

An Act

ENROLLED SENATE
BILL NO. 94

By: Pugh of the Senate

and

Martinez of the House

An Act relating to Public Finance; amending 62 O.S. Sections 4, Chapter 275, O.S.L. 2012, as amended by Section 2, Chapter 374, O.S.L. 2017, 695.7, as last amended by Section 3, Chapter 374, O.S.L. 2017, 695.8, as amended by Section 7, Chapter 275, O.S.L. 2012, 695.9, as amended by Section 8, Chapter 275, O.S.L. 2012, Section 5, Chapter 374, O.S.L. