

ENROLLED SENATE
BILL NO. 1869

By: Johnson (Mike) of the
Senate

and

Miller of the House

An Act relating to public finance; amending 62 O.S. 2001, Sections 41.7c, 41.29, as amended by Section 1, Chapter 301, O.S.L. 2003, Section 2, Chapter 301, O.S.L. 2003, 41.46, 41.47, as amended by Section 3, Chapter 301, O.S.L. 2003, 45.3, as amended by Section 5, Chapter 301, O.S.L. 2003, 45.5, 45.6 and Section 1, Chapter 85, 2nd Extraordinary Session, O.S.L. 2006, as amended by Section 1, Chapter 350, O.S.L. 2007 (62 O.S. Supp. 2007, Sections 41.29, 41.29-1, 41.47, 45.3 and 47), which relate to state budget procedures and the EDGE Fund; phasing out provisions relating to Joint Legislative Committee on Budget and Program Oversight and Legislative Oversight Committee on State Budget Performance; modifying entities with which certain documents and notice must be filed; modifying persons required to cooperate; modifying entities required to approve and furnish certain forms; deleting provision prohibiting action on appropriation measures under certain circumstances; modifying duties of certain legislative committees; deleting obsolete language; modifying entities authorized to hold certain hearings; and modifying amounts which may be certified to and expended from EDGE Fund.

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 41.7c, is amended to read as follows:

Section 41.7c A. On or before the first day of June in each year, or as soon thereafter as possible, all agencies shall be required to file budget work programs with the Director of the Office of State Finance. Copies of all agency budget work programs shall also be made available electronically to the staff of the Joint Legislative Committee on Budget and Program Oversight, until July 1, 2009, or thereafter to the staff of the committees of the Senate and House to which bills appropriating state funds to that agency are normally assigned.

B. The required instructions, content and format of budget work programs shall be developed by the staff of the Budget Division of the Office of State Finance. The work programs shall include a description of all funds available to the agency for expenditure and setting out allotments requested by the agency by quarter and the entire fiscal year. The work program shall be accompanied by an organizational chart of the agency, a statement of agency mission and program objectives. The work program shall show budgeted spending by major program category at the activity level and may identify budgeted spending by subprogram category at the subactivity level. Major program categories identified in the budget work program shall conform to the major program categories as provided by law. Budget work programs shall be signed by the executive officer of each agency. Such program and allotment requests may be made by the "request officer" who shall be designated by each agency for that purpose. Executive officers of agencies shall cooperate with the Office of State Finance staff and Joint Committee Senate and House staff in developing program budgeting categories. All funds available or expected to be made available to any agency, including nonfiscal appropriations, shall not be available for expenditure until the request officer of the agency has complied with the applicable provisions of Sections 41.1 through 41.41 of this title and has received approval of such request for funds from the Director of State Finance.

SECTION 2. AMENDATORY 62 O.S. 2001, Section 41.29, as amended by Section 1, Chapter 301, O.S.L. 2003 (62 O.S. Supp. 2007, Section 41.29), is amended to read as follows:

Section 41.29 A. Except as provided for in subsection B of this section, on the first day of October preceding each regular session of the Legislature, each of the several state departments, bureaus, divisions, officers, commissions, and institutions, including those created or established pursuant to constitutional provisions, and other spending agencies shall report to the Director of State Finance and the Chair and Vice Chair of the Legislative Oversight Committee on State Budget Performance, until July 1, 2009, or thereafter to the Chair and Vice Chair of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned, on official forms furnished for such purpose an itemized request showing the amount needed for the ensuing fiscal year beginning with the first day of July. The official forms which must be used in making these reports shall be approved and furnished by the Director of State Finance ~~and the Legislative Oversight Committee on State Budget Performance,~~ shall be uniform, and shall clearly designate the kind of information to be given on the reports. Information provided shall include, but not be limited to:

1. A budget analysis of existing and proposed programs utilizing zero-based budgeting techniques. Such analysis shall be included as a part of the estimate of funds needed;
2. A statement listing any other state, federal or local agencies which administer a similar or cooperating program and an outline of the interaction among such agencies;
3. A statement of the statutory authority for the missions and quantified objectives of each program;
4. A description of the groups of people served by each program in the agency;
5. A quantification of the need for the program;
6. A description of the tactics which are intended to accomplish each objective;
7. A list of quantifiable program outcomes which measure the efficiency and effectiveness of each program;

8. A ranking of these programs by priority;

9. Actual program expenditures for the current fiscal year and prior fiscal years and the number of personnel required to accomplish each program; and

10. Revenues expected to be generated by each program, if any.

Spending agencies shall make an itemized estimate of needs and request for funds for the ensuing fiscal year and an estimate of the revenues from all sources to be received by the agency during the ensuing fiscal year. The Director of State Finance shall submit to the Governor and the Legislative Oversight Committee on State Budget Performance, until July 1, 2009, or thereafter to the Chair and Vice Chair of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned, no later than the fifth day of October, a complete list of all spending agencies which fail to submit budgets by October 1, pursuant to the provisions of this section.

B. 1. The reports required by this section shall include an itemized listing of outstanding capital lease debt and estimated capital lease needs for the ensuing fiscal year, and shall be provided on official forms furnished by the Director of State Finance for this purpose.

2. For the purposes of this section "capital lease" means a lease-purchase agreement which provides an option for the State of Oklahoma or its agencies to purchase property, including personal and real property, which is the subject thereof and/or a lease agreement that provides an option for the State of Oklahoma or its agencies to lease such property, which is the subject thereof, at a nominal annual amount, after a period in which leased property is rented at fair market value.

SECTION 3. AMENDATORY Section 2, Chapter 301, O.S.L. 2003 (62 O.S. Supp. 2007, Section 41.29-1), is amended to read as follows:

Section 41.29-1 ~~A.~~ The Appropriations and Budget Committee of the Oklahoma House of Representatives and the Appropriations Committee of the State Senate shall:

~~1. Utilize utilize information collected by the Office of State Finance pursuant to Section 41.29 of Title 62 of the Oklahoma Statutes this title and, until July 1, 2009, any reports issued by the Legislative Oversight Committee on State Budget Performance, to evaluate management programs, operations and fiscal needs of state agencies, boards, commissions, departments, divisions, offices, bureaus, institutions and other spending agencies, including those created or established pursuant to constitutional provisions, and~~

~~2. File an evaluation report no later than March 1 of each fiscal year with the Chief Clerk of the Oklahoma House of Representatives and the Clerk of the State Senate which shall include, but not be limited to, the following information:~~

~~a. a review of the agency's programs, performance and management,~~

~~b. whether the agency has demonstrated a public need for the services and programs justifying the agency's continued existence, and~~

~~c. whether the agency is the most appropriate provider of the programs and services furnished by the agency.~~

~~B. The Appropriations and Budget Committee of the Oklahoma House of Representatives and the Appropriations Committee of the State Senate shall utilize information contained in the evaluation report in determining final appropriations for state agencies and in any future adjustments in funding levels.~~

~~C. No action shall be taken on a measure making an appropriation unless the evaluation report described by paragraph 2 of subsection A of this section with respect to the entity to which the appropriation is made has first been filed with the applicable clerk.~~

SECTION 4. AMENDATORY 62 O.S. 2001, Section 41.46, is amended to read as follows:

Section 41.46 The administrative head of any agency or the request officer as defined in Section 41.7c of this title, may request that any current item of appropriation, appropriation allotment, program category or work program be transferred to any other program category within the same agency. The administrative head shall make a request for program transfer to the Director of State Finance in writing and file a revised budget work program. Copies of the request for program transfer and budget work program revisions shall also be filed with the Joint Legislative Committee on Budget and Program Oversight as created by Section 41.47 of this title, until July 1, 2009, or thereafter with the Chair and Vice Chair and the staff of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned. The Director of State Finance shall approve the request for transfer unless both the Chair and Vice Chair of the Joint Legislative Committee on Budget and Program Oversight, until July 1, 2009, or thereafter the Chair and Vice Chair of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned, provide written notification to the Director of State Finance within twelve (12) calendar days of receipt of transfer request that the transfer subverts the intention and objectives of the Legislature in establishing the original appropriation, or unless the transfer does not meet the requirements of this section or Section 41.9 of this title. Notification of noncompliance with legislative intent shall be transmitted to the Director of State Finance within twelve (12) calendar days of receipt of the transfer request. The Director of State Finance shall give written notice of approval or disapproval of each program transfer to the agency, the Governor and the Chair and Vice Chair of the Joint Legislative Committee on Budget and Program Oversight, until July 1, 2009, or thereafter to the Chair and Vice Chair of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned, within eighteen (18) calendar days of receiving the request.

Transfers shall be subject to the following limitations:

1. The amount to be transferred, together with all previous transfers, shall not exceed twenty-five percent (25%) of the total appropriation of the least of the items of appropriation,

appropriation allotment or work program involved in the transfer;
and

2. If the amount to be transferred, and all previous transfers, is greater than twenty-five percent (25%) of the least items of appropriation, appropriation allotment or work program involved in the transfer request, upon written application to the Director of State Finance, and the Chair and Vice Chair of the Joint Legislative Committee on Budget and Program Oversight, until July 1, 2009, or thereafter to the Chair and Vice Chair of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned, and with written approval by the Contingency Review Board an additional fifteen percent (15%) may be transferred.

SECTION 5. AMENDATORY 62 O.S. 2001, Section 41.47, as amended by Section 3, Chapter 301, O.S.L. 2003 (62 O.S. Supp. 2007, Section 41.47), is amended to read as follows:

Section 41.47 A. ~~There is hereby established the~~ The Legislative Oversight Committee on State Budget Performance is created, to continue until July 1, 2009. The purposes of this committee shall include oversight of the implementation of a system of program performance-based budgeting for implementation by state agencies.

B. The Committee's duties shall also include:

1. Development of agency budget request forms and instructions in conjunction with the Office of State Finance;

2. Directing studies to aid in the development of legislative and procedural changes to further improve the budgetary, financial, accounting, reporting, personnel, and purchasing processes and systems of the state;

3. Direction of program evaluation and management studies;

4. Oversight and reporting on executive branch compliance with the legislative intent of appropriation measures. Such oversight and reporting duties may include:

- a. agency reorganization actions,
- b. executive orders calling for reduction of full-time-equivalents or hiring freezes, and
- c. transfer of funds by the executive branch;

5. The development of revenue and expenditure estimates and analyses;

6. Study of the management, operations, programs and fiscal needs of the agencies and institutions of Oklahoma state government pursuant to the Oklahoma Program Performance Budgeting and Accountability Act;

7. Review of the executive budget, agency strategic plans and the estimate of needs of each state agency and institution. Reports may be issued by the Committee as it deems appropriate; and

8. Implementation of an ongoing evaluation review procedure of existing programs based on zero-base budgeting techniques pursuant to the Oklahoma Program Performance Budgeting and Accountability Act. The committee in cooperation with the Office of State Finance shall establish a schedule to review strategic plans and existing programs for each agency a minimum of once every four (4) years. The committee shall issue an evaluation report for each agency once every four (4) years which will include but not be limited to the following information:

- a. a review of the agency's programs, performance and management,
- b. whether the agency has demonstrated that there is a need for the services and programs which justifies the agency's continued existence,
- c. whether the agency is the most appropriate provider of the programs and services furnished by the agency.

C. Any reference in the Oklahoma Statutes to the Joint Legislative Committee on Budget and Program Oversight shall be a

reference to the Legislative Oversight Committee on State Budget Performance.

D. The Committee shall be composed of three members appointed by the President Pro Tempore of the Senate, three members appointed by the Speaker of the House of Representatives, two members by the minority leader of the Senate and two members appointed by the minority leader of the House of Representatives. The Chair and Vice Chair of the Committee shall rotate every two (2) years between the Senate and the House of Representatives beginning with a Senate member serving as Chair in 2003. The Committee shall meet at least four (4) times per year and at other times as called by the Chair. The Legislative Oversight Committee on State Budget Performance shall function as a committee of the Legislature when the Legislature is in session and is not in session. Each member of the Committee shall serve until a successor is appointed.

E. The Committee shall be staffed jointly by the staff of the fiscal divisions of the Senate and the House of Representatives.

F. The Committee may make use of all available teleconferencing technology to facilitate meetings of the Committee when the Legislature is not in session. The Committee shall take any appropriate action to make such teleconferenced meetings comply with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

G. The Committee shall periodically meet in different geographical regions of the state to enhance the Committee's understanding of local conditions and to help educate the public as to the fiscal condition of the state.

SECTION 6. AMENDATORY 62 O.S. 2001, Section 45.3, as amended by Section 5, Chapter 301, O.S.L. 2003 (62 O.S. Supp. 2007, Section 45.3), is amended to read as follows:

Section 45.3 A. Each state agency shall make a strategic plan for its operations. The ~~first~~ strategic plans will be due October 1, ~~2001~~, and in of each ~~subsequent~~ even-numbered year. Each state agency plan shall cover five (5) fiscal years beginning with the next odd-numbered fiscal year.

