

1 ENGROSSED SENATE
2 BILL NO. 1050

By: Thompson, Hall and
Montgomery of the Senate

3 and

4 Wallace and Hilbert of the
5 House

6
7 An Act related to regulated utilities; creating the
8 February 2021 Regulated Utility Consumer Protection
9 Act; providing legislative intent; providing
10 definitions; authorizing Corporation Commission to
11 determine costs eligible under act; requiring
12 utilities provide certain information to Commission;
13 authorizing Commission to develop forms and
14 procedures; requiring Commission to consider certain
15 factors; authorizing Commission to engage certain
16 professionals; providing for recovery of certain
17 expenses; exempting engagement of certain
18 professionals from the Oklahoma Central Purchasing
19 Act; directing Commission to make certain
20 determination; directing Commission to determine rate
21 and time certain costs included in bonds will accrue;
22 requiring certain funds be used for specific purpose;
23 authorizing Commission to direct certain funds;
24 providing for funds to accrue carrying charges as
determined by the Commission; directing Commission to
issue financing order; providing information required
in financing order; requiring Commission to consult
with the Deputy Treasurer for Policy and Debt
Management for certain purpose; directing Commission
to issue financing order in certain time; requiring
Commission to submit financing order to Legislature
and Governor; providing effective date of financing
order; setting time period for a certain appeal;
stating exception; prohibiting certain cost recovery
by utility under certain circumstance; prohibiting
impairment of financing order; creating a
securitization property right; designating
securitization property right as a present property
right; requiring certain order remain in effect for
certain period; designating owner of certain
revenues; preserving rights of securitization

1 property owner against certain actions; providing
2 financing order is effective notwithstanding certain
3 actions; allowing certain lien to be created;
4 providing for sale of securitization property;
5 providing interest in securitization property is
6 perfected in certain transfers; prohibiting
7 impairment of lien; authorizing bond holder to
8 foreclose on certain funds in certain circumstances;
9 specifying additional authority of the Oklahoma
10 Development Finance Authority; authorizing Authority
11 to establish certain fee; requiring notification to
12 certain entities; requiring annual report;
13 authorizing Authority to receive certain property;
14 authorizing Authority to provide bond proceeds to
15 utility; authorizing Authority to borrow money for
16 certain purpose; directing Authority to provide for
17 repayment of bonds; authorizing Authority to issue
18 ratepayer-backed bonds; construing clause; requiring
19 approval by certain entities prior to bond issuance;
20 providing that ratepayer-backed bonds are not an
21 indebtedness of the state; requiring certain
22 disclosure; authorizing State Treasurer to purchase
23 certain bonds; directing certain funds be deposited
24 in Treasury; creating the Regulated Utility Consumer
Protection Fund; directing utilities to provide
certain funds to the Authority; authorizing certain
entities to invest in ratepayer-backed bonds;
authorizing Commission to require audit of certain
funds; requiring audit report be provided to certain
persons; directing Authority to file certain
application with the Supreme Court of Oklahoma;
providing original jurisdiction to the Court;
providing severability provision; providing conflict
provision; amending 74 O.S. 2011, Section 5062.8,
which relates to the Oklahoma Development Finance
Authority; authorizing Authority to provide certain
loans; authorizing Authority to provide ratepayer-
backed bonds; modifying duties of Authority; amending
62 O.S. 2011, Section 695.9, as last amended by
Section 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp.
2020, Section 695.9), which relates to the Oklahoma
Bond Oversight and Reform Act; providing that Act
apply to certain bonds; providing for codification;
and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9070 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "February 2021
5 Regulated Utility Consumer Protection Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 9071 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 The Legislature recognizes the significant economic impact of
10 the extreme weather event that occurred during the month of February
11 2021. In the wake of this weather event, unprecedented utility
12 costs will be passed through to Oklahoma customers of utilities from
13 regulated utility entities. The purpose of this act is to provide
14 for the issuance of ratepayer-backed bonds to these entities and
15 thereby allow customers to pay their utility bills at a lower amount
16 and over a longer period.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 9072 of Title 74, unless there
19 is created a duplication in numbering, reads as follows:

20 As used in this act:

21 1. "Authority" shall mean the Oklahoma Development Finance
22 Authority pursuant to Section 5062.1 et seq. of Title 74 of the
23 Oklahoma Statutes;

24 2. "Commission" shall mean the Oklahoma Corporation Commission;

1 3. "Extraordinary costs" shall mean costs incurred by a
2 regulated utility related to the extreme weather that occurred
3 beginning February 7, 2021, and ending February 21, 2021, including
4 but not limited to fuel-related storage and associated costs,
5 emergency compressed or liquified natural gas supplies, contracts
6 for services providing additional pressurization on lines and
7 transportation pipeline penalties. Extraordinary costs shall not
8 include extreme purchase costs, as defined in this section;

9 4. "Financing order" shall mean an order issued by the Oklahoma
10 Corporation Commission that authorizes securitization of qualified
11 costs and the creation of an irrevocable and nonbypassable mechanism
12 for utility customer payments to the regulated utility, its
13 successors, assignees or collection agents, of amounts necessary for
14 service and repayment of ratepayer-backed bonds, subject to true-up
15 and reconciliation;

16 5. "Nonbypassable mechanism" shall mean that the payment of the
17 utility customer charges under this act shall not be modified or
18 avoided by any utility customer at an address located within a
19 utility service area by switching providers, switching fuel sources
20 or materially changing usage, and shall be paid by the customer for
21 as long as bonds issued pursuant to Section 8 of this act remain
22 outstanding;

