

1 ENGROSSED SENATE
2 BILL NO. 646

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

3
4 and

5 Benge of the House

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7
8 [state government - Accountability, Innovation and
9 Privatization Act - codification - noncodification
10 - effective date]
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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 450.3 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Accountability,
24 Innovation and Privatization Act".

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 450.4 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Accountability, Innovation and Privatization Act:

5 1. "Committee" means the Joint Committee on Accountability,
6 Innovation and Privatization created in Section 41.47 of Title 62 of
7 the Oklahoma Statutes;

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

10 3. "Performance audit" means an audit to provide the
11 determinations set forth in subsection B of Section 8 of this act;

12 4. "Person" means an individual, proprietorship, partnership,
13 limited liability company, limited partnership, association, trust,
14 estate, business trust, group, corporation, or other legal entity,
15 whether or not operated for profit, or a governmental agency, unit,
16 or subdivision;

17 5. "State agency" means any state office, officer, department,
18 board, commission, institution, bureau, agency, or authority or any
19 division or unit thereof; and

20 6. "Tax incentive review" means a review of any tax preference
21 or other provision of tax law to determine the impact on state
22 revenues of the granting of such preference and any economic benefit
23 to the state resulting therefrom, as set forth in subsection B of
24 Section 8 of this 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 Office shall conduct, or shall cause to be conducted,
18 performance audits and tax incentive reviews as directed by the
19 Joint Committee and shall provide staff services to the Joint
20 Committee to enable it to conduct its responsibilities as set forth
21 in the Accountability, Innovation and Privatization Act.

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

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

13 B. A performance audit shall determine:

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

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

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

22 b. whether its functions are duplicative of, or could be
23 better provided by, other agencies of state government
24 or the private sector, and

1 c. whether it is operated in a manner which is accessible
2 and easily used by those to whom public services are
3 provided;

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

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

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

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

21 A. A tax incentive review may be conducted each year of those
22 tax preferences or other provisions of tax law specified by law or
23 concurrent resolution of the Legislature or designated by the Joint
24 Committee on Accountability, Innovation and Privatization, subject

1 to available funding. If funding is insufficient to conduct every
2 such tax incentive review, those specified by law shall receive
3 first priority and the Joint Committee shall specify the priority of
4 those specified by concurrent resolution of the Legislature or
5 designated by the Joint Committee. The Oklahoma Tax Commission
6 shall provide such assistance to the Committee in the conduct of
7 such reviews as may be necessary.

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

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

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

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

17 4. An analysis of the competitive position of this state
18 relative to other states with similar tax preferences or provisions;
19 and

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

23 C. Copies of the reports of tax incentive reviews conducted
24 shall be furnished to the Governor, the President Pro Tempore of the

1 Senate, the Speaker of the House of Representatives, each member and
2 the staff of the Joint Committee on Accountability, Innovation and
3 Privatization, the Tax Commission, and other interested persons or
4 agencies as may be specified by the Committee or required by law or
5 by the specifications of the review. The copies may be furnished
6 electronically.

7 D. Notwithstanding the provisions of Section 205 of Title 68 of
8 the Oklahoma Statutes, any person receiving tax information under
9 the provisions of this section shall be subject to the same duty of
10 confidentiality imposed by law upon the Tax Commission and shall be
11 subject to any civil or criminal penalties imposed by law for
12 violations of such duty of confidentiality.

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

16 An investigation may be ordered and conducted by the Joint
17 Committee on Accountability, Innovation and Privatization, upon a
18 majority vote of a quorum of the members thereof, into any
19 information received by the Joint Committee, or the Office of
20 Accountability, Innovation and Privatization, alleging waste, fraud,
21 abuse or corruption in state government. The Joint Committee may
22 request the assistance of the Office of the Attorney General, the
23 Office of the State Auditor and Inspector, the Office of State
24 Finance, or any other state agency. If the Committee determines

1 that waste, fraud, abuse or corruption has or may have occurred, the
2 Joint Committee shall forward the results of its investigation and
3 any other relevant information that it has received to the
4 appropriate authority for prosecution or other action.

