

1 **SENATE FLOOR VERSION**

2 February 20, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 210

5 By: Thompson, Shaw, Hick,  
6 Floyd, Matthew and  
7 Stanislawski

8 **[ Pay for Success Act - contracts - annual report -  
9 Fund - noncodification - codification - effective  
10 date ]**

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

12 SECTION 1. NEW LAW A new section of law not to be  
13 codified in the Oklahoma Statutes reads as follows:

14 Sections 2 through 5 of this act shall be known and may be cited  
15 as the "Pay for Success Act".

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5000 of Title 62, unless there  
18 is created a duplication in numbering, reads as follows:

19 It is the intent of the Legislature, through enactment of the  
20 Pay for Success Act, to:

21 1. Authorize innovation opportunities in the form of pay-for-  
22 success contracts and authorize success payments to be made from  
23 appropriated or other agency funds;

24 2. Address outcomes that span the mission and purpose of  
multiple agencies;

1           3. Provide a fund that may be used by agencies for success  
2 payments; and

3           4. Nothing in this act shall prohibit the use of pay-for-  
4 success contracts by municipalities, counties or other local  
5 jurisdictions.

6           SECTION 3.           NEW LAW           A new section of law to be codified  
7 in the Oklahoma Statutes as Section 5001 of Title 62, unless there  
8 is created a duplication in numbering, reads as follows:

9           As used in this act, the term:

10           1. "Pay-for-success contract" or "contract" means a written  
11 agreement executed in order to create a public-private partnership  
12 contingent upon a specified service or program meeting specified  
13 performance targets and outcome measures; and

14           2. "Success payment" means a single payment or schedule of  
15 payments that is identified in a pay-for-success contract to be paid  
16 when specified performance targets and outcome measures are met.

17           SECTION 4.           NEW LAW           A new section of law to be codified  
18 in the Oklahoma Statutes as Section 5002 of Title 62, unless there  
19 is created a duplication in numbering, reads as follows:

20           A. An agency or agencies may enter into a pay-for-success  
21 contract with a private entity or entities to receive upfront  
22 capital to fund a service or program. The agency or agencies may  
23 not enter into a pay-for-success contract until each state agency  
24

1 head entering into the contract determines with reasonable certainty  
2 that the contract will result in a public benefit to the state.

3 B. Each pay-for-success contract shall:

4 1. Require a private entity to underwrite or secure upfront  
5 capital from private funding sources, including foundations,  
6 financial institutions, businesses or individuals;

7 2. Identify the specific service or program to be funded under  
8 the contract;

9 3. Identify performance targets and outcome measures against  
10 which the service or program's success can be measured to determine  
11 whether the service or program has achieved quantifiable public  
12 benefits or monetary savings;

13 4. Require and specify an independent third-party evaluator to  
14 review and issue reports annually at specific times during the  
15 contract term specifying the degree to which the service or program  
16 has met the identified performance targets and outcome measures  
17 specified in the contract;

18 5. Identify the calculation or algorithm to be used by the  
19 agency or agencies in determining the amount and timing of  
20 reimbursable success payments to the private entity;

21 6. Contain a statement that the independent third-party  
22 evaluator will annually provide a report to the agency or agencies  
23 that includes data deemed relevant by the agency or agencies; and  
24

1           7. State that the amount of funds to be reimbursed to the  
2 private entity is contingent upon the degree to which the service or  
3 program has met the performance targets and outcome measures as  
4 evaluated by the independent third-party evaluator.

5           C. By April 1 annually, the agency or agencies shall provide a  
6 report to the chairs to the legislative appropriations committees  
7 that contains the evaluation from the independent third-party  
8 evaluator.

9           D. Payments to private entities for the delivery of performance  
10 targets and outcome measures as authorized in this section shall be  
11 made only in accordance with the terms of the pay-for-success  
12 contract. Payments may be made utilizing the Pay-for-Success  
13 Innovation Fund provided for in Section 5 of this act or utilizing  
14 other appropriated agency funds in accordance with Oklahoma law.

15           SECTION 5.       NEW LAW       A new section of law to be codified  
16 in the Oklahoma Statutes as Section 5003 of Title 62, unless there  
17 is created a duplication in numbering, reads as follows:

18           A. There is hereby created in the State Treasury a revolving  
19 fund for the Office of Management and Enterprise Services to be  
20 designated the "Pay-for-Success Innovation Fund". The fund shall be  
21 a continuing fund, not subject to fiscal year limitations, and shall  
22 consist of all monies designated by state agencies to the Pay-for-  
23 Success Innovation Fund and monies which may otherwise be available  
24

1 to the Office of Management and Enterprise Services for use as  
2 provided for in this section.

3 B. All monies appropriated to the fund shall be budgeted and  
4 expended by the Office of Management and Enterprise Services for the  
5 purpose of funding contracts outlined in Section 4 of this act.  
6 Pursuant to contract, the Office of Management and Enterprise  
7 Services shall provide payment to private entities for the delivery  
8 of performance targets and outcome measures at the direction of the  
9 agency engaged in the contract and only in accordance with the terms  
10 of the pay-for-success contract.

11 C. To the extent that any money credited to this fund for a  
12 particular pay-for-success contract remains unpaid at the time the  
13 particular contract expires or is terminated, as soon after the  
14 contract expiration as is practicable, the Office of Management and  
15 Enterprise Services shall return the unpaid amount to the agency to  
16 which the money was originally appropriated.

17 D. The Office of Management and Enterprise Services may adopt  
18 rules as necessary to administer this section or pay-for-success  
19 contracts entered into under this section, including joint rules  
20 adopted with other agencies.

21 SECTION 6. This act shall become effective November 1, 2019.

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
23 February 20, 2019 - DO PASS AS AMENDED  
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