

THE STATE SENATE
Monday, February 25, 2008

Committee Substitute for
Senate Bill No. 1865

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1865 - By: COFFEE and MAZZEI of the Senate and BENGE of the House.

[state government - Accountability and Innovation Act - Joint Committee on Accountability and Innovation - effective date - emergency]

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 450.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Accountability and Innovation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 450.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Accountability and Innovation Act:

1. "Committee" means the Joint Committee on Accountability and Innovation created in Section 4 of this act;

2. "Office" means the Office of Accountability and Innovation created in Section 6 of this act;

1 3. "Performance audit" means an audit to provide the
2 determinations set forth in subsection B of Section 7 of this act;

3 4. "Person" means an individual, proprietorship, partnership,
4 limited liability company, limited partnership, association, trust,
5 estate, business trust, group, corporation, or other legal entity,
6 whether or not operated for profit, or a governmental agency, unit,
7 or subdivision;

8 5. "State agency" means any state office, officer, department,
9 board, commission, institution, bureau, agency, or authority or any
10 division or unit thereof; and

11 6. "Tax incentive review" means a review of any tax preference
12 or other provision of tax law to determine the impact on state
13 revenues of the granting of such preference and any economic benefit
14 to the state resulting therefrom, as set forth in subsection B of
15 Section 8 of this act.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 450.5 of Title 74, unless there
18 is created a duplication in numbering, reads as follows:

19 The purpose of the Accountability and Innovation Act is to
20 require the conducting of performance audits and the review of tax
21 incentives to ensure that taxpayer funds are being used efficiently
22 and effectively and that state agencies are using the best practices
23 available.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 450.6 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created the Joint Committee on
5 Accountability and Innovation, which shall consist of five (5)
6 members of the Senate and five (5) members of the House of
7 Representatives. The five members of the Senate shall be appointed
8 by the President Pro Tempore. The five members of the House of
9 Representatives shall be appointed by the Speaker. Of the members
10 appointed by each appointing authority, not more than three shall be
11 members of the same political party, and not more than three shall
12 represent legislative districts which are part of the same county.

13 B. A quorum of the Committee shall be six. Except as otherwise
14 specifically provided by law, all actions of the Committee may be
15 taken by a majority of those present when there is a quorum.

16 C. At the commencement of each regular session of the
17 Legislature, the Committee shall organize by electing a Chair and a
18 Vice Chair who are not members of the same house of the Legislature.
19 The Vice Chair shall exercise all of the powers of the Chair in the
20 absence of the Chair.

21 D. The Committee may meet at any time, at any place in the
22 state at the call of the Chair.

1 E. Members of the Committee shall receive reimbursement for
2 actual and necessary expenses incurred in connection with their
3 duties as members in accordance with other provisions of law
4 relating to travel reimbursement for members of the Legislature.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 450.7 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 The Joint Committee on Accountability and Innovation shall have
9 the following powers and duties, in addition to other powers
10 provided by law to standing committees of the Legislature:

11 1. To appoint and fix the compensation of the Director of the
12 Office of Accountability and Innovation;

13 2. Not later than March 1 of each year, to determine and
14 publish a list of state agencies or state programs for which a
15 performance audit will be conducted, subject to available funding.
16 Such list may include specific divisions of state agencies if
17 directed by the Committee. The Legislature, by concurrent
18 resolution or by statute, may add or delete state agencies or
19 divisions thereof, or state programs, to or from the list. The
20 Governor or any member of the Legislature may request a performance
21 audit to be conducted of any agency, division or state program by
22 making a written request to the Committee detailing the reasons for

1 requesting such audit, which shall be granted upon a majority vote
2 of a quorum of the Committee, subject to available funding;

