

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 646

By: Coffee, Mazzei, Brogdon,
Jolley and Marlatt of the
Senate

and

Benge of the House

(state government - Accountability, Innovation and
Privatization Act - codification - noncodification -
effective date)

13 AUTHOR: Add the following House Coauthor: Nelson

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

16 "An Act relating to state government; stating
17 legislative finding; creating the Accountability,
18 Innovation and Privatization Act; providing short
19 title; defining terms; stating purpose; specifying
20 additional powers and duties of Joint Committee on
21 Accountability, Innovation and Privatization;
22 requiring certain cooperation with Joint Committee;
23 creating Office of Accountability, Innovation and
24 Privatization within Legislative Service Bureau;
providing for Director and other employees thereof;
allowing conducting of certain performance audits;
providing procedures; requiring copies be furnished
to certain persons; allowing certain tax incentive
reviews; providing procedures; requiring copies be
furnished to certain persons; imposing certain
confidentiality requirements; allowing certain
investigations and providing procedures; amending 74

1 O.S. 2001, Section 450.1, which relates to the
2 Legislative Service Bureau; deleting obsolete
3 language; specifying certain duties of Bureau;
4 amending 62 O.S. 2001, Section 41.47, as amended by
5 Section 3, Chapter 301, O.S.L. 2003 (62 O.S. Supp.
6 2008, Section 41.47), which relates to the
7 Legislative Oversight Committee on State Budget
8 Performance; modifying name, purpose, membership,
9 staffing and duties of Committee; providing certain
10 documents to be deemed records for purposes of
11 Oklahoma Open Records Act; requiring disclosure
12 reports to Ethics Commission by certain entities
13 exempt from federal income tax pursuant to Section
14 527 of the Internal Revenue Code of 1986, as
15 amended; prescribing required content of disclosure;
16 defining term; providing for codification; providing
17 for noncodification; providing an effective date;
18 and declaring an emergency.

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

20 SECTION 1. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 It is the finding of the Legislature that the Legislative
23 Service Bureau is able to implement the provisions of the
24 Accountability, Innovation and Privatization Act using existing
resources through savings derived in other agency program areas.

SECTION 2. 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,
Innovation and Privatization Act".

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 450.5 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 The purpose of the Accountability, Innovation and Privatization
5 Act is to require the conducting of performance audits, the review
6 of tax incentives, the feasibility of privatizing governmental
7 assets and services and the investigation and eradication of waste,
8 fraud, abuse and corruption in state government, to ensure that
9 taxpayer funds are being used efficiently and effectively and that
10 state agencies are using the best practices available.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 450.6 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The Joint Committee on Accountability, Innovation and
15 Privatization shall have the following powers and duties, in
16 addition to other powers conferred upon it by law and other powers
17 provided by law to standing committees of the Legislature:

18 1. To appoint and fix the compensation of the Director of the
19 Office of Accountability, Innovation and Privatization;

20 2. Not later than March 1 of each year, to determine and
21 publish a list of state agencies or state programs for which a
22 performance audit will be conducted, subject to available funding.

23 Such list may include specific divisions of state agencies if
24 directed by the Committee. The Legislature, by concurrent

1 resolution or by statute, may add or delete state agencies or
2 divisions thereof, or state programs, to or from the list. The
3 Governor or any member of the Legislature may request a performance
4 audit to be conducted of any agency, division or state program by
5 making a written request to the Committee detailing the reasons for
6 requesting such audit, which shall be granted upon a majority vote
7 of a quorum of the Committee, subject to available funding;

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

18 4. As often as it deems necessary, to identify assets owned or
19 services provided by the State of Oklahoma or its political
20 subdivisions which could be converted to private ownership and to
21 evaluate the advisability and feasibility of such conversion. The
22 Legislature, by concurrent resolution or by statute, may identify
23 specific assets to be evaluated pursuant to the provisions of this
24 paragraph;

1 5. To enter into contracts with independent auditors as may be
2 necessary to accomplish the intent of the Accountability, Innovation
3 and Privatization Act;

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

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

11 8. To collect any information from state agencies or other
12 persons or entities, which relates or may relate to a performance
13 audit or tax incentive review, or to delegate such authority to the
14 Director of the Office of Accountability, Innovation and
15 Privatization; and

16 9. To investigate allegations of waste, fraud, abuse and
17 corruption in state government and, upon a majority vote of the
18 Joint Committee, to refer such allegations to the appropriate
19 authorities for prosecution or other action.

20 B. Each state agency and other affected persons shall cooperate
21 with the Committee and the Director in the providing of any
22 information requested. The Committee shall have the power to issue
23 subpoenas and to compel the attendance of witnesses and the
24 production of information as provided in Section 773 of Title 74 of

1 the Oklahoma Statutes, upon a majority vote of a quorum of the
2 members of the Committee.