23 6. "Extreme purchase costs" shall mean expenses incurred for
24 the purchase of fuel, purchased power, natural gas commodity or any

1 combination thereof, whether at spot pricing, index pricing or
2 otherwise with delivery beginning February 7, 2021, and ending
3 February 21, 2021;

4 7. "Qualified costs" shall mean the extreme purchase costs and
5 extraordinary costs, as calculated and set out in a financing order
6 of the Oklahoma Corporation Commission, less any insurance proceeds,
7 governmental grants or other funding sources, as well as any costs
8 of managing ratepayer-backed bonds;

9 8. "Ratepayer-backed bonds" shall mean bonds issued pursuant to
10 Section 8 of this act with service and repayment supported by
11 utility customer charges consistent with this act;

12 9. "Regulated utility" shall mean any utility, as defined in
13 this act, which is subject to the regulatory jurisdiction of the
14 Oklahoma Corporation Commission with respect to its rates, charges
15 and terms and conditions of service;

16 10. "Securitization" shall mean a financial tool creating a
17 property right to revenues collected by a regulated utility from
18 customers pursuant to an irrevocable and nonbypassable mechanism,
19 which is then sold and used as security for repayment of an issuance
20 of a ratepayer-backed bond;

21 11. "Securitization property" shall mean the right to receive
22 revenues collected by a regulated utility from customers pursuant to
23 an irrevocable and nonbypassable mechanism included in a financing
24 order;

1 12. "True-up and reconciliation" shall mean the comparison of
2 actual revenues received from customers with the revenues estimated
3 to be received during a period determined by the Oklahoma
4 Corporation Commission including any steps to carry forward the
5 difference to a future collection period, as necessary to ensure the
6 timely payment of ratepayer-backed bonds; and

7 13. "Utility" shall mean any person or entity doing business in
8 this state that furnishes natural gas or electric current to its
9 customers located at an address within this state and within the
10 service area of the utility.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 9073 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The Oklahoma Corporation Commission may determine upon
15 receiving an application or in any proceeding where the issue is
16 properly brought before it that extreme purchase costs,
17 extraordinary costs or both, requested for recovery by a regulated
18 utility are subject to this act and may be mitigated through
19 securitization in order to reduce the utility bill impact on
20 customers. For the purposes set forth in this section, the utility
21 shall:

22 1. Provide the known extreme purchase and extraordinary costs,
23 and estimates of any extreme purchase or extraordinary costs not yet
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1 finalized that are being requested for recovery through
2 securitization;

3 2. Demonstrate the utility bill impacts of securitization and
4 the degree of savings customers would experience related to issuing
5 ratepayer-backed bonds in comparison with traditional utility
6 financing; and

7 3. Facilitate a timely audit of all costs requested for
8 recovery prior to the utility being authorized to recover costs
9 through the issuance of a financing order.

10 B. The Commission may develop forms and procedures to receive
11 and review applications for the establishment of qualified costs;
12 provided, the application shall require but not be limited to the
13 amount of extreme purchase costs and extraordinary costs requested
14 for recovery and any other information or documentation required by
15 the Commission to effectuate this act.

16 C. The Commission shall consider the following factors when
17 determining whether extreme purchase costs or extraordinary costs
18 should be mitigated by the issuance of ratepayer-backed bonds:

19 1. Substantial revenue requirement savings that may be incurred
20 to the benefit of customers by relying on lower carrying charges
21 related to ratepayer-backed bonds rather than by conventional
22 financing obtained by the regulated utility;

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1 2. Customer utility bill impact that may be mitigated by
2 mandating a longer amortization period for recovery than would
3 otherwise be practicable or feasible for the regulated utility; and

4 3. The issuance of ratepayer-backed bonds that may be completed
5 at a sufficiently low cost such that customer savings are not
6 exhausted or offset.

7 D. 1. The Commission may engage financial advisors or other
8 consultants as may be necessary to assist in the evaluation required
9 pursuant to subsection C of this section. Expenses incurred for
10 those purposes shall be recoverable as administrative expenses of
11 the Oklahoma Development Finance Authority through the issuance of
12 ratepayer-backed bonds pursuant to Section 8 of this act.

13 2. The provisions of the Oklahoma Central Purchasing Act,
14 Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, shall not
15 be applicable to the engagement authorized by paragraph 1 of this
16 subsection but shall be subject to review by the Deputy Treasurer
17 for Policy and Debt Management.

18 E. In determining the amount of extreme purchase costs and
19 extraordinary costs to be mitigated through securitization, the
20 Commission shall determine that the amounts incurred would otherwise
21 be recoverable from customers as fair, just and reasonable expenses
22 and prudently incurred.

23 F. Extreme purchase costs and extraordinary costs determined by
24 the Commission to be subject to this act and to be mitigated by

1 issuing ratepayer-backed bonds shall include carrying costs at an
2 appropriate rate determined by the Commission as set forth in a
3 financing order. The carrying costs shall begin accruing at a time
4 determined by the Commission in the financing order and continue
5 until the date that ratepayer-backed bonds are issued, or the costs
6 are otherwise recovered.

7 G. To the extent the regulated utility receives insurance
8 proceeds, governmental grants or any other source of funding that
9 compensates it for extreme purchase costs or extraordinary costs
10 subject to securitization, or if actual amounts are determined to be
11 lower than estimated amounts, those amounts shall be used to reduce
12 the extreme purchase costs or extraordinary costs of the utility
13 recoverable from customers. The Commission shall direct whether the
14 funds shall be provided directly to the Authority to offset amounts
15 securitized or whether they shall be held as a separate regulatory
16 liability offsetting rate base or returned to customers through some
17 other appropriate regulatory mechanism. The amounts so received
18 shall accrue carrying charges at a rate equivalent to the rate
19 determined pursuant to subsection F of this section if they are
20 received before ratepayer-backed bonds are issued. If received
21 after the issuance of ratepayer-backed bonds, the amounts shall
22 accrue carrying charges at a rate determined by the Commission.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9074 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Upon the determination that a regulated utility has extreme
5 purchase costs, extraordinary costs or both that are subject to this
6 act and may be mitigated by issuing ratepayer-backed bonds, the
7 Oklahoma Corporation Commission shall make necessary findings and
8 conclusions to result in a financing order under this act, either in
9 the same order or through a continued or separate proceeding. The
10 financing order shall include, but not be limited to, the following:

11 1. The quantified amount of extreme purchase costs and
12 extraordinary costs to be recovered using a financial instrument;

13 2. The maturity or range of maturities of bonds authorized to
14 be issued, and a corresponding amortization period of customer
15 charges, subject to reasonable provisions for true-up and
16 reconciliation, with any authorized maturity not to exceed thirty
17 (30) years;

18 3. The creation of an irrevocable and nonbypassable mechanism
19 under which the regulated utility will recover from customers an
20 amount necessary to service, repay and administer the ratepayer-
21 backed bonds. A customer's monthly billing charges collected
22 pursuant to the nonbypassable mechanism established under a
23 financing order shall be based upon the then-current monthly billing
24 of the customer and shall be a separate line-item on the monthly

1 bill of the customer. The nonbypassable mechanism shall include
2 procedures for receiving accounting information from the Oklahoma
3 Development Finance Authority and calculating factors to be applied
4 to customer bills. The mechanism shall remain in effect until the
5 complete repayment and retirement of any ratepayer-backed bonds, or
6 refunding bonds, authorized under the financing order;

7 4. The frequency of true-up and reconciliation of the customer
8 repayment revenues collected through the nonbypassable mechanism,
9 whether on a monthly, quarterly or semiannual basis;

10 5. The method by which the customer repayment charges will be
11 allocated among the various customer classes; and

12 6. The requirement that all funds received under the
13 irrevocable and nonbypassable mechanism be provided immediately to
14 the holder of securitization property pursuant to Section 6 of this
15 act for the purpose of repaying, servicing and administering the
16 ratepayer-backed bonds authorized by the financing order.

17 B. Prior to issuing a financing order, the Commission shall
18 consult with the Deputy Treasurer for Policy and Debt Management
19 regarding the marketability and efficiency of any proposed financing
20 authorized by a financing order.

21 C. The Commission shall issue an order no later than one
22 hundred eighty (180) days from the date the Commission receives all
23 necessary information and documentation pursuant to Section 4 of
24 this act.

1 D. On the same date a financing order is issued, a copy of the
2 order shall be delivered to the Governor, the President Pro Tempore
3 of the Senate, the Speaker of the House of Representatives and the
4 Oklahoma Development Finance Authority.

5 E. A financing order shall be effective immediately upon
6 issuance.

7 F. A financing order shall not be subject to any form of
8 rehearing after thirty (30) days from the issuance of the order,
9 subject to appeals pursuant to Section 20 of Article IX of the
10 Oklahoma Constitution.

11 G. Upon entering a financing order under this act, a regulated
12 utility shall not recover the extreme purchase costs and
13 extraordinary costs identified and quantified in the financing order
14 from customers except through the transfer of securitization
15 property as provided in Section 6 of this act in exchange for the
16 proceeds of a bond issuance, which shall offset and complete the
17 recovery of extreme purchase costs and extraordinary costs for the
18 regulated utility.

19 H. Upon the issuance of any financing order pursuant to this
20 section, the periodic determination of factors for customer
21 collection with true-up and reconciliation authorized by the
22 financing order shall not be removed, adjusted or interrupted by any
23 other regulatory determination of the Commission except where
24 adjustments are warranted as a result of an audit of amounts

1 actually collected from customers and provided to the Authority or
2 where insurance proceeds, government grants or other funding sources
3 offset or reduce the amount of extreme purchase costs and
4 extraordinary costs to be recovered from customers. No adjustments
5 shall in any manner impair or prevent the collection of sufficient
6 revenues to service and repay ratepayer-backed bonds.

7 I. No ratepayer-backed bonds authorized in a financing order,
8 except for refunding obligations authorized under subsection D of
9 Section 8 of this act, may be issued more than twenty-four (24)
10 months after issuance of the financing order pursuant to this
11 section.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 9075 of Title 74, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The rights and interests to receive revenues collected by a
16 regulated utility through the irrevocable and nonbypassable
17 mechanism created pursuant to a financing order shall become a
18 securitization property right at the time the ratepayer-backed bond
19 is issued pursuant to a financing order.

