

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2670

By: Wallace

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5  
6 AS INTRODUCED

7 An Act relating to public finance; creating the Pay  
8 for Success Act; allowing for specific citation;  
9 stating legislative intent; defining certain phrases;  
10 authorizing certain contracts under certain  
11 conditions; prohibiting certain contracts under  
12 certain conditions; requiring certain contract  
13 elements; requiring certain annual reports; requiring  
14 provision of certain reports to certain individuals  
15 by certain date; placing requirements and limitations  
16 on certain payments; authorizing payments from  
17 certain fund sources; creating the Pay for Success  
18 Innovation Fund; designating the fund to the Office  
19 of Management and Enterprise Services; describing the  
20 nature and limitations of the fund; authorizing  
21 budgeting and expenditure of funds for certain  
22 purposes under certain conditions; providing for the  
23 return to agencies of unpaid amounts under certain  
24 conditions; authorizing the entrance into memorandums  
of understanding; authorizing the promulgation of  
rules; providing for codification; and providing an  
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 9010.1 of Title 62, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Pay for Success  
Act".

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 9010.2 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. It is the intent of the Legislature, through enactment of  
5 the Pay for Success Act, to:

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

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

11           3. Provide a fund that may be used by agencies for success  
12 payments.

13           B. It is the intent of the Legislature that nothing in this act  
14 shall prohibit the use of pay-for-success contracts by  
15 municipalities, counties or other local jurisdictions.

16           SECTION 3.           NEW LAW           A new section of law to be codified  
17 in the Oklahoma Statutes as Section 9010.3 of Title 62, unless there  
18 is created a duplication in numbering, reads as follows:

19           As used in the Pay for Success Act:

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

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

4           SECTION 4.           NEW LAW           A new section of law to be codified  
5 in the Oklahoma Statutes as Section 9010.4 of Title 62, unless there  
6 is created a duplication in numbering, reads as follows:

7           A. An agency or agencies may enter into a pay-for-success  
8 contract with a private entity or entities to receive up-front  
9 capital to fund a service or program. The agency or agencies may  
10 not enter into a pay-for-success contract until each state agency  
11 head entering into the contract determines with reasonable certainty  
12 that the contract will result in a public benefit to the state.

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

14           1. Require a private entity to underwrite or secure up-front  
15 capital from private funding sources, including foundations,  
16 financial institutions, businesses or individuals;

17           2. Identify the specific service or program to be funded under  
18 the contract;

19           3. Identify performance targets and outcome measures against  
20 which the service or program's success can be measured to determine  
21 whether the service or program has achieved quantifiable public  
22 benefits or monetary savings;

23           4. Require and specify an independent third-party evaluator to  
24 review and issue reports annually at specific times during the

1 contract term specifying the degree to which the service or program  
2 has met the identified performance targets and outcome measures  
3 specified in the contract;

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

7 6. Contain a statement that the independent third-party  
8 evaluator will annually provide a report to the agency or agencies  
9 that includes data deemed relevant by the agency or agencies; and

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

14 C. No later than April 1 annually, the agency or agencies shall  
15 provide a report to the chairs of the legislative appropriations  
16 committees that contains the evaluation from the independent third-  
17 party evaluator.

18 D. Payments to private entities for the delivery of performance  
19 targets and outcome measures as authorized in this section shall be  
20 made only in accordance with the terms of the pay-for-success  
21 contract. Payments may be made utilizing the Pay for Success  
22 Innovation Fund created in Section 5 of this act or utilizing other  
23 appropriated agency funds in accordance with Oklahoma law.

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1           SECTION 5.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 9010.5 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. There is hereby created in the State Treasury a revolving  
5 fund for the Office of Management and Enterprise Services to be  
6 designated the "Pay for Success Innovation Fund". The fund shall be  
7 a continuing fund, not subject to fiscal year limitations, and shall  
8 consist of all monies designated by state agencies to the Pay for  
9 Success Innovation Fund and monies which may otherwise be available  
10 to the Office of Management and Enterprise Services for use as  
11 provided for in this section.

12           B. All monies appropriated to the fund shall be budgeted and  
13 expended by the Office of Management and Enterprise Services for the  
14 purpose of funding contracts as authorized by this act. Pursuant to  
15 contract, the Office of Management and Enterprise Services shall  
16 provide payment to private entities for the delivery of performance  
17 targets and outcome measures at the direction of the agency engaged  
18 in the contract and only in accordance with the terms of the pay-  
19 for-success contract.

20           C. To the extent that any money credited to this fund for a  
21 particular pay-for-success contract remains unpaid at the time the  
22 particular contract expires or is terminated, as soon after the  
23 contract expiration as is practicable, the Office of Management and  
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1 Enterprise Services shall return the unpaid amount to the agency to  
2 which the money was originally appropriated.

3 D. The Office of Management and Enterprise Services may enter  
4 into memorandums of understanding with other agencies and promulgate  
5 rules as necessary to administer this section and pay-for-success  
6 contracts entered into under this section.

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

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