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

6 There is hereby created the Office of Accountability, Innovation
7 and Privatization within the Legislative Service Bureau. The
8 Director of the Office of Accountability, Innovation and
9 Privatization shall be appointed by the Joint Committee on
10 Accountability, Innovation and Privatization for a four-year term
11 and shall only be removed prior to the expiration of the term for
12 good cause shown. The Director shall be a person of extensive
13 experience and recognized qualifications in the field of
14 governmental fiscal procedures and auditing. The Director shall
15 employ and fix the compensation of employees of the Office. The
16 Director and all such employees shall be in the unclassified
17 service. The State Auditor and Inspector shall conduct, or shall
18 cause to be conducted pursuant to contracts as authorized by law if
19 the State Auditor and Inspector is unable to do so, performance
20 audits and tax incentive reviews as directed by the Joint Committee
21 and shall provide staff services to the Joint Committee to enable it
22 to conduct its responsibilities as set forth in the Accountability,
23 Innovation and Privatization Act.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 450.8 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Under the direction of the Office of Accountability,
5 Innovation and Privatization, the State Auditor and Inspector shall
6 conduct a performance audit each year of those state agencies
7 specified by law or concurrent resolution of the Legislature or
8 designated by the Joint Committee on Accountability, Innovation and
9 Privatization, subject to available funding. If funding is
10 insufficient to conduct every such performance audit, those
11 specified by law shall receive first priority and the Joint
12 Committee shall specify the priority of those specified by
13 concurrent resolution of the Legislature or designated by the Joint
14 Committee. These audits shall be conducted in accordance with
15 generally accepted governmental auditing standards. The resulting
16 written audit reports shall be issued as soon after the completion
17 of the audit as is practicable.

18 B. A performance audit shall determine:

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

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

- 1 a. whether it is operated under the best practices of
2 this state or other comparable entities,
3 b. whether its functions are duplicative of, or could be
4 better provided by, other agencies of state government
5 or the private sector, and
6 c. whether it is operated in a manner which is accessible
7 and easily used by those to whom public services are
8 provided;

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

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

14 C. Copies of the reports of audits conducted shall be furnished
15 to the Governor, the President Pro Tempore of the Senate, the
16 Speaker of the House of Representatives, each member and the staff
17 of the Joint Committee on Accountability, Innovation and
18 Privatization, the audited state agency and each member of the
19 governing board of the state agency, if applicable, and other
20 interested persons or agencies as may be specified by the Committee
21 or required by law or by the specifications of the audit. The
22 copies may be furnished electronically.

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

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

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

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

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

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

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1 4. An analysis of the competitive position of this state
2 relative to other states with similar tax preferences or provisions;
3 and

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

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

15 D. Notwithstanding the provisions of Section 205 of Title 68 of
16 the Oklahoma Statutes, any person receiving tax information under
17 the provisions of this section shall be subject to the same duty of
18 confidentiality imposed by law upon the Tax Commission and shall be
19 subject to any civil or criminal penalties imposed by law for
20 violations of such duty of confidentiality.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 450.10 of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

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1 An investigation may be ordered and conducted by the Joint
2 Committee on Accountability, Innovation and Privatization, upon a
3 majority vote of a quorum of the members thereof, into any
4 information received by the Joint Committee, or the Office of
5 Accountability, Innovation and Privatization, alleging waste, fraud,
6 abuse or corruption in state government. The Joint Committee may
7 request the assistance of the Office of the Attorney General, the
8 Office of the State Auditor and Inspector, the Office of State
9 Finance, or any other state agency. If the Committee determines
10 that waste, fraud, abuse or corruption has or may have occurred, the
11 Joint Committee shall forward the results of its investigation and
12 any other relevant information that it has received to the
13 appropriate authority for prosecution or other action.

14 SECTION 10. AMENDATORY 74 O.S. 2001, Section 450.1, is
15 amended to read as follows:

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

18 B. There is hereby created the Legislative Service Bureau which
19 shall serve both the House of Representatives and the Senate. The
20 Speaker of the House of Representatives and the President Pro
21 Tempore of the Senate shall employ a Director of the Legislative
22 Service Bureau, who shall employ such personnel as necessary to
23 implement the responsibilities imposed upon the Bureau by the
24 Legislature by concurrent resolution.

1 ~~C.~~ B. 1. The Legislative Service Bureau shall be responsible
2 for such services as directed by the Speaker of the House of
3 Representatives and the President Pro Tempore of the Senate; and any
4 area of production of proposed legislation as directed by the
5 Speaker of the House of Representatives and President Pro Tempore of
6 the Senate.

7 2. The Legislative Service Bureau shall be a clearinghouse for
8 the Legislature for all budgetary forms, research reports and
9 information.

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

13 4. The Legislative Service Bureau shall provide office space,
14 equipment and other administrative support required by the Office of
15 Accountability, Innovation and Privatization.

16 SECTION 11. AMENDATORY 62 O.S. 2001, Section 41.47, as
17 amended by Section 3, Chapter 301, O.S.L. 2003 (62 O.S. Supp. 2008,
18 Section 41.47), is amended to read as follows:

19 Section 41.47 A. There is hereby established the ~~Legislative~~
20 ~~Oversight Committee on State Budget Performance~~ Joint Committee on
21 Accountability, Innovation and Privatization. The purposes of this
22 committee shall include oversight of the implementation of a system
23 of program performance-based budgeting for implementation by state
24

1 agencies and implementation and administration of the
2 Accountability, Innovation and Privatization Act.

3 B. The In addition to its duties specified in Section 5 of this
4 act, the Joint Committee's duties shall also include:

5 1. Development of agency budget request forms and instructions
6 in conjunction with the Office of State Finance;

7 2. Directing studies to aid in the development of legislative
8 and procedural changes to further improve the budgetary, financial,
9 accounting, reporting, personnel, and purchasing processes and
10 systems of the state;

11 3. Direction of program evaluation and management studies;

12 4. Oversight and reporting on executive branch compliance with
13 the legislative intent of appropriation measures. Such oversight
14 and reporting duties may include:

15 a. agency reorganization actions,

16 b. executive orders calling for reduction of full-time-
17 equivalents or hiring freezes, and

18 c. transfer of funds by the executive branch;

19 5. The development of revenue and expenditure estimates and
20 analyses;

21 6. Study of the management, operations, programs and fiscal
22 needs of the agencies and institutions of Oklahoma state government
23 pursuant to the Oklahoma Program Performance Budgeting and
24 Accountability Act;

1 7. Review of the executive budget, agency strategic plans and
2 the estimate of needs of each state agency and institution. Reports
3 may be issued by the Joint Committee as it deems appropriate; and

4 8. Implementation of an ongoing evaluation review procedure of
5 existing programs based on zero-base budgeting techniques pursuant
6 to the Oklahoma Program Performance Budgeting and Accountability
7 Act. The committee in cooperation with the Office of State Finance
8 shall establish a schedule to review strategic plans and existing
9 programs for each agency a minimum of once every four (4) years.

10 The committee shall issue an evaluation report for each agency once
11 every four (4) years which will include but not be limited to the
12 following information:

13 a. a review of the agency's programs, performance and
14 management,

15 b. whether the agency has demonstrated that there is a
16 need for the services and programs which justifies the
17 agency's continued existence,

18 c. whether the agency is the most appropriate provider of
19 the programs and services furnished by the agency.

20 C. Any reference in the Oklahoma Statutes to the Joint
21 Legislative Committee on Budget and Program Oversight or the
22 Legislative Oversight Committee on State Budget Performance shall be
23 a reference to the ~~Legislative Oversight Committee on State Budget~~

1 ~~Performance~~ Joint Committee on Accountability, Innovation and
2 Privatization.

3 D. The Joint Committee shall be composed of three members
4 appointed by the President Pro Tempore of the Senate, three members
5 appointed by the Speaker of the House of Representatives, two
6 members by the minority leader of the Senate and two members
7 appointed by the minority leader of the House of Representatives;
8 provided, of the members appointed by each appointing authority, not
9 more than two shall be members of the same political party, and not
10 more than two shall represent legislative districts which are part
11 of the same county. The Chair and ~~Vice-Chair~~ Vice-chair of the
12 Committee shall rotate every two (2) years between the Senate and
13 the House of Representatives beginning with a Senate member serving
14 as Chair in 2003. The Committee shall meet at least four ~~(4)~~ times
15 per year and at other times as called by the Chair. The ~~Legislative~~
16 ~~Oversight~~ Joint Committee on State Budget Performance shall function
17 as a committee of the Legislature when the Legislature is in session
18 and is not in session. Each member of the Joint Committee shall
19 serve until a successor is appointed.

20 E. The Joint Committee shall be staffed jointly by the staff of
21 the fiscal divisions of the Senate and the House of Representatives
22 and the Office of Accountability, Innovation and Privatization.

23 F. The Joint Committee may make use of all available
24 teleconferencing technology to facilitate meetings of the Joint

1 Committee when the Legislature is not in session. The Joint
2 Committee shall take any appropriate action to make such
3 teleconferenced meetings comply with the provisions of the Oklahoma
4 Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma
5 Statutes.

6 G. The Joint Committee shall periodically meet in different
7 geographical regions of the state to enhance the Committee's
8 understanding of local conditions and to help educate the public as
9 to the fiscal condition of the state.

10 H. All expenditures made by the Joint Committee or any
11 expenditure made by any other state governmental entity acting at
12 the request of or in conjunction with the Joint Committee shall be
13 deemed "records" within the meaning of the Oklahoma Open Records
14 Act.

15 SECTION 12. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4260 of Title 74, unless there
17 is created a duplication in numbering, reads as follows:

18 A. All 527 organizations shall file with the Ethics Commission
19 quarterly reports disclosing the total amount of money received by
20 the 527 organizations from any person or entity during the
21 applicable reporting period and disclosing the total amount of money
22 expended, disbursed, transferred, or otherwise paid to any person or
23 entity during the applicable reporting period.

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1 B. For purposes of this section, "527 organizations" shall mean
2 any entity having exempt status pursuant to the provisions of
3 Section 527 of the Internal Revenue Code of 1986, as amended.

4 SECTION 13. This act shall become effective July 1, 2009.

5 SECTION 14. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval."

9 Passed the House of Representatives the 23rd day of April, 2009.

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Presiding Officer of the House of
Representatives

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Passed the Senate the ____ day of _____, 2009.

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Presiding Officer of the Senate

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