

1 STATE OF OKLAHOMA

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

3 SENATE BILL 769

By: Hicks

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6 AS INTRODUCED

7 An Act relating to public finance; creating the Pay  
8 for Success Act; stating legislative intent; defining  
9 terms; authorizing agencies to enter into pay-for-  
10 success contracts; establishing contract  
11 requirements; requiring certain report to  
12 Legislature; requiring payments to be made only in  
13 accordance with terms of the contract; establishing  
14 the Pay-for-Success Innovation Fund within the Office  
15 of Management and Enterprise Services; providing for  
16 return of funds to agencies; authorizing adoption of  
17 rules; providing for codification; and providing an  
18 effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 59 of Title 62, unless there is  
22 created a duplication in numbering, reads as follows:

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

25 SECTION 2. NEW LAW A new section of law to be codified  
26 in the Oklahoma Statutes as Section 59.1 of Title 62, unless there  
27 is created a duplication in numbering, reads as follows:

1 It is the intent of the Legislature, through enactment of this  
2 act, to:

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

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

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

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

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 59.2 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 As used in this act, the term:

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

21 2. "Success payment" means a single payment or schedule of  
22 payments that is identified in a pay-for-success contract to be paid  
23 when specified performance targets and outcome measures are met.  
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1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 59.3 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. An agency or agencies may enter into a pay-for-success  
5 contract with a private entity or entities to receive upfront  
6 capital from a source other than the state to fund a service or  
7 program. The agency or agencies may not enter into a pay-for-  
8 success contract until each state agency head entering into the  
9 contract determines with reasonable certainty that the contract will  
10 result in a public benefit to the state.

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

12 1. Require a private entity to underwrite or secure upfront  
13 capital from private funding sources, including foundations,  
14 financial institutions, businesses, or individuals;

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

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

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

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

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

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

13 C. By April 1 annually, the agency or agencies shall provide a  
14 report to the chairs of the legislative appropriations committees  
15 that contains the evaluation from the independent third-party  
16 evaluator.

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

1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 59.4 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 accruing to the credit of the fund are hereby  
13 appropriated and may be budgeted and expended by the Office of  
14 Management and Enterprise Services for the purpose of funding  
15 contracts outlined in Section 4 of this act. Pursuant to contract,  
16 the Office of Management and Enterprise Services shall provide  
17 payment to private entities for the delivery of performance targets  
18 and outcome measures at the direction of the agency engaged in the  
19 contract and only in accordance with the terms of the pay-for-  
20 success contract. Expenditures from the fund shall be made upon  
21 warrants issued by the State Treasurer against claims filed as  
22 prescribed by law with the Office of Management and Enterprise  
23 Services for approval and payment.

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 59.5 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. To the extent that any money credited to the Pay-for-Success  
5 Innovation Fund created in Section 5 of this act for a particular  
6 pay-for-success contract remains unpaid at the time the particular  
7 contract expires or is terminated, as soon after the contract  
8 expiration as is practicable, the Office of Management and  
9 Enterprise Services shall return the unpaid amount to the agency to  
10 which the money was originally appropriated.

11 B. The Director of the Office of Management and Enterprise  
12 Services may adopt rules as necessary to administer this act or pay-  
13 for-success contracts entered into under this act.

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

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