

1 ENGROSSED HOUSE  
2 BILL NO. 2472

By: Archer and Hill of the  
House

3 and

4 Paxton of the Senate

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8 An Act relating to public finance; amending 62 O.S.  
9 2021, Section 318, which relates to performance-based  
10 efficiency contracts; providing authorized method for  
initial payments; requiring certain savings amount;  
and declaring an emergency.

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

14 SECTION 1. AMENDATORY 62 O.S. 2021, Section 318, is  
15 amended to read as follows:

16 Section 318. A. For purposes of this section:

17 1. "Public entity" means any political subdivision of this  
18 state, or a public trust which has as a beneficiary a political  
19 subdivision of this state, or any institution of higher education  
20 which is part of The Oklahoma State System of Higher Education;

21 2. "Performance-based efficiency contract" means a contract for  
22 the design, development, financing, installation and service of any  
23 improvement, repair, alteration or betterment of any building or  
24 facility owned, operated or planned by a public entity; or any

1 equipment, fixture or furnishing to be added to or used in any such  
2 building or facility; or any maintenance or operational strategy  
3 that is designed and implemented that will reduce utility  
4 consumption or lower operating costs, result in annual operating  
5 cost savings, generate additional revenues or avoid capital cost  
6 incurrence and may include, but is not limited to, one or more of  
7 the following:

- 8 a. utility services,
- 9 b. heating, ventilating or air conditioning system  
10 modifications or replacements and automated control  
11 systems,
- 12 c. replacement or modifications of lighting fixtures,
- 13 d. indoor air quality improvements to increase air  
14 quality that conform to the applicable state or local  
15 building code requirements when done in conjunction  
16 with other cost-saving measures,
- 17 e. any additional building infrastructure improvement,  
18 cost saving, life safety or any other improvement that  
19 provides long-term operating cost reductions and is in  
20 compliance with state and local codes,
- 21 f. water-metering devices that increase efficiency or  
22 accuracy of water measurement and energy reduction, or  
23 g. any facility operation and support programs that  
24 reduce operating cost;

1       3. "Qualified provider" means a person or business experienced  
2 or trained in the design, analysis and installation of energy  
3 conservation and facility management measures. A qualified provider  
4 must employ a professional engineer registered in the State of  
5 Oklahoma; and

6       4. "State governmental entity" means the State of Oklahoma or  
7 any agency, board, commission, authority, department, public trust  
8 of which the state is the beneficiary or other instrumentality of  
9 state government, other than a public trust with the state as  
10 beneficiary whose jurisdiction is limited to one county, including,  
11 but not limited to, the following:

- 12           a. Oklahoma Municipal Power Authority,
- 13           b. Oklahoma Development Finance Authority,
- 14           c. Oklahoma Industrial Finance Authority,
- 15           d. Grand River Dam Authority,
- 16           e. Oklahoma Water Resources Board,
- 17           f. Northeast Oklahoma Public Facilities Authority,
- 18           g. Oklahoma Turnpike Authority,
- 19           h. Oklahoma Housing Finance Authority, and
- 20           i. Oklahoma Public, Industrial and Cultural Facilities  
21            Authority.

22       B. In addition to any other legally permissible alternatives of  
23 entering into contracts, any public entity may enter into  
24 performance-based efficiency contracts with a qualified provider

1 pursuant to the provisions of this section. The public entity may  
2 make an initial payment from any funds available. Further, any  
3 public entity may enter into an installment contract, lease purchase  
4 agreement or other contractual obligation for the purpose of  
5 financing performance-based efficiency projects for a term not to  
6 exceed the greater of twenty (20) years or the useful life of the  
7 project. A qualified provider to whom the contract is awarded shall  
8 be required to give a sufficient bond to the public entity for its  
9 faithful performance of the contract. In addition, the public  
10 entity may require performance bonds covering the annual amount of  
11 guaranteed savings over the contract term.

12 The contract's cost savings to the public entity must be  
13 guaranteed each year during the term of the agreement. The savings  
14 must be sufficient to offset the annual costs of the contract. Any  
15 initial payment from funds other than an installment agreement must  
16 also be offset by savings, as described herein, over the term of the  
17 agreement. In calculating cost savings, the public entity may  
18 consider capital cost avoidance and include additional revenue that  
19 is directly attributed to the performance-based efficiency contract.  
20 The contract shall provide for reimbursement to the public entity  
21 annually for any shortfall of guaranteed savings. Savings must be  
22 measured, verified and documented during each year of the term and  
23 may be utilized to meet the annual debt service. This section shall  
24 constitute the sole authority necessary to enter into performance-

1 based efficiency contracts, without regard to compliance with other  
2 laws which may specify additional procedural requirements for  
3 execution of contracts.

4 SECTION 2. It being immediately necessary for the preservation  
5 of the public peace, health or safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

8 Passed the House of Representatives the 20th day of March, 2023

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11 Presiding Officer of the House  
12 of Representatives

13 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2023.

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16 Presiding Officer of the Senate

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