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THE STATE SENATE
Monday, February 25, 2008

Committee Substitute for
Senate Bill No. 1819

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1819 - By: MORGAN of the Senate and BENGE of the House.

[public finance and Economic Development Generating Excellence (EDGE) Fund - gross production taxes - effective date - emergency]

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

SECTION 1. AMENDATORY Section 2, Chapter 85, 2nd Extraordinary Session, O.S.L. 2006, as amended by Section 2, Chapter 350, O.S.L. 2007 (62 O.S. Supp. 2007, Section 52), is amended to read as follows:

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

- 1 c. funds for purchasing equipment or applied research,
2 and
3 d. seed capital including, but not limited to, capital
4 for the OCAST Seed Capital Revolving Fund.

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

- 9 a. direct expansion of the number of researchers,
10 technicians, support services and associated business
11 activity within Oklahoma,
12 b. high potential to result in the formation and growth
13 of advanced technology companies in Oklahoma,
14 c. high potential to improve the health status and
15 quality of life for Oklahomans, and
16 d. leverage of additional federal research grants and/or
17 privately funded and sponsored research in Oklahoma
18 research institutions.

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

- 22 a. agriculture,
23 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 eight (8) 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 and

5 5. The Chancellor of Higher Education.

6 The members of the EDGE Fund Policy Board shall serve at the
7 pleasure of their appointing authorities. The Governor, President
8 Pro Tempore of the Senate and Speaker of the House of
9 Representatives may make appointments to the Board from a list of
10 names meeting one or more of the criteria provided in this
11 subsection. The Department of Commerce shall develop the list in
12 consultation with the largest statewide organization representing
13 commerce and industry and the two largest metropolitan organizations
14 representing commerce and industry. Each person recommended by each
15 of the two largest metropolitan organizations representing commerce
16 and industry shall be residents of the metropolitan area represented
17 by the organization that makes the recommendation for inclusion of
18 such person on the list. Each person recommended by the largest
19 statewide organization representing commerce and industry shall be a
20 resident of an area other than the metropolitan areas represented by
21 the two largest metropolitan organizations representing commerce and
22 industry. The list shall be maintained in a manner to provide that
23 at least one qualified person is eligible for appointment to each

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

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

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

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

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

1 the Oklahoma Center for the Advancement of Science and Technology
2 pursuant to this subsection shall be paid from the expenditures
3 authorized by subsection A of this section. In no event shall more
4 than one percent (1%) of the total assets of the EDGE Fund be
5 expended annually for administrative expenses associated with the
6 EDGE Fund and the EDGE Fund Policy Board.

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

- 10 1. Oklahoma Center for the Advancement of Science and
11 Technology;
- 12 2. Oklahoma State Regents for Higher Education;
- 13 3. Oklahoma Experimental Program to Stimulate Competitive
14 Research (EPSCoR);
- 15 4. Oklahoma Department of Commerce;
- 16 5. Oklahoma Capital Investment Board;
- 17 6. Any private, not-for-profit corporation created pursuant to
18 Section 5060.26 of Title 74 of the Oklahoma Statutes; and
- 19 7. Any not-for-profit organization which is a contractor of the
20 Oklahoma Center for the Advancement of Science and Technology
21 pursuant to Sections 5060.20a and 5060.20b of Title 74 of the
22 Oklahoma Statutes.

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

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

8 1. Promulgate rules and develop procedures and protocols for
9 establishing technical advisory panels, selection review criteria
10 and competition criteria; and

11 2. Develop procedures to account for funds and to measure the
12 progress of projects and deliverables.

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

15 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1004, as
16 last amended by Section 55, Chapter 1, O.S.L. 2007 (68 O.S. Supp.
17 2007, Section 1004), is amended to read as follows:

18 Section 1004. Beginning July 1, 2002, the gross production tax
19 provided for in Section 1001 of this title is hereby levied and
20 shall be collected and apportioned as follows:

21 1. For all monies collected from the tax levied on asphalt or
22 ores bearing uranium, lead, zinc, jack, gold, silver or copper:

- 1 a. eighty-five and seventy-two one-hundredths percent
2 (85.72%) shall be paid to the State Treasurer of the
3 state to be placed in the General Revenue Fund of the
4 state and used for the general expense of state
5 government, to be paid out pursuant to direct
6 appropriation by the Legislature,
- 7 b. seven and fourteen one-hundredths percent (7.14%) of
8 the sum collected from natural gas and/or casinghead
9 gas or asphalt or ores bearing uranium, lead, zinc,
10 jack, gold, silver or copper shall be paid to the
11 various county treasurers to be credited to the County
12 Highway Fund as follows: Each county shall receive a
13 proportionate share of the funds available based upon
14 the proportion of the total value of production from
15 such county in the corresponding month of the
16 preceding year, and
- 17 c. seven and fourteen one-hundredths percent (7.14%)
18 shall be allocated to each county as provided for in
19 subparagraph b of this paragraph and shall be
20 apportioned, on an average daily attendance per capita
21 distribution basis, as certified by the State
22 Superintendent of Public Instruction to the school
23 districts of the county where such pupils attend

