

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

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

1 g. any facility operation and support programs that
2 reduce operating cost;

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

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

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

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

15 The contract's cost savings to the public entity must be
16 guaranteed each year during the term of the agreement. The savings
17 must be sufficient to offset the annual costs of the contract. In
18 calculating cost savings, the public entity may consider capital
19 cost avoidance and include additional revenue that is directly
20 attributed to the performance-based efficiency contract. The
21 contract shall provide for reimbursement to the public entity
22 annually for any shortfall of guaranteed savings. Savings must be
23 measured, verified and documented during each year of the term and
24 may be utilized to meet the annual debt service. This section shall

1 constitute the sole authority necessary to enter into performance-
2 based efficiency contracts, without regard to compliance with other
3 laws which may specify additional procedural requirements for
4 execution of contracts.

5 SECTION 2. This act shall become effective November 1, 2023.

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7 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2023 - DO PASS,
8 As Coauthored.

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