

An Act

ENROLLED SENATE
BILL NO. 1969

By: Jolley, Justice and Mazzei
of the Senate

and

Sears and Martin (Scott) of
the House

An Act relating to public finance; amending 62 O.S. 2011, Section 47, which relates to the Economic Development Generating Excellence Fund; abolishing Board of Investors of EDGE Fund and transferring powers and duties thereof to the State Treasurer; limiting time period during which certain cost considered administrative expense of Fund; specifying certain duties and authority of State Treasurer; requiring transfer of certain funds; and repealing 62 O.S. 2011, Section 52, which relates to the EDGE Fund Policy Board.

SUBJECT: Economic Development Generating Excellence Fund

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

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 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 for expenditure shall be limited to not more than five percent (5%) of the assets of the EDGE Fund. Any amount not expended shall remain in the EDGE Fund;~~

~~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 Board of Investors of the EDGE Fund is hereby abolished and the powers and duties previously conferred upon the Board are hereby transferred to 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 until such time as the entire amount of the EDGE Fund has been transferred as provided in subsection C of this section.~~

~~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.~~

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

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

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

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 REPEALER 62 O.S. 2011, Section 52, is hereby repealed.

Passed the Senate the 23rd day of May, 2012.

Anthony Sykes

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2012.

Paul Stolle

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 25th
day of May, 20 12,
at 2:30 o'clock P. M.

By: *James D. Reynolds*

Approved by the Governor of the State of Oklahoma the 6th day of
June, 20 12, at 4:30 o'clock P. M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
6th day of June, 20 12,
at 4:50 o'clock P. M.

By: *Michelle R. Dugg*