1 school regardless of residence of such pupil, provided
2 the school district makes an ad valorem tax levy of
3 fifteen (15) mills for the current year and maintains
4 twelve (12) years of instruction;

5 2. For all monies collected from the tax levied on natural gas
6 and/or casinghead gas at a tax rate of seven percent (7%) pursuant
7 to the provisions of subsection B of Section 1001 of this title:

- 8 a. eighty-five and seventy-two one-hundredths percent
9 (85.72%) shall be paid to the State Treasurer of the
10 state to be placed in the General Revenue Fund of the
11 state and used for the general expense of state
12 government, to be paid out pursuant to direct
13 appropriation by the Legislature,
- 14 b. seven and fourteen one-hundredths percent (7.14%) of
15 the sum collected from natural gas and/or casinghead
16 gas shall be paid to the various county treasurers to
17 be credited to the County Highway Fund as follows:
18 Each county shall receive a proportionate share of the
19 funds available based upon the proportion of the total
20 value of production from such county in the
21 corresponding month of the preceding year, and
- 22 c. seven and fourteen one-hundredths percent (7.14%)
23 shall be allocated to each county as provided for in

1 subparagraph b of this paragraph and shall be
2 apportioned, on an average daily attendance per capita
3 distribution basis, as certified by the State
4 Superintendent of Public Instruction to the school
5 districts of the county where such pupils attend
6 school regardless of residence of such pupil, provided
7 the school district makes an ad valorem tax levy of
8 fifteen (15) mills for the current year and maintains
9 twelve (12) years of instruction;

10 3. For all monies collected from the tax levied on natural gas
11 and/or casinghead gas at a tax rate of four percent (4%) pursuant to
12 the provisions of subsection B of Section 1001 of this title:

- 13 a. seventy-five percent (75%) shall be paid to the State
14 Treasurer of the state to be placed in the General
15 Revenue Fund of the state and used for the general
16 expense of state government, to be paid out pursuant
17 to direct appropriation by the Legislature,
18 b. twelve and one-half percent (12.5%) of the sum
19 collected from natural gas and/or casinghead gas shall
20 be paid to the various county treasurers to be
21 credited to the County Highway Fund as follows: Each
22 county shall receive a proportionate share of the
23 funds available based upon the proportion of the total

1 value of production from such county in the
2 corresponding month of the preceding year, and
3 c. twelve and one-half percent (12.5%) shall be allocated
4 to each county as provided for in subparagraph b of
5 this paragraph and shall be apportioned, on an average
6 daily attendance per capita distribution basis, as
7 certified by the State Superintendent of Public
8 Instruction to the school districts of the county
9 where such pupils attend school regardless of
10 residence of such pupil, provided the school district
11 makes an ad valorem tax levy of fifteen (15) mills for
12 the current year and maintains twelve (12) years of
13 instruction;

14 4. For all monies collected from the tax levied on natural gas
15 and/or casinghead gas at a tax rate of one percent (1%) pursuant to
16 the provisions of subsection B of Section 1001 of this title:

17 a. fifty percent (50%) of the sum collected from natural
18 gas and/or casinghead gas shall be paid to the various
19 county treasurers to be credited to the County Highway
20 Fund as follows: Each county shall receive a
21 proportionate share of the funds available based upon
22 the proportion of the total value of production from

1 such county in the corresponding month of the
2 preceding year, and
3 b. fifty percent (50%) shall be allocated to each county
4 as provided for in subparagraph a of this paragraph
5 and shall be apportioned, on an average daily
6 attendance per capita distribution basis, as certified
7 by the State Superintendent of Public Instruction to
8 the school districts of the county where such pupils
9 attend school regardless of residence of such pupil,
10 provided the school district makes an ad valorem tax
11 levy of fifteen (15) mills for the current year and
12 maintains twelve (12) years of instruction;

13 5. For all monies collected from the tax levied on oil at a tax
14 rate of seven percent (7%) pursuant to the provisions of subsection
15 B of Section 1001 of this title:

16 a. twenty-five and seventy-two one-hundredths percent
17 (25.72%) shall be paid to the State Treasurer to be
18 placed in the Common Education Technology Revolving
19 Fund created in Section 41.29c of Title 62 of the
20 Oklahoma Statutes,

21 b. twenty-five and seventy-two one-hundredths percent
22 (25.72%) shall be paid to the State Treasurer to be
23 placed in the Higher Education Capital Revolving Fund

1 created in Section 41.29d of Title 62 of the Oklahoma
2 Statutes,
3 c. twenty-five and seventy-two one-hundredths percent
4 (25.72%) shall be paid to the State Treasurer to be
5 placed in the Oklahoma Tuition Scholarship Revolving
6 Fund created in Section 41.29e of Title 62 of the
7 Oklahoma Statutes,
8 d. four and twenty-eight one-hundredths percent (4.28%)
9 shall be paid to the State Treasurer to be apportioned
10 to the County Bridge and Road Improvement Fund of the
11 State Treasury,
12 e. four and twenty-eight one-hundredths percent (4.28%)
13 shall be paid to the State Treasurer to be apportioned
14 to:
15 (1) the following sources and in the following
16 amounts for the fiscal year ending June 30, 2007,
17 through the fiscal year ending June 30, 2011:
18 (a) thirty-three and one-third percent (33 1/3%)
19 to the Oklahoma Tourism and Recreation
20 Department Capital Expenditure Revolving
21 Fund created pursuant to Section ~~2~~ 2254.1 of
22 ~~this act~~ Title 74 of the Oklahoma Statutes,

