

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1969

By: Jolley and Justice of the
Senate

4 and

5
6 Sears and Martin (Scott) of
the House

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9 AS INTRODUCED

10 An Act relating to public finance; amending 62 O.S.
11 2011, Section 47, which relates to the Economic
12 Development Generating Excellence Fund; clarifying
reference; providing an effective date; and declaring
an emergency .

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

16 SECTION 1. AMENDATORY 62 O.S. 2011, Section 47, is
17 amended to read as follows:

18 Section 47. A. There is hereby created a trust fund for
19 Economic Development Generating Excellence to be known as the "EDGE
20 Fund". The trust fund principal shall consist of all funds
21 appropriated, transferred, donated or otherwise directed to the ~~fund~~
22 EDGE Fund by law.

23 B. There is hereby created the Board of Investors of the EDGE
24 Fund. The Board of Investors of the EDGE Fund shall:

- 1 1. Manage the assets of the EDGE Fund;
- 2 2. Invest monies in the manner in which a prudent person would
3 invest it and in accordance with laws applicable to the investment
4 of monies in state retirement funds;
- 5 3. Certify the amount of funds available for expenditure each
6 year from the EDGE Fund. The amount of funds available for
7 expenditure shall be limited to not more than five percent (5%) of
8 the assets of the EDGE Fund. Any amount not expended shall remain
9 in the EDGE Fund;
- 10 4. Retain qualified investment managers to provide for the
11 investment of the monies of the EDGE Fund. The investment managers
12 shall be chosen by a solicitation of proposals on a competitive
13 basis pursuant to standards set by the Board of Investors. The
14 investment managers shall manage those monies of the EDGE Fund
15 allocated to the investment managers in compliance with the overall
16 investment guidelines set by the Board of Investors. The monies of
17 the EDGE Fund allocated to the investment managers shall be managed
18 by the investment managers in accordance with the investment
19 guidelines and other directions of the Board of Investors. The
20 investment managers may sell investments and realize losses if such
21 action is considered advantageous to longer-term return
22 maximization. Because of the total return objective, no distinction
23 shall be made for management and performance evaluation purposes
24 between realized and unrealized capital gains and losses. The Board

1 of Investors may have the State Treasurer manage those monies not
2 specifically allocated to the investment managers;

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

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

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

23 1. The State Treasurer, or a designee, who shall serve as
24 chair;

- 1 2. An appointee of the Governor;
- 2 3. An appointee of the State Auditor and Inspector;
- 3 4. An appointee of the Speaker of the House of Representatives;
- 4 and
- 5 5. An appointee of the President Pro Tempore of the Senate.

6 Each appointed member of the Board of Investors of the EDGE Fund
7 shall have demonstrated experience in public or private investment
8 fund management.

9 D. The initially appointed members shall serve staggered terms
10 as follows:

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

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

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

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

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

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

23 1. With the care, skill, prudence, and diligence, under the
24 circumstances then prevailing, that a prudent person acting in a

1 like capacity and familiar with such matters would use in the
2 conduct of an enterprise of a like character and with like aims;

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

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

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

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

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

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

10 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. This act shall become effective July 1, 2012.

14 SECTION 3. 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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