20 B. The securitization property right under a financing order
21 shall constitute a present property right for purposes of contracts
22 concerning the sale or pledge of property, even though the
23 imposition and collection of the relevant charges depend on future
24 acts of the regulated utility, the Oklahoma Corporation Commission

1 and acts of others. The financing order shall remain in effect, and
2 the property interest shall continue to exist for the same period as
3 the maturity, with reasonable true-up and reconciliation periods set
4 out in the financing order.

5 C. All revenues and collections received through the
6 irrevocable and nonbypassable mechanism created pursuant to a
7 financing order shall be the further property and right of the owner
8 of the securitization property.

9 D. The rights of the securitization property owner are not
10 subject to setoff, counterclaim, surcharge or defense by the
11 regulated utility or any other person, creditor or otherwise, in any
12 bankruptcy or debt collection proceeding of the regulated utility or
13 any other entity. A financing order shall remain in effect and
14 unabated notwithstanding the bankruptcy or sale of the regulated
15 utility, its successors or assignees.

16 E. A valid and enforceable lien and security interest in
17 securitization property may be created by a financing order and the
18 execution and delivery of a security agreement with the Oklahoma
19 Development Finance Authority in connection with the issuance of
20 ratepayer-backed bonds. The lien and security interest shall attach
21 automatically from the time the value is received by the Authority
22 for the bonds and transferred to the regulated utility in exchange
23 for securitization property and, on perfection through the filing of
24 notice with the Oklahoma Secretary of State, shall be a continuously

1 perfected lien and security interest in the securitization property
2 and all proceeds from the property shall have priority in the order
3 of filing and take precedence over any subsequent judicial or other
4 lien creditor.

5 F. Any sale, assignment or transfer of the securitization
6 property to the Authority that expressly states that a transfer is a
7 sale or other absolute transfer signifies that the transaction is a
8 true sale and is not a secured transaction and that title, legal and
9 equitable, has passed to the Authority.

10 G. Transfer of an interest in securitization property to an
11 assignee shall be perfected against all third parties including
12 subsequent judicial or other lien creditors when the financing order
13 becomes effective, transfer documents have been delivered to the
14 assignee and a notice of that transfer has been filed with the
15 Oklahoma Secretary of State.

16 H. The priority of a lien and security interest perfected under
17 this section is not impaired by any later modification of the
18 financing order or by the commingling of funds with other revenues
19 paid by customers to the regulated utility, by utilities to the
20 Authority or otherwise paid. If securitization property has been
21 transferred to an assignee, any revenues related to that property
22 shall be held in trust for the assignee.

23 I. If a default or termination occurs under the ratepayer-
24 backed bonds, holders of the bonds or their representatives may

1 foreclose on or otherwise enforce their lien and security interest
2 in any securitization property, and the Commission may require any
3 revenues received under the irrevocable and nonbypassable mechanism
4 created by a financing order be paid to a new holder of the
5 securitization property.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 9076 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 A. In addition to all other powers expressly conferred upon the
10 Oklahoma Development Finance Authority pursuant to Section 5062.8 of
11 Title 74 of the Oklahoma Statutes, the Authority is hereby authorized
12 and empowered to take the following actions:

- 13 1. To issue ratepayer-backed bonds as provided in this act;
- 14 2. To establish and adjust from time to time the actual cost of
15 an administrative fee for the costs associated with the Authority
16 carrying out its power and duties under this act, to include costs
17 of the Corporation Commission incurred under Section 4 of this act.
18 The fee shall be included in the calculation of utility customer
19 payments created by the financing order; and
- 20 3. To do all things necessary or convenient to carry out the
21 powers expressly granted in this act.

22 B. The Authority shall take the following actions:

- 23 1. To notify the Governor, President Pro Tempore of the Senate,
24 the Speaker of the House of Representatives and the Oklahoma

1 Corporation Commission upon issuance of a ratepayer-backed bond.
2 The notification shall be in writing and include the amount and
3 terms of the bond; and

4 2. To prepare a report annually regarding the bond activity
5 related to the provisions of this act, to be submitted to the
6 Governor, the President Pro Tempore of the Senate, the Speaker of
7 the House of Representatives, the Attorney General and the Oklahoma
8 Corporation Commission as of December 1 each year until the debt is
9 retired.

10 SECTION 8. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 9077 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The Oklahoma Development Finance Authority is hereby
14 authorized to enter into agreements to receive securitization
15 property as described in Section 6 of this act from a regulated
16 utility and, in exchange, to provide the proceeds of a bond issuance
17 described in this section to the regulated utility. The revenues
18 received from the securitization property shall be used to service
19 and repay the bonds issued under this section, and the Authority may
20 pledge the securitization property as a security interest for the
21 bonds. The Authority shall conduct any bond issuance under this
22 section so that the issuance provides for all qualified costs
23 related to a financing order under this act.

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1 B. The Authority is hereby authorized to borrow money on the
2 credit of the revenues to be derived from securitization property
3 received under subsection A of this section, and in anticipation of
4 the collection of revenues, issue negotiable bonds necessary for
5 such purposes. The Authority shall provide for the payment of such
6 bonds and the rights of the holders thereof, as hereinafter
7 provided. Said bonds may be issued in one or more series, may be
8 sold in such manner and at such price or prices, may bear such date
9 or dates, may mature at such time or times, may be in such
10 denomination or denominations, may be in such form either coupon or
11 registered, may carry such registration or conversion privileges,
12 may be executed in such manner, may be payable in such medium of
13 payments, at such place or places, may be subject to such terms of
14 redemption, with or without premium, and may bear such rate or rates
15 of interest, and shall be subject to such call for redemption as may
16 be provided by resolution or resolutions to be adopted by the
17 Authority and are consistent with the terms of the financing order
18 issued by the Commission. The bonds shall have all of the qualities
19 and incidents of negotiable paper, and the bonds and the interest
20 earned on the bonds shall not be subject to taxation by the state,
21 or by any county, municipality or political subdivision therein.