1 (b) thirty-three and one-third percent (33 1/3%)
2 to the Oklahoma Conservation Commission
3 Infrastructure Revolving Fund created
4 pursuant to Section ~~3~~ 3-2-110 of ~~this act~~
5 Title 27A of the Oklahoma Statutes, and
6 (c) thirty-three and one-third percent (33 1/3%)
7 to the Community Water Infrastructure
8 Development Revolving Fund created pursuant
9 to Section 4 1085.7A of ~~this act~~ Title 82 of
10 the Oklahoma Statutes, and
11 (2) the Oklahoma Water Resources Board Rural Economic
12 Action Plan Water Projects Fund for the fiscal
13 year ending June 30, 2012, and for each fiscal
14 year thereafter,
15 f. seven and fourteen one-hundredths percent (7.14%) of
16 the sum collected from oil shall be paid to the
17 various county treasurers, to be credited to the
18 County Highway Fund as follows: Each county shall
19 receive a proportionate share of the funds available
20 based upon the proportion of the total value of
21 production from such county in the corresponding month
22 of the preceding year, and

1 g. seven and fourteen one-hundredths percent (7.14%)
2 shall be allocated to each county as provided in
3 subparagraph f of this paragraph and shall be
4 apportioned, on an average daily attendance per capita
5 distribution basis, as certified by the State
6 Superintendent of Public Instruction, to the school
7 districts of the county where such pupils attend
8 school regardless of residence of such pupil, provided
9 the school district makes an ad valorem tax levy of
10 fifteen (15) mills for the current year and maintains
11 twelve (12) years of instruction;

12 6. For all monies collected from the tax levied on oil at a tax
13 rate of four percent (4%) pursuant to the provisions of subsection B
14 of Section 1001 of this title:

15 a. twenty-two and one-half percent (22.5%) shall be paid
16 to the State Treasurer to be placed in the Common
17 Education Technology Revolving Fund created in Section
18 41.29c of Title 62 of the Oklahoma Statutes,

19 b. twenty-two and one-half percent (22.5%) shall be paid
20 to the State Treasurer to be placed in the Higher
21 Education Capital Revolving Fund created in Section
22 41.29d of Title 62 of the Oklahoma Statutes,

- 1 c. twenty-two and one-half percent (22.5%) shall be paid
2 to the State Treasurer to be placed in the Oklahoma
3 Tuition Scholarship Revolving Fund created in Section
4 41.29e of Title 62 of the Oklahoma Statutes,
5 d. three and seventy-five one-hundredths percent (3.75%)
6 shall be paid to the State Treasurer to be apportioned
7 to the County Bridge and Road Improvement Fund of the
8 State Treasury,
9 e. three and seventy-five one-hundredths percent (3.75%)
10 shall be paid to the State Treasurer to be apportioned
11 to:
12 (1) the following sources and in the following
13 amounts for the fiscal year ending June 30, 2007,
14 through the fiscal year ending June 30, 2011:
15 (a) thirty-three and one-third percent (33 1/3%)
16 to the Oklahoma Tourism and Recreation
17 Department Capital Expenditure Revolving
18 Fund created pursuant to Section ~~2~~ 2254.1 of
19 ~~this act~~ Title 74 of the Oklahoma Statutes,
20 (b) thirty-three and one-third percent (33 1/3%)
21 to the Oklahoma Conservation Commission
22 Infrastructure Revolving Fund created

1 the school districts of the county where such pupils
2 attend school regardless of residence of such pupil,
3 provided the school district makes an ad valorem tax
4 levy of fifteen (15) mills for the current year and
5 maintains twelve (12) years of instruction; and

6 7. For all monies collected from the tax levied on oil at a tax
7 rate of one percent (1%) pursuant to the provisions of subsection B
8 of Section 1001 of this title:

9 a. fifty percent (50%) of the sum collected shall be paid
10 to the various county treasurers, to be credited to
11 the County Highway Fund as follows: Each county shall
12 receive a proportionate share of the funds available
13 based upon the proportion of the total value of
14 production from such county in the corresponding month
15 of the preceding year, and

16 b. fifty percent (50%) shall be allocated to each county
17 as provided for in subparagraph a of this paragraph
18 and shall be apportioned on an average daily
19 attendance per capita distribution basis, as certified
20 by the State Superintendent of Public Instruction, to
21 the school districts of the county where such pupils
22 attend school regardless of residence of such pupil,
23 provided the school district makes an ad valorem tax

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-20-08 - DO
2 PASS, As Amended and Coauthored.