3 3. Not later than January 1 of each year, to determine and
4 publish a list of tax preferences or other provisions of tax law for
5 which a tax incentive review will be conducted, subject to available
6 funding. The Legislature, by concurrent resolution or by statute,
7 may add or delete tax preferences or other provisions of tax law to
8 or from the list. The Governor or any member of the Legislature may
9 request a tax incentive review to be conducted of any provision of
10 state tax law by making a written request to the Committee detailing
11 the reasons for requesting such review, which shall be granted upon
12 a majority vote of a quorum of the Committee;

13 4. To enter into contracts with independent auditors as may be
14 necessary to accomplish the intent of the Accountability and
15 Innovation Act;

16 5. To coordinate with the State Auditor and Inspector or any
17 other entity of state government as the Committee deems necessary;

18 6. To propose legislation, conduct interim studies or make
19 other proposals for consideration by the Legislature, based upon its
20 findings, for the purposes of fostering innovation in state
21 government and making state government processes more accessible,
22 transparent and accountable to the taxpayers; and

1 7. To collect any information from state agencies or other
2 persons or entities, which relates or may relate to a performance
3 audit or tax incentive review, or to delegate such authority to the
4 Director of the Office of Accountability and Innovation.

5 Each state agency and other affected persons shall cooperate
6 with the Committee and the Director in the providing of any
7 information requested. The Committee shall have the power to issue
8 subpoenas and to compel the attendance of witnesses and the
9 production of information as provided in Section 773 of Title 74 of
10 the Oklahoma Statutes, upon a majority vote of a quorum of the
11 members of the Committee.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 450.8 of Title 74, unless there
14 is created a duplication in numbering, reads as follows:

15 There is hereby created the Office of Accountability and
16 Innovation as part of the Legislative Service Bureau. The Director
17 of the Office of Accountability and Innovation shall be appointed by
18 the Joint Committee on Accountability and Innovation for a four-year
19 term and shall only be removed prior to the expiration of the term
20 for good cause shown. The Director shall be a person of extensive
21 experience and recognized qualification in the field of governmental
22 fiscal procedures and auditing. The Director shall employ and fix
23 the compensation of employees of the Office of Accountability and

1 Innovation. The Director and all such employees shall be in the
2 unclassified service. The Office of Accountability and Innovation
3 shall conduct, or shall cause to be conducted, performance audits
4 and tax incentive reviews as directed by the Joint Committee and
5 shall provide staff services to the Joint Committee to enable it to
6 conduct its responsibilities as set forth in the Accountability and
7 Innovation Act.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 450.9 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A performance audit shall be conducted each year of those
12 state agencies specified by law or concurrent resolution of the
13 Legislature or designated by the Joint Committee on Accountability
14 and Innovation, subject to available funding. If funding is
15 insufficient to conduct every such performance audit, those
16 specified by law shall receive first priority and the Joint
17 Committee shall specify the priority of those specified by
18 concurrent resolution of the Legislature or designated by the Joint
19 Committee. These audits shall be conducted in accordance with
20 generally accepted governmental auditing standards. The resulting
21 written audit reports shall be issued as soon after the completion
22 of the audit as is practicable.

23 B. A performance audit shall determine:

1 1. Whether the audited agency, division or program is carrying
2 out only those activities or programs authorized by state law, or is
3 engaging in activities, or programs which go beyond its
4 authorization, as set forth in state law;

5 2. Whether the agency, division or program is efficiently and
6 effectively administered, including, but not limited to:

7 a. whether it is operated under the best practices of
8 this state or other comparable entities,

9 b. whether its functions are duplicative of, or could be
10 better provided by, other agencies of state
11 government, and

12 c. whether it is operated in a manner which is accessible
13 and easily used by those to whom public services are
14 provided;

15 3. Whether a new agency, division or program is efficiently and
16 effectively implemented according to the intent of the Legislature
17 as expressed in state law; and

18 4. Whether any change or reorganization of the agency, division
19 or program would be preferable to its current structure.

20 C. Copies of the reports of audits conducted shall be furnished
21 to the Governor, the President Pro Tempore of the Senate, the
22 Speaker of the House of Representatives, each member and the staff
23 of the Joint Committee on Accountability and Innovation, the audited

1 state agency and each member of the governing board of the state
2 agency, if applicable, and other interested persons or agencies as
3 may be specified by the Committee or required by law or by the
4 specifications of the audit. The copies may be furnished
5 electronically.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 450.10 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 A. A tax incentive review shall be conducted each year of those
10 tax preferences or other provisions of tax law specified by law or
11 concurrent resolution of the Legislature or designated by the Joint
12 Committee on Accountability and Innovation, subject to available
13 funding. If funding is insufficient to conduct every such tax
14 incentive review, those specified by law shall receive first
15 priority and the Joint Committee shall specify the priority of those
16 specified by concurrent resolution of the Legislature or designated
17 by the Joint Committee. The Oklahoma Tax Commission shall provide
18 such assistance to the Committee in the conduct of such reviews as
19 may be necessary.

20 B. A tax incentive review shall include, but not be limited to:

21 1. A determination of the impact on state revenues due to the
22 granting of the tax preference or provision;

1 2. A determination of the economic benefit to the state due to
2 the granting of the tax preference or provision, whether measured in
3 increased state revenues, job creation, wage or personal income
4 growth, investment in this state, or other economic criteria;

5 3. An estimate of the effect on the distribution of the tax
6 burden upon citizens or legal entities of this state;

7 4. An analysis of the competitive position of this state
8 relative to other states with similar tax preferences or provisions;
9 and

10 5. An overall determination of the effectiveness of the tax
11 preference or provision in achieving the desired objective as set
12 forth in state law.

13 C. Copies of the reports of tax incentive reviews conducted
14 shall be furnished to the Governor, the President Pro Tempore of the
15 Senate, the Speaker of the House of Representatives, each member and
16 the staff of the Joint Committee on Accountability and Innovation,
17 the Tax Commission, and other interested persons or agencies as may
18 be specified by the Committee or required by law or by the
19 specifications of the review. The copies may be furnished
20 electronically.

21 D. Notwithstanding the provisions of Section 205 of Title 68 of
22 the Oklahoma Statutes, any person receiving tax information under
23 the provisions of this section shall be subject to the same duty of

1 confidentiality imposed by law upon the Tax Commission and shall be
2 subject to any civil or criminal penalties imposed by law for
3 violations of such duty of confidentiality.

4 SECTION 9. AMENDATORY 74 O.S. 2001, Section 450.1, is
5 amended to read as follows:

6 Section 450.1 A. ~~The Legislative Fiscal Office and Joint Bill~~
7 ~~Processing Department are hereby abolished.~~

8 ~~B.~~ There is hereby created the Legislative Service Bureau which
9 shall serve both the House of Representatives and the Senate. The
10 Speaker of the House of Representatives and the President Pro
11 Tempore of the Senate shall employ a Director of the Legislative
12 Service Bureau, who shall employ such personnel as necessary to
13 implement the responsibilities imposed upon the Bureau by the
14 Legislature by concurrent resolution.

15 ~~C.~~ B. 1. The Legislative Service Bureau shall be responsible
16 for such services as directed by the Speaker of the House of
17 Representatives and the President Pro Tempore of the Senate; and any
18 area of production of proposed legislation as directed by the
19 Speaker of the House of Representatives and President Pro Tempore of
20 the Senate.

21 2. The Legislative Service Bureau shall be a clearinghouse for
22 the Legislature for all budgetary forms, research reports and
23 information.

1 3. Any reference in the Oklahoma Statutes to the Legislative
2 Fiscal Office or the Joint Bill Processing Department shall be a
3 reference to the Legislative Service Bureau.

4 4. The Legislative Service Bureau shall provide office space,
5 equipment and other administrative support required by the Office of
6 Accountability and Innovation.

7 SECTION 10. This act shall become effective July 1, 2008.

8 SECTION 11. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-20-08 - DO
13 PASS, As Amended and Coauthored.