22 C. The Authority may only pledge the securitization property
23 and the revenues received from such property arising from a single
24 financing order for a single series of bonds. No revenues arising

1 from a separate financing order shall be pledged for or used to
2 repay the bonds or series issued with respect to a separate
3 financing order.

4 D. The Authority may issue ratepayer-backed bonds for the
5 purpose of refunding any obligation of the Authority payable from
6 the revenues of securitization property received under subsection A
7 of this section. Where bonds are issued under this subsection, the
8 bonds may either be sold pursuant to subsection G of this section or
9 delivered in exchange for the outstanding obligations. If sold, the
10 process may be either applied to the payment of the obligations,
11 refunded or deposited in escrow for the retirement of the
12 obligations. Nothing herein contained shall be construed to
13 authorize the refunding of any outstanding obligations which are not
14 either maturing, callable for redemption under their terms or
15 voluntarily surrendered by their holders for cancellation, unless
16 the Authority covenants that sufficient funds to pay all remaining
17 interest and principal payments of the outstanding obligations when
18 due will be placed in escrow for such purpose at the place or places
19 where the bonds are payable.

20 E. The Authority shall execute all bonds issued by the
21 Authority after approval of the form of the bond by the Authority
22 and the Attorney General.

23 F. 1. The ratepayer-backed bonds issued under this section
24 shall not be an indebtedness of the state or of the Authority, but

1 shall be special obligations payable solely from revenues related to
2 securitization property received under subsection A of this section.
3 The Authority is authorized and directed to pledge all or any part
4 of such revenues to the payment of principal and interest on the
5 bonds and to create a reserve for such purposes.

6 2. Any ratepayer-backed bonds issued pursuant to this section
7 shall contain on the face thereof a statement to the following
8 effect:

9 "Neither the full faith and credit nor the taxing power of the
10 State of Oklahoma is pledged to the payment of the principal of, or
11 interest on, this bond".

12 G. The State Treasurer is hereby authorized to purchase from
13 the Authority at private sale all or any part of the bonds issued
14 under this section as an investment of the public monies in his or
15 her possession. It shall be the responsibility of the State
16 Treasurer to invest only that portion of the public monies as it
17 deems to be more than sufficient to meet current expenditures
18 payable from public monies. The State Treasurer is authorized to
19 buy and the Authority is authorized and required to sell to the
20 State Treasurer at private sale so many of the bonds authorized by
21 this section as may be safely purchased for investment of public
22 monies by the State Treasurer without handicapping the state in
23 promptly meeting its obligations. The State Treasurer may later

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1 sell the bonds as are necessary to ensure sufficient cash on hand is
2 available to meet current expenditures payable from public monies.

3 H. Bonds issued under this section shall be delivered to the
4 purchaser only upon payment of par and accrued interest to the date
5 of delivery, together with any premium bid.

6 I. The proceeds of the sale of ratepayer-backed bonds, and
7 revenues received with respect to securitization property, shall be
8 deposited in the State Treasury, in a fund which is hereby created
9 and designated the "Regulated Utility Consumer Protection Fund"
10 where they shall remain subject to disposition to be provided for by
11 the Authority consistent with this act; provided, that the State
12 Treasurer shall invest the monies in interest-bearing direct
13 obligations of the United States of America, or of the State of
14 Oklahoma, and provided, further, that all investments of the monies
15 shall be so made that the same may be liquidated in time to enable
16 the Authority to pay, in due course, the valid indebtedness incurred
17 by the Authority for the purposes set forth in this section.

18 J. In the event a regulated utility has or receives alternative
19 funds directed by the Commission to be applied to a securitized
20 balance, the regulated utility shall provide the funds to the
21 Authority. The Authority shall deposit the funds with the State
22 Treasury pursuant to subsection I of this section. If the funds are
23 provided in advance of the bond issuance, the Authority shall use
24 the funds and interest on the funds to pay expenses related to the

1 issuance, reduce the total bond debt service or reduce the size of
2 the required issuance. If the funds are provided after the bond
3 issuance, the Authority shall use the funds and interest on the
4 funds to offset amounts that would otherwise be recovered from
5 utility customers under this act.

6 K. Any bank, trust or insurance company organized under the
7 laws of this state may invest its capital, surplus and reserve funds
8 and other funds under its control in ratepayer-backed bonds issued
9 under this section.

