1 HOUSE OF REPRESENTATIVES - FLOOR VERSION 2 STATE OF OKLAHOMA 3 1st Session of the 58th Legislature (2021) ENGROSSED SENATE 4 BILL NO. 91 By: Hall of the Senate 5 and 6 Boles of the House 7 8 9 An Act relating to public buildings and public works; amending 61 O.S. 2011, Section 212, as amended by Section 330, Chapter 304, O.S.L. 2012 (61 O.S. Supp. 10 2020, Section 212), which relates to performance-11 based efficiency contracts; modifying maximum length of certain financing contracts; providing method for 12 calculating cost savings attributable to performancebased efficiency contracts; and providing an effective date. 13 14 15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA: 16 SECTION 1. 61 O.S. 2011, Section 212, as 17 AMENDATORY amended by Section 330, Chapter 304, O.S.L. 2012 (61 O.S. Supp. 18 2020, Section 212), is amended to read as follows: 19 20 Section 212. A. For purposes of this section: "Performance-based efficiency contract" means a contract for 21 the design, development, financing, installation, construction, and 22 service of any improvement, repair, alteration or betterment of any 23 public building or facility; or any equipment, fixture or furnishing

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to be added to or used in any such building or facility; or any
maintenance or operational strategy that is designed and implemented
that will reduce utility consumption or lower operating costs, and
may include, but is not limited to, one or more of the following:

a. utility services,

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- b. heating, ventilating or air conditioning system modifications or replacements and automated control systems,
- c. replacement or modifications of lighting fixtures,
- d. indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements when done in conjunction with other cost-saving measures,
- e. any additional building infrastructure improvement,

 cost saving, life safety or any other improvement that

 provides long-term operating cost reductions and is in

 compliance with state and local codes, or
- f. any facility operation and support programs that reduce operating cost; and
- 2. "Qualified provider" means a person or business experienced or trained in the design, analysis, construction and/or installation of energy conservation and facility management measures. A qualified provider must employ a professional engineer registered in the State of Oklahoma.

B. In addition to any other legally permissible alternatives of entering into contracts, the Office of Management and Enterprise

Services Construction and Properties Division may enter into performance-based efficiency contracts on behalf of all state agencies with a qualified provider pursuant to the provisions of this section.

A qualified provider to whom the contract is awarded shall be required to provide to the Division a sufficient bond for its faithful performance of the contract. In addition, the Division may require performance bonds covering the annual amount of guaranteed savings over the contract term. The Office of Management and Enterprise Services may enter into an installment contract, lease purchase agreement or other contractual obligation for the purpose of financing performance-based efficiency projects for a term not to exceed the greater of twenty (20) years or the useful life of the project.

The qualified provider must guarantee the contract's cost savings each year during the term of the agreement. In calculating cost savings, the public entity may consider capital cost avoidance and include additional revenue that is directly attributed to the performance-based efficiency contract. The savings must be sufficient to offset the annual costs of the contract. The contract shall provide for reimbursement to the state agency undertaking the project annually for any shortfall of guaranteed savings. Savings

1	must be measured, verified and documented each year of the term and
2	may be utilized to meet the annual debt service.
3	The contracts authorized by this section shall include
4	procedures for modifying the contract should the Division determine
5	it necessary.
6	This section shall constitute the sole authority necessary to
7	enter into performance-based efficiency contracts, without regard to
8	compliance with other laws which may specify additional procedural
9	requirements for execution of contracts.
10	SECTION 2. This act shall become effective November 1, 2021.
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12	COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND EFFICIENCY, dated 03/30/2021 - DO PASS.
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