

1 **SENATE FLOOR VERSION**

2 March 20, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2670

By: Wallace of the House

and

Thompson of the Senate

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

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

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

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

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

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

13 3. Provide a fund that may be used by agencies for success
14 payments.

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

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

21 As used in the Pay for Success Act:

22 1. "Pay-for-success contract" or "contract" means a written
23 agreement executed in order to create a public-private partnership
24

1 contingent upon a specified service or program meeting specified
2 performance targets and outcome measures; and

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

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

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

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

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

19 2. Identify the specific service or program to be funded under
20 the contract;

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

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

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

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

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

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

20 D. Payments to private entities for the delivery of performance
21 targets and outcome measures as authorized in this section shall be
22 made only in accordance with the terms of the pay-for-success
23 contract. Payments may be made utilizing the Pay for Success
24

1 Innovation Fund created in Section 5 of this act or utilizing other
2 appropriated agency funds in accordance with Oklahoma law.

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

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

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

22 C. To the extent that any money credited to this fund for a
23 particular pay-for-success contract remains unpaid at the time the
24 particular contract expires or is terminated, as soon after the

1 contract expiration as is practicable, the Office of Management and
2 Enterprise Services shall return the unpaid amount to the agency to
3 which the money was originally appropriated.

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
10 March 20, 2019 - DO PASS

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