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 9078 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 In any proceeding where the issue is properly before it, the
14 Oklahoma Corporation Commission may require an audit of all amounts
15 received from customers under an irrevocable and nonbypassable
16 mechanism and paid to a utility, the amounts paid by the utility to
17 the Oklahoma Development Finance Authority or other holder of
18 securitization property. An audit, as provided in this section,
19 shall be part of any general rate case filed by a regulated utility
20 currently affected by a financing order with outstanding ratepayer-
21 backed bonds. Any audit conducted pursuant to this section shall be
22 provided to the Governor, the Pro Tempore of the Senate, the Speaker
23 of the House of Representatives and the Authority; provided,
24 however, any part or parts of the audit deemed confidential pursuant

1 to federal or state law or as determined by the Commission, shall be
2 redacted.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 9079 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 The Oklahoma Development Finance Authority shall file an
7 application with the Supreme Court of Oklahoma for the approval of
8 ratepayer-backed bonds issued under this act, and exclusive original
9 jurisdiction is hereby conferred upon the Court to hear and
10 determine each application. The Court shall give such an
11 application precedence over the other business of the Court and
12 consider and pass upon the application and any protests which may be
13 filed against such application as speedily as possible. Notice of
14 the hearing on each application shall be given by notice published
15 in a newspaper of general circulation in the state that on a day
16 named by the Authority will ask the Oklahoma Supreme Court to hear
17 its application and approve the bonds. The notice shall inform all
18 persons interested that they may file protests against the issuance
19 of the bonds and be present at the hearing and contest the legality
20 thereof. The notice shall be published one time, not less than ten
21 (10) days prior to the date named for the hearing, and the hearing
22 may be adjourned from time to time at the discretion of the Court.
23 If the Court shall be satisfied that the bonds or any portions
24 thereof have been properly authorized in accordance with this act

1 and the Constitution of the State of Oklahoma, and that when issued
2 they will constitute valid obligations in accordance with their
3 terms, the Court shall render its written opinion approving the
4 ratepayer-backed bonds and shall fix the time within which a
5 petition for rehearing may be filed. The decision of the Court
6 shall be a judicial determination of the validity of the bonds,
7 shall be conclusive as to the Authority, the state, its officers,
8 agents and instrumentalities, and all other persons, and thereafter
9 the bonds so approved and the revenues pledged to their payment
10 shall be incontestable in any court in this state.

11 SECTION 11. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 9080 of Title 74, unless there
13 is created a duplication in numbering, reads as follows:

14 Effective on the date the first ratepayer-backed bonds are
15 issued under this act, if any provision in this act or portion of
16 this act is held to be invalid or is invalidated, superseded,
17 replaced, repealed or expires for any reason, that occurrence does
18 not affect the validity or continuation of this act or other
19 provisions of law that are relevant to the issuance, administration,
20 payment, retirement or refunding of the ratepayer-backed bonds or to
21 any actions of the Oklahoma Development Finance Authority or the
22 regulated utility or their successors, assignees or collections
23 agents.

24

1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9081 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 If this act, or any provision hereof is, or may be deemed to be,
5 in conflict or inconsistent with any of the provisions of Section 18
6 through Section 34, inclusive, of Article IX of the Constitution of
7 the State of Oklahoma, then, to the extent of any conflicts or
8 inconsistencies, it is hereby expressly declared this entire act and
9 this section are amendments to and alterations of such sections of
10 the Constitution of the State of Oklahoma, as authorized by Section
11 35 of Article IX of the Constitution of the State of Oklahoma.

12 SECTION 13. AMENDATORY 74 O.S. 2011, Section 5062.8, is
13 amended to read as follows:

14 Section 5062.8. The Oklahoma Development Finance Authority is
15 hereby granted, has and may exercise all powers necessary or
16 appropriate to carry out and effectuate its corporate purposes,
17 including, without limiting the generality thereof, the following:

18 1. ~~to~~ To adopt, amend, and repeal rules and regulations,
19 policies, and procedures for the regulation of its affairs and the
20 conduct of its business;

21 2. ~~to~~ To sue and be sued in its own name;

22 3. ~~to~~ To have an official seal and power to alter that seal at
23 will;

24

1 4. ~~to~~ To maintain an office at such place or places within this
2 state as it may designate;

3 5. ~~to~~ To adopt, amend and repeal bylaws and rules and
4 regulations, not inconsistent with the Oklahoma Development Finance
5 Authority Act, to carry into effect the powers and purposes of the
6 Authority and the conduct of its business;

7 6. ~~to~~ To make and execute contracts with any individual,
8 corporation, whether profit or nonprofit, association or any other
9 entity and all other instruments necessary or convenient for the
10 performance of its duties and the exercise of its powers and
11 functions under the Oklahoma Development Finance Authority Act;

12 7. ~~to~~ To employ underwriters, bond or other legal counsel,
13 financial advisors, consultants, a financial institution to serve as
14 trustee, paying agent or in any fiduciary capacity in connection
15 with any program, indenture or general resolution of the Authority,
16 or any other experts and to determine their qualifications, duties
17 and compensation subject to the provisions of the Oklahoma
18 Development Finance Authority Act for advice and oversight of the
19 State Bond Advisor; provided, however, after July 1, 1987, the
20 Authority shall not employ or contract with any person, partnership,
21 corporation, trust or other entity for underwriting services for
22 issuance of bonded indebtedness if that entity has served as
23 financial advisor to the Authority concerning the consideration of
24 that issuance.

