

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 780

By: Wilson of the Senate

and

6 Liebmann and McDaniel  
7 (Randy) of the House

8  
9  
10 CONFERENCE COMMITTEE SUBSTITUTE

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

1 Section 47. A. There is hereby created a trust fund for  
2 Economic Development Generating Excellence to be known as the "EDGE  
3 Fund". The trust fund principal shall consist of all funds  
4 appropriated, transferred, donated or otherwise directed to the fund  
5 by law.

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

8 1. Manage the assets of the EDGE Fund;

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

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

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

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

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

22 6. Choose the professional custodians and managers of the  
23 assets of the EDGE Fund, shall establish investment and fund  
24 management guidelines, and shall adopt an investment policy. The

1 selection and engagement of investment managers, investment  
2 consultants, auditors, and actuaries, and a custodian bank shall be  
3 exempt from the provisions of the Oklahoma Central Purchasing Act.

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

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

8 2. An appointee of the Governor;

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

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

11 and

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

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

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

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

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

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

24

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

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

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

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

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

14 3. In accordance with the laws, documents, and instruments  
15 governing the trust fund.

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

22 ~~F.~~ G. The Board of Investors of the EDGE Fund shall annually  
23 elect a vice-chair, who shall preside over meetings in the absence  
24 of the chair, and any other officers, provided that no member shall

1 be elected vice-chair for more than two (2) consecutive years. The  
2 Board of Investors of the EDGE Fund shall meet at least quarterly.  
3 A majority of the members of the Board of Investors of the EDGE Fund  
4 shall constitute a quorum to transact business, but no vacancy shall  
5 impair the right of the remaining members to exercise all of the  
6 powers of the Board of Investors of the EDGE Fund.

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

10 ~~H.~~ I. Staffing for the Board of Investors of the EDGE Fund  
11 shall be provided by the Office of the State Treasurer. The cost of  
12 up to two full-time-equivalent employees for the Office of the State  
13 Treasurer may be considered an administrative expense of the EDGE  
14 Fund; provided, such cost shall be determined by the EDGE Fund  
15 Policy Board, created pursuant to Section 52 of this title.

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

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

22 Section 52. A. 1. There is hereby created the EDGE Fund  
23 Policy Board. The EDGE Fund Policy Board shall be responsible for  
24 the expenditure of funds certified as available by the Board of

1 Investors of the EDGE Fund, pursuant to subsection F of this  
2 section, for projects and programs which will increase private and  
3 public applied research and development, technology transfer and  
4 technology commercialization in Oklahoma. Such projects and  
5 programs include, but are not limited to providing:

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

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

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

23

24

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

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

- 7 a. agriculture,
- 8 b. aerospace/aviation,
- 9 c. biology/biotechnology,
- 10 d. genomics,
- 11 e. weather science and technology,
- 12 f. telecommunications,
- 13 g. advanced materials, and
- 14 h. sensors.

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

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

20 1. Four individuals who serve as senior officers of an Oklahoma  
21 business or financial company who have knowledge of the current  
22 Oklahoma economy and the potential to advance to a technology-based  
23 economy; two appointed by the Governor and one each appointed by the  
24

1 President Pro Tempore of the Senate and Speaker of the House of  
2 Representatives;

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

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

9 4. One venture capitalist with experience in the  
10 commercialization of technology and investment in technology-based  
11 companies appointed by the Speaker of the House of Representatives.