B. The Office of State Finance shall determine the elements required to be included in each agency's strategic plan. Unless modified by the Office of State Finance, and except as provided by subsection C of this section, a plan must include, but is not limited to, the following items:

1. A statement of the mission and goals of the state agency;

2. A description of the indicators developed under ~~this act~~ the Oklahoma Program Performance Budgeting and Accountability Act and used to measure the output and outcome of the agency and its programs;

3. Identification of the groups of people served by the agency, including those having service priorities, or other service measures established by law, and estimates of changes in those groups expected during the term of the plan;

4. An analysis of the use of the agency's resources to meet the agency's mission, including future needs, and an estimate of additional resources that may be necessary to achieve said mission;

5. An analysis of expected changes in the services provided by the agency because of changes in state or federal law;

6. A description of the means and strategies, including cost-containment strategies and efficiency proposals, for meeting the agency's needs, including future needs, and achieving the goals for each area of state government for which the agency provides services;

7. A summary of the capital improvement needs of the agency which were provided to the Long-Range Capital Planning Commission as required by Section 901 of this title; and

8. Other information that may be required.

C. A state agency's plan that does not include an item described by subsection B of this section must include the reason the item does not apply to the agency.

D. Each state agency's plan shall be submitted at the same time as the estimate of funds needed developed pursuant to Section 41.29 of this title.

E. A state agency shall send one copy of the plan each to:

1. The Governor;
2. The President Pro Tempore of the State Senate;
3. The Speaker of the House of Representatives;

4. The Legislative Oversight Committee on State Budget Performance, until July 1, 2009, and thereafter the Chair and Vice Chair of the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned;

5. The Chair and Vice Chair of the Joint Committee on Accountability in Government;

6. The Director of the Office of State Finance; and

7. The State Auditor and Inspector.

F. In this section, "capital improvement" means any building or infrastructure project that will be owned by the state and built with direct appropriations or with the proceeds of state-issued bonds or paid from revenue sources other than general revenue at a cost of at least Twenty-five Thousand Dollars (\$25,000.00) and ~~has~~ with a useful life of at least five (5) years.

SECTION 7. AMENDATORY 62 O.S. 2001, Section 45.5, is amended to read as follows:

Section 45.5 A. The Office of State Finance and, until July 1, 2009, the Joint Legislative Committee on Budget and Program Oversight shall work with each state agency to determine acceptable measures of output, outcome, unit cost, and cost-effectiveness for use in the agency's plan.

B. The Office of Personnel Management is authorized to provide training or other services to state agencies pursuant to ~~this act~~ the Oklahoma Program Performance Budgeting and Accountability Act.

SECTION 8. AMENDATORY 62 O.S. 2001, Section 45.6, is amended to read as follows:

Section 45.6 The Office of State Finance or, until July 1, 2009, the Joint Legislative Committee on Budget and Program Oversight and thereafter the committees of the Senate and House to which bills appropriating state funds to that entity are normally assigned, jointly or separately, may hold hearings on any matter required by the Oklahoma Program Performance Budgeting and Accountability Act.

SECTION 9. AMENDATORY Section 1, Chapter 85, 2nd Extraordinary Session, O.S.L. 2006, as amended by Section 1, Chapter 350, O.S.L. 2007 (62 O.S. Supp. 2007, 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 Fund". The trust fund principal shall consist of all funds appropriated, transferred, 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 of the EDGE Fund shall:

1. Manage the assets of the EDGE Fund;

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

3. Certify the amount of funds available for expenditure each year from the EDGE Fund. The amount of funds available that may be certified for expenditure shall be limited to not more than five percent (5%) of the assets of the EDGE Fund. Any amount certified for expenditure and not expended in a given fiscal year shall remain in the EDGE Fund and may be carried over and expended in a future fiscal year;

4. Retain qualified investment managers to provide for the investment of the monies of the EDGE Fund. The investment managers shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the Board of Investors. The investment managers shall manage those monies of the EDGE Fund allocated to the investment managers in compliance with the overall investment guidelines set by the Board of Investors. The monies of the EDGE Fund allocated to the investment managers shall be managed by the investment managers in accordance with the investment guidelines and other directions of the Board of Investors. The investment managers may sell investments and realize losses if such action is considered advantageous to longer-term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses. The Board of Investors may have the State Treasurer manage those monies not specifically allocated to the investment managers;

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

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

C. The Board of Investors of the EDGE Fund 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 of the EDGE Fund shall have demonstrated experience in public or private investment fund management.

D. The initially 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. The members of the Board of Investors of the EDGE Fund shall discharge their duties as trustees of the EDGE Fund:

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

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

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

F. Members of the Board of Investors of the EDGE Fund shall receive no salary for serving on the Board of Investors of the EDGE Fund. 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.

G. The Board of Investors of the EDGE Fund 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 of the EDGE Fund shall meet at least quarterly. A majority of the members of the Board of Investors of the EDGE Fund 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 of Investors of the EDGE Fund.

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

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

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

Passed the Senate the 21st day of May, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2008.

Presiding Officer of the House
of Representatives