1 When engaging the services of underwriters, bond or other legal
2 counsel, financial advisors, consultants, a financial institution to
3 serve as trustee, paying agent or in any fiduciary capacity in
4 connection with any program, indenture or general resolution of the
5 Authority, or any other experts, the board shall be governed by the
6 provisions of subsection C of Section 695.7 of Title 62 of the
7 Oklahoma Statutes except when engaging such services in connection
8 with a program whose purpose is to provide financing for a single,
9 private entity which has previously selected providers of any such
10 services prior to making application to the Authority~~;~~ provided,
11 such financing for the program shall not be backed by the Credit
12 Enhancement Reserve Fund;

13 8. ~~to~~ To procure insurance against any loss in connection with
14 its property and other assets in such amounts and from such insurers
15 as it deems desirable;

16 9. ~~to~~ To borrow money and to issue bonds, whether or not the
17 interest thereon is to be includable in the gross income of the
18 recipients thereof for federal income tax purposes~~;~~ including,
19 without limitation, to provide on a pooled or consolidated basis
20 financing for the purposes and projects herein provided and to
21 provide for the security and sources of payments therefor;

22 10. ~~to~~ To receive and accept aid or contributions from any
23 source of money, property, labor~~;~~ or other things of value to be
24 held, used and applied to carry out the purposes of the Oklahoma

1 Development Finance Authority Act subject to the conditions upon
2 which the grants and contributions are made, including, but not
3 limited to, gifts or grants from any department, agency or
4 instrumentality of the United States or of the state for any purpose
5 consistent with the Oklahoma Development Finance Authority Act;

6 11. ~~to~~ To obtain from any department or agency of the United
7 States of America or nongovernmental insurer any insurance or
8 guaranty, to the extent now or hereafter available, as to, or of, or
9 for, the payment or repayment of, interest or principal, or both, or
10 any part thereof, on any bonds issued by the Authority, or on any
11 municipal securities of political subdivisions purchased or held by
12 the Authority, pursuant to the Oklahoma Development Finance
13 Authority Act; and, notwithstanding any other provisions of the
14 Oklahoma Development Finance Authority Act, to enter into any
15 agreement or contract whatsoever with respect to any such insurance
16 or guaranty, except to the extent that the same would in any way
17 impair or interfere with the ability of the Authority to perform and
18 fulfill the terms of any agreement made with the owners of the bonds
19 of the Authority;

20 12. ~~to~~ To sell, convey, lease, exchange, transfer or otherwise
21 dispose of, all or any of its property or any interest therein,
22 wherever situated;

23 13. ~~to~~ To provide financing assistance for the purposes and
24 projects herein provided;

1 14. ~~to~~ To acquire, purchase, hold, store, advertise, market,
2 sell, trade, barter, exchange, distribute, transport, process,
3 utilize and contract in all manner with respect thereto and for
4 commodities, products and services, and real or personal property or
5 any interest therein and to contract for, issue and utilize letters
6 of credit and other credit facilities and incur indebtedness and to
7 arrange, form, make, guarantee, issue, remit, receive, receipt,
8 process and collect payments and equivalents, howsoever nominated,
9 in connection with or for purposes of any of the foregoing and for
10 the purpose of executing and fulfilling the purposes of the
11 Authority;

12 15. ~~to~~ To acquire, reacquire, construct, reconstruct, extend,
13 rent, lease, purchase, use, loan, borrow, install, equip, maintain,
14 operate, renovate, refurbish, enlarge, remodel, convey, sell, at
15 public or private sale, encumber, alleviate, transfer, exchange,
16 dispose of and/or resell, any property, real, personal or mixed,
17 improvements, buildings, equipment, chattels, furnishings, fixtures,
18 trade fixtures, and any and all other facilities and/or property of
19 whatever nature, including any and all rights to or therein for use
20 by corporations, individuals, cooperatives, partnerships,
21 associations or proprietary companies for any of or for the purpose
22 of executing and/or fulfilling the purposes of the Authority, and to
23 plan, establish, develop, construct, enlarge, improve, extend,
24 maintain, equip, operate, lease, furnish, provide, supply, regulate,

1 hold, store and administer property, buildings, improvements, and
2 facilities of every nature, which may be useful in pursuing,
3 promoting, executing and/or fulfilling the aforementioned purposes;

4 16. ~~to~~ To the extent permitted under its contract with the
5 owners of bonds, to consent to any modification with respect to rate
6 of interest, time, and payment of any installment of principal or
7 interest security or any other term of any contract, mortgage,
8 contract or agreement of any kind to which the Authority is a party;

9 17. ~~to~~ To purchase its own bonds at such price or prices as the
10 Authority shall determine, subject to any agreement with the owners
11 of bonds;

12 18. ~~to~~ To enter into financial documents with others for the
13 purpose of receiving revenues to pay the bonds authorized by the
14 Oklahoma Development Finance Authority Act; to lease, sell, or
15 otherwise dispose of any or all of its projects to others for such
16 revenues and upon such terms and conditions as the Authority may
17 deem advisable, and to grant options to renew any financing
18 agreement with respect to project and to grant options to buy any
19 project at such price or prices as the Authority deems desirable;

20 19. ~~to~~ To lend money to the state or political subdivisions
21 through the purchase by the Authority of obligations of the state or
22 political subdivisions;

23 20. ~~to~~ To collect fees and charges in connection with its
24 loans, commitments and servicing, including, but not limited to,

1 reimbursement of costs of financing as the Authority shall determine
2 to be reasonable and as shall be approved by the Authority;

3 21. ~~to~~ To provide services, technical assistance and advice to
4 this state and political subdivisions and to enter into contracts
5 with this state and political subdivisions to provide such services.
6 The ~~State of Oklahoma~~ state and its political subdivisions are
7 hereby authorized to enter into contracts with the Authority for
8 such services and to pay for such services as may be provided them;

9 22. ~~to~~ To contract, cooperate, or join with any one or more
10 other governments or public agencies, or with the state, any
11 political subdivisions of this state, or the United States, to
12 perform any administrative service, activity, or undertaking which
13 any such contracting party is authorized by law to perform,
14 including the issuance of bonds;

