

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1969

By: Jolley and Justice of the
Senate

6 and

7 Sears and Martin (Scott) of
8 the House

9
10 COMMITTEE SUBSTITUTE

11 An Act relating to public finance; amending 62 O.S.
12 2011, Section 47, which relates to the Economic
13 Development Generating Excellence Fund; abolishing
14 Board of Investors of EDGE Fund and transferring
15 powers and duties thereof to the State Treasurer;
16 limiting time period during which certain cost
17 considered administrative expense of Fund; specifying
18 certain duties and authority of State Treasurer;
19 requiring transfer of certain funds; repealing 62
20 O.S. 2011, Section 52, which relates to the EDGE Fund
21 Policy Board; providing an effective date; and
22 declaring an emergency.

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

24 SECTION 1. AMENDATORY 62 O.S. 2011, 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

1 appropriated, transferred, donated or otherwise directed to the fund
2 by law.

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

5 ~~1. Manage the assets of the EDGE Fund;~~

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

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

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

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

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

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

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

3 ~~1. The State Treasurer, or a designee, who shall serve as~~
4 ~~chair;~~

5 ~~2. An appointee of the Governor;~~

6 ~~3. An appointee of the State Auditor and Inspector;~~

7 ~~4. An appointee of the Speaker of the House of Representatives;~~

8 ~~and~~

9 ~~5. An appointee of the President Pro Tempore of the Senate.~~

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

13 ~~D. The initially appointed members shall serve staggered terms~~
14 ~~as follows:~~

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

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

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

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

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

1 ~~E. The members of the Board of Investors of the EDGE Fund shall~~
2 ~~discharge their duties as trustees of the EDGE Fund:~~

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

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

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

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

18 ~~G. The Board of Investors of the EDGE Fund shall annually elect~~
19 ~~a vice chair, who shall preside over meetings in the absence of the~~
20 ~~chair, and any other officers, provided that no member shall be~~
21 ~~elected vice chair for more than two (2) consecutive years. The~~
22 ~~Board of Investors of the EDGE Fund shall meet at least quarterly.~~
23 ~~A majority of the members of the Board of Investors of the EDGE Fund~~
24 ~~shall constitute a quorum to transact business, but no vacancy shall~~

1 ~~impair the right of the remaining members to exercise all of the~~
2 ~~powers of the Board of Investors of the EDGE Fund.~~

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

6 ~~I. Staffing for the Board of Investors of the EDGE Fund shall~~
7 ~~be provided by the Office of the State Treasurer The Board of~~
8 ~~Investors of the EDGE Fund is hereby abolished and the powers and~~
9 ~~duties previously conferred upon the Board are hereby transferred to~~
10 ~~the State Treasurer. The cost of up to two full-time-equivalent~~
11 ~~employees for the Office of the State Treasurer may be considered an~~
12 ~~administrative expense of the EDGE Fund; ~~provided, such cost shall~~~~
13 ~~be determined by the EDGE Fund Policy Board, created pursuant to~~
14 ~~Section 52 of this title until such time as the entire amount of the~~
15 ~~EDGE Fund has been transferred as provided in subsection C of this~~
16 ~~section.~~

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

20 ~~C. On and after July 1, 2012, the State Treasurer shall not~~
21 ~~further invest monies or assets of the EDGE Fund. As funds become~~
22 ~~available from investments made prior to July 1, 2012, by the Board~~
23 ~~of Investors of the EDGE Fund, the State Treasurer shall transfer~~
24 ~~such funds as follows:~~

1 1. Interest or other proceeds earned on investments made prior
2 to July 1, 2012, other than such interest or proceeds otherwise
3 encumbered prior to May 25, 2012, shall be deposited to the Quick
4 Action Closing Fund created in Section 48.2 of this title; and

5 2. The principal of any investments made prior to July 1, 2012,
6 and maturing or otherwise available for expenditure on or after July
7 1, 2012, shall be deposited to the State Regents Endowment Trust
8 Fund created in Section 3951 of Title 70 of the Oklahoma Statutes.

9 SECTION 2. REPEALER 62 O.S. 2011, Section 52, is hereby
10 repealed.

11 SECTION 3. This act shall become effective July 1, 2012.

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

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