

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

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

20 2. "Qualified provider" means a person or business experienced
21 or trained in the design, analysis, construction and/or installation
22 of energy conservation and facility management measures. A
23 qualified provider must employ a professional engineer registered in
24 the State of Oklahoma.

1 B. In addition to any other legally permissible alternatives of
2 entering into contracts, the Office of Management and Enterprise
3 Services Construction and Properties Division may enter into
4 performance-based efficiency contracts on behalf of all state
5 agencies with a qualified provider pursuant to the provisions of
6 this section.

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

17 The qualified provider must guarantee the contract's cost
18 savings each year during the term of the agreement. In calculating
19 cost savings, the public entity may consider capital cost avoidance
20 and include additional revenue that is directly attributed to the
21 performance-based efficiency contract. The savings must be
22 sufficient to offset the annual costs of the contract. The contract
23 shall provide for reimbursement to the state agency undertaking the
24 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
13 EFFICIENCY, dated 03/30/2021 - DO PASS.

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