

# An Act

ENROLLED HOUSE  
BILL NO. 2670

By: Wallace of the House

and

Thompson of the Senate

An Act relating to public finance; creating the Pay for Success Act; allowing for specific citation; stating legislative intent; defining certain phrases; authorizing certain contracts under certain conditions; prohibiting certain contracts under certain conditions; requiring certain contract elements; requiring certain annual reports; requiring provision of certain reports to certain individuals by certain date; placing requirements and limitations on certain payments; authorizing payments from certain fund sources; creating the Pay for Success Innovation Fund; designating the fund to the Office of Management and Enterprise Services; describing the nature and limitations of the fund; authorizing budgeting and expenditure of funds for certain purposes under certain conditions; providing for the 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.

SUBJECT: Public finance

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".

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

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

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

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

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

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

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

As used in the Pay for Success Act:

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

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

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

A. An agency or agencies may enter into a pay-for-success contract with a private entity or entities to receive up-front capital to fund a service or program. The agency or agencies may not enter into a pay-for-success contract until each state agency

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

B. Each pay-for-success contract shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the House of Representatives the 19th day of February, 2019.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 23rd day of April, 2019.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_