 3. Section 1 of this act shall become effective July 1,
13 2007.

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

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