15 23. ~~to~~ To lend money or otherwise extend credit to any person
16 and exercise all powers of a lender or creditor;

17 24. ~~to~~ To invest any funds available to the Authority, whether
18 or not from the proceeds of bonds, in such securities or pursuant to
19 such agreements or other arrangements as the Authority shall
20 determine, subject to any agreements with bond owners or other
21 creditors of the Authority;

22 25. ~~to~~ To purchase, trade or sell foreign or domestic
23 currencies or the right to acquire such currency in the future; and
24

1 26. ~~to~~ To exercise all other powers and functions necessary or
2 appropriate to carry out the duties and purposes set forth in the
3 Oklahoma Development Finance Authority Act;

4 27. To provide loans made pursuant to notes, bonds, revenue
5 bonds or other appropriate forms of indebtedness to unregulated
6 utilities pursuant to the February 2021 Unregulated Utility Consumer
7 Protection Act; and

8 28. To issue ratepayer-backed bonds pursuant to the February
9 2021 Regulated Utility Consumer Protection Act.

10 SECTION 14. AMENDATORY 62 O.S. 2011, Section 695.9, as
11 last amended by Section 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp.
12 2020, Section 695.9), is amended to read as follows:

13 Section 695.9. A. No State Governmental Entity or Local
14 Governmental Entity shall issue any State Governmental Entity
15 Financing obligations unless such obligations have been approved by
16 the Council of Bond Oversight as provided for in Section 695.8 of
17 this title; provided, however, that in no event shall the Council's
18 approval be required for the issuance of any obligations pursuant to
19 a remarketing or a change in interest rate or maturity under the
20 terms of indentures or agreements securing obligations heretofore
21 issued prior to July 1, 1987, or pursuant to the provisions of the
22 Oklahoma Bond Oversight and Reform Act. The provisions of this
23 subsection shall apply to any notes, bonds, revenue bonds,
24 ratepayer-backed bonds, loans or other appropriate form of evidence

1 of indebtedness issued pursuant to the February 2021 Unregulated
2 Utility Consumer Protection Act and the February 2021 Regulated
3 Utility Consumer Protection Act.

4 B. 1. With respect to any State Governmental Entity Financing
5 proposed to be obtained through the issuance of its obligations, any
6 State Governmental Entity or Local Governmental Entity shall file
7 with the Council a written description of the nature, need and
8 purpose of such proposed financing. The Council shall review the
9 description of the proposed financing in order to either approve or
10 disapprove the purpose to be served by the issuance of the State
11 Governmental Entity obligations and for compliance with any
12 applicable provisions of federal, state or other laws.

13 2. With respect to bonds or indebtedness proposed to be issued
14 by the Oklahoma Development Finance Authority which will be enhanced
15 or supported pursuant to the Credit Enhancement Reserve Fund Act,
16 the Council shall review the description of such proposed financing
17 in accordance with paragraph 1 of this subsection and additionally
18 shall approve or disapprove the proposed financing on a
19 determination of sufficient compliance with the Rules Regarding the
20 Administration of the Credit Enhancement Reserve Fund as implemented
21 by the Oklahoma Development Finance Authority. Such determinations
22 by the Council shall be based on a written report prepared for and
23 provided to the Council by the Program Development and Credit Review
24 Committee as provided in Section 5062.6a of Title 74 of the Oklahoma

1 Statutes, provided the Council shall not be bound to follow the
2 conclusions reached by the committee in such reports. All orders
3 issued by the Council approving or disapproving bonds or
4 indebtedness enhanced or supported pursuant to the Credit
5 Enhancement Reserve Fund Act shall be final and shall not be subject
6 to any type of appeal.

7 3. Except as provided in paragraph 4 of this subsection,
8 approval provided for in paragraph 1 of this subsection shall expire
9 one hundred eighty (180) days after such approval. Provided, if
10 such approval expires, nothing shall prevent the State Governmental
11 Entity from refileing with the Council for approval of such financing
12 and, if granted, any one subsequent approval of such financing shall
13 be valid for a period, not to exceed one hundred eighty (180) days,
14 as determined by the Council.

15 4. Applicants having received approval, as provided for in
16 paragraph 1 of this subsection, may request and the Deputy Treasurer
17 for Debt Management may grant, at his or her discretion, a single
18 one-hundred-eighty-day extension. Any request for an extension must
19 be made at least five (5) business days prior to the expiration of
20 the original approval. Applicants failing to request an extension
21 in this manner may refile with the Council as provided for in
22 paragraph 3 of this subsection.

23 5. In the event there is a substantial change in the nature or
24 purpose of a proposed financing after approval by the Council, the

1 prior approval shall be void and the State Governmental Entity shall
2 be required to seek approval from the Council in the manner provided
3 in paragraph 1 of this subsection.

4 C. Local Governmental Entities, within ten (10) days following
5 the date funds become available to the issuer from the sale of any
6 obligation, shall file with the Council a copy of the official
7 statement or notice of sale and any other information concerning the
8 proposed financing required by the Council.

9 D. Upon the request of a Local Governmental Entity, the Deputy
10 Treasurer for Debt Management may provide advice and assistance to
11 the Local Governmental Entity with respect to the issuance of
12 obligations. The State Treasurer may assess reasonable fees for
13 such services.

14 SECTION 15. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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