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

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

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

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

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

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

10 Section 41.47 A. There is hereby established the ~~Legislative~~
11 ~~Oversight Committee on State Budget Performance~~ Joint Committee on
12 Accountability, Innovation and Privatization. The purposes of this
13 committee shall include oversight of the implementation of a system
14 of program performance-based budgeting for implementation by state
15 agencies and implementation and administration of the
16 Accountability, Innovation and Privatization Act.

17 B. ~~The~~ In addition to its duties specified in Section 6 of this
18 act, the Joint Committee's duties shall also include:

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

21 2. Directing studies to aid in the development of legislative
22 and procedural changes to further improve the budgetary, financial,
23 accounting, reporting, personnel, and purchasing processes and
24 systems of the state;

- 1 3. Direction of program evaluation and management studies;
- 2 4. Oversight and reporting on executive branch compliance with
- 3 the legislative intent of appropriation measures. Such oversight
- 4 and reporting duties may include:
 - 5 a. agency reorganization actions,
 - 6 b. executive orders calling for reduction of full-time-
 - 7 equivalents or hiring freezes, and
 - 8 c. transfer of funds by the executive branch;
- 9 5. The development of revenue and expenditure estimates and
- 10 analyses;
- 11 6. Study of the management, operations, programs and fiscal
- 12 needs of the agencies and institutions of Oklahoma state government
- 13 pursuant to the Oklahoma Program Performance Budgeting and
- 14 Accountability Act;
- 15 7. Review of the executive budget, agency strategic plans and
- 16 the estimate of needs of each state agency and institution. Reports
- 17 may be issued by the Joint Committee as it deems appropriate; and
- 18 8. Implementation of an ongoing evaluation review procedure of
- 19 existing programs based on zero-base budgeting techniques pursuant
- 20 to the Oklahoma Program Performance Budgeting and Accountability
- 21 Act. The committee in cooperation with the Office of State Finance
- 22 shall establish a schedule to review strategic plans and existing
- 23 programs for each agency a minimum of once every four (4) years.
- 24 The committee shall issue an evaluation report for each agency once

1 every four (4) years which will include but not be limited to the
2 following information:

3 a. a review of the agency's programs, performance and
4 management,

5 b. whether the agency has demonstrated that there is a
6 need for the services and programs which justifies the
7 agency's continued existence,

8 c. whether the agency is the most appropriate provider of
9 the programs and services furnished by the agency.

10 C. Any reference in the Oklahoma Statutes to the Joint
11 Legislative Committee on Budget and Program Oversight or the
12 Legislative Oversight Committee on State Budget Performance shall be
13 a reference to the ~~Legislative Oversight Committee on State Budget~~
14 ~~Performance~~ Joint Committee on Accountability, Innovation and
15 Privatization.

16 D. The Joint Committee shall be composed of ~~three~~ five members
17 appointed by the President Pro Tempore of the Senate, ~~three~~ and five
18 members appointed by the Speaker of the House of Representatives,
19 ~~two members by the minority leader of the Senate and two members~~
20 ~~appointed by the minority leader of the House of Representatives;~~
21 provided, of the members appointed by each appointing authority, not
22 more than three shall be members of the same political party, and
23 not more than three shall represent legislative districts which are
24 part of the same county. The Chair and Vice Chair of the Committee

1 shall rotate every two (2) years between the Senate and the House of
2 Representatives beginning with a Senate member serving as Chair in
3 2003. The Committee shall meet at least four (4) times per year and
4 at other times as called by the Chair. The ~~Legislative Oversight~~
5 ~~Committee on State Budget Performance~~ Joint Committee shall function
6 as a committee of the Legislature when the Legislature is in session
7 and is not in session. Each member of the Joint Committee shall
8 serve until a successor is appointed.

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

12 F. The Joint Committee may make use of all available
13 teleconferencing technology to facilitate meetings of the Joint
14 Committee when the Legislature is not in session. The Joint
15 Committee shall take any appropriate action to make such
16 teleconferenced meetings comply with the provisions of the Oklahoma
17 Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma
18 Statutes.

19 G. The Joint Committee shall periodically meet in different
20 geographical regions of the state to enhance the Committee's
21 understanding of local conditions and to help educate the public as
22 to the fiscal condition of the state.

23 SECTION 12. This act shall become effective July 1, 2009.
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