12 The members of the EDGE Fund Policy Board shall serve at the  
13 pleasure of their appointing authorities. ~~The Oklahoma Department~~  
14 ~~of Commerce shall submit to the~~ Governor, President Pro Tempore of  
15 the Senate and Speaker of the House of Representatives may make  
16 appointments to the Board from a list of names meeting one or more  
17 of the criteria provided in this subsection. The Department of  
18 Commerce shall develop the list in consultation with the largest  
19 statewide organization representing commerce and industry and the  
20 two largest metropolitan organizations representing commerce and  
21 industry. ~~Not less than one third (1/3) of the list shall contain~~  
22 ~~names of individuals who reside outside the two largest metropolitan~~  
23 ~~statistical areas in the state~~ Each person recommended by each of  
24 the two largest metropolitan organizations representing commerce and

1 industry shall be residents of the metropolitan area represented by  
2 the organization that makes the recommendation for inclusion of such  
3 person on the list. Each person recommended by the largest  
4 statewide organization representing commerce and industry shall be a  
5 resident of an area other than the metropolitan areas represented by  
6 the two largest metropolitan organizations representing commerce and  
7 industry. The list shall be maintained in a manner to provide that  
8 at least one qualified person is eligible for appointment to each  
9 and every position to which appointments may be made. The  
10 organizations described by this subsection shall prepare a new list  
11 from which appointments can be made within sixty (60) days after the  
12 effective date of this section.

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

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

20 D. The Governor shall select a chair and a vice-chair, who  
21 shall preside over meetings in the absence of the chair, and any  
22 other officers, provided that no member shall serve as chair for  
23 more than two (2) consecutive years. The EDGE Fund Policy Board  
24 shall meet at least quarterly. A majority of the members of the

1 EDGE Fund Policy Board shall constitute a quorum to transact  
2 business, but no vacancy shall impair the right of the remaining  
3 members to exercise all of the powers of the EDGE Fund Policy Board.  
4 Any vacancy in a position shall be filled by the appointing  
5 authority in the manner prescribed by subsection B of this section.

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

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

21 F. Expenditures from the EDGE Fund shall be subject to the  
22 following requirements and limitations:  
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1           1. At least twenty-five percent (25%) of the monies available  
2 for distribution in any fiscal year shall be allotted to support  
3 technology transfer and technology commercialization; and

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

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

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

19           I. The Oklahoma Center for the Advancement of Science and  
20 Technology shall provide administrative, planning, and other  
21 assistance to the Board of Investors of the EDGE Fund and the EDGE  
22 Fund Policy Board, including the preparation of an annual report  
23 from each to the Governor, President Pro Tempore of the Senate and  
24 Speaker of the House on the status of the EDGE Fund and impact of

1 funded projects and programs. The Executive Director of the  
2 Oklahoma Center for the Advancement of Science and Technology shall  
3 employ one full-time-equivalent employee to provide staff assistance  
4 for the purposes of implementing this subsection. Subject to the  
5 availability of funding, the Executive Director, pursuant to a  
6 request from and approval by the EDGE Fund Policy Board, may employ  
7 additional full-time-equivalent employees. Individuals employed by  
8 the Oklahoma Center for the Advancement of Science and Technology  
9 pursuant to this subsection shall be paid from the expenditures  
10 authorized by subsection A of this section. In no event shall more  
11 than one percent (1%) of the total assets of the EDGE Fund be  
12 expended annually for administrative expenses associated with the  
13 EDGE Fund and the EDGE Fund Policy Board.

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

- 17 1. Oklahoma Center for the Advancement of Science and  
18 Technology;
- 19 2. Oklahoma State Regents for Higher Education;
- 20 3. Oklahoma Experimental Program to Stimulate Competitive  
21 Research (EPSCoR);
- 22 4. Oklahoma Department of Commerce;
- 23 5. Oklahoma Capital Investment Board;
- 24

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

3       7. Any not-for-profit organization which is a contractor of the  
4 Oklahoma Center for the Advancement of Science and Technology  
5 pursuant to Sections 5060.20a and 5060.20b of Title 74 of the  
6 Oklahoma Statutes.

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

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

14       1. Promulgate rules and develop procedures and protocols for  
15 establishing technical advisory panels, selection review criteria  
16 and competition criteria; and

17       2. Develop procedures to account for funds and to measure the  
18 progress of projects and deliverables.

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

21       SECTION 3. Section 1 of this act shall become effective July 1,  
22 2007.

23       SECTION 4. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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