

SB 646

1 THE STATE SENATE  
2 Thursday, February 19, 2009

3 Senate Bill No. 646  
4 As Amended

5 SENATE BILL NO. 646 - By: Coffee, Mazzei and Brogdon of the Senate  
6 and Benge of the House.

7 [ state government - Accountability, Innovation and  
8 Privatization Act - codification - noncodification -  
9 effective date -  
10 emergency ]

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

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

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

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

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

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

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

2 1. "Committee" means the Joint Committee on Accountability,  
3 Innovation and Privatization created in Section 41.47 of Title 62 of  
4 the Oklahoma Statutes;

5 2. "Office" means the Office of Accountability, Innovation and  
6 Privatization created in Section 7 of this act;

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

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

14 5. "State agency" means any state office, officer, department,  
15 board, commission, institution, bureau, agency, or authority or any  
16 division or unit thereof; and

17 6. "Tax incentive review" means a review of any tax preference  
18 or other provision of tax law to determine the impact on state  
19 revenues of the granting of such preference and any economic benefit  
20 to the state resulting therefrom, as set forth in subsection B of  
21 Section 9 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

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

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

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

1 specific assets to be evaluated pursuant to the provisions of this  
2 paragraph;

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

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

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

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

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

22 B. Each state agency and other affected persons shall cooperate  
23 with the Committee and the Director in the providing of any

1 information requested. The Committee shall have the power to issue  
2 subpoenas and to compel the attendance of witnesses and the  
3 production of information as provided in Section 773 of Title 74 of  
4 the Oklahoma Statutes, upon a majority vote of a quorum of the  
5 members of the Committee.

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

9 There is hereby created the Office of Accountability, Innovation  
10 and Privatization within the Legislative Service Bureau. The  
11 Director of the Office of Accountability, Innovation and  
12 Privatization shall be appointed by the Joint Committee on  
13 Accountability, Innovation and Privatization for a four-year term  
14 and shall only be removed prior to the expiration of the term for  
15 good cause shown. The Director shall be a person of extensive  
16 experience and recognized qualifications in the field of  
17 governmental fiscal procedures and auditing. The Director shall  
18 employ and fix the compensation of employees of the Office. The  
19 Director and all such employees shall be in the unclassified  
20 service. The Office shall conduct, or shall cause to be conducted,  
21 performance audits and tax incentive reviews as directed by the  
22 Joint Committee and shall provide staff services to the Joint

1 Committee to enable it to conduct its responsibilities as set forth  
2 in the Accountability, Innovation and Privatization Act.

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

6 A. A performance audit may be conducted each year of those  
7 state agencies specified by law or concurrent resolution of the  
8 Legislature or designated by the Joint Committee on Accountability,  
9 Innovation and Privatization, subject to available funding. If  
10 funding is insufficient to conduct every such performance audit,  
11 those 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;

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

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

5           b. whether its functions are duplicative of, or could be  
6 better provided by, other agencies of state government  
7 or the private sector, and

8           c. whether it is operated in a manner which is accessible  
9 and easily used by those to whom public services are  
10 provided;

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

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

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

1 or required by law or by the specifications of the audit. The  
2 copies may be furnished electronically.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~B.~~ There is hereby created the Legislative Service Bureau which  
22 shall serve both the House of Representatives and the Senate. The  
23 Speaker of the House of Representatives and the President Pro

1 Tempore of the Senate shall employ a Director of the Legislative  
2 Service Bureau, who shall employ such personnel as necessary to  
3 implement the responsibilities imposed upon the Bureau by the  
4 Legislature by concurrent resolution.

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

11 2. The Legislative Service Bureau shall be a clearinghouse for  
12 the Legislature for all budgetary forms, research reports and  
13 information.

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

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

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

1 Section 41.47 A. There is hereby established the ~~Legislative~~  
2 ~~Oversight Committee on State Budget Performance~~ Joint Committee on  
3 Accountability, Innovation and Privatization. The purposes of this  
4 committee shall include oversight of the implementation of a system  
5 of program performance-based budgeting for implementation by state  
6 agencies and implementation and administration of the  
7 Accountability, Innovation and Privatization Act.

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

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

12 2. Directing studies to aid in the development of legislative  
13 and procedural changes to further improve the budgetary, financial,  
14 accounting, reporting, personnel, and purchasing processes and  
15 systems of the state;

16 3. Direction of program evaluation and management studies;

17 4. Oversight and reporting on executive branch compliance with  
18 the legislative intent of appropriation measures. Such oversight  
19 and reporting duties may include:

20 a. agency reorganization actions,

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

23 c. transfer of funds by the executive branch;

1           5. The development of revenue and expenditure estimates and  
2 analyses;

3           6. Study of the management, operations, programs and fiscal  
4 needs of the agencies and institutions of Oklahoma state government  
5 pursuant to the Oklahoma Program Performance Budgeting and  
6 Accountability Act;

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

10          8. Implementation of an ongoing evaluation review procedure of  
11 existing programs based on zero-base budgeting techniques pursuant  
12 to the Oklahoma Program Performance Budgeting and Accountability  
13 Act. The committee in cooperation with the Office of State Finance  
14 shall establish a schedule to review strategic plans and existing  
15 programs for each agency a minimum of once every four (4) years.  
16 The committee shall issue an evaluation report for each agency once  
17 every four (4) years which will include but not be limited to the  
18 following information:

19           a. a review of the agency's programs, performance and  
20 management,

21           b. whether the agency has demonstrated that there is a  
22 need for the services and programs which justifies the  
23 agency's continued existence,

1 c. whether the agency is the most appropriate provider of  
2 the programs and services furnished by the agency.

3 C. Any reference in the Oklahoma Statutes to the Joint  
4 Legislative Committee on Budget and Program Oversight or the  
5 Legislative Oversight Committee on State Budget Performance shall be  
6 a reference to the ~~Legislative Oversight Committee on State Budget~~  
7 ~~Performance~~ Joint Committee on Accountability, Innovation and  
8 Privatization.

9 D. The Joint Committee shall be composed of ~~three~~ five members  
10 appointed by the President Pro Tempore of the Senate, ~~three~~ and five  
11 members appointed by the Speaker of the House of Representatives,  
12 ~~two members by the minority leader of the Senate and two members~~  
13 ~~appointed by the minority leader of the House of Representatives;~~  
14 provided, of the members appointed by each appointing authority, not  
15 more than three shall be members of the same political party, and  
16 not more than three shall represent legislative districts which are  
17 part of the same county. The Chair and Vice Chair of the Committee  
18 shall rotate every two (2) years between the Senate and the House of  
19 Representatives beginning with a Senate member serving as Chair in  
20 2003. The Committee shall meet at least four (4) times per year and  
21 at other times as called by the Chair. The ~~Legislative Oversight~~  
22 ~~Committee on State Budget Performance~~ Joint Committee shall function  
23 as a committee of the Legislature when the Legislature is in session

1 and is not in session. Each member of the Joint Committee shall  
2 serve until a successor is appointed.

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

6 F. The Joint Committee may make use of all available  
7 teleconferencing technology to facilitate meetings of the Joint  
8 Committee when the Legislature is not in session. The Joint  
9 Committee shall take any appropriate action to make such  
10 teleconferenced meetings comply with the provisions of the Oklahoma  
11 Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma  
12 Statutes.

13 G. The Joint Committee shall periodically meet in different  
14 geographical regions of the state to enhance the Committee's  
15 understanding of local conditions and to help educate the public as  
16 to the fiscal condition of the state.

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

18 SECTION 13. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-11-09 - DO  
23 PASS, As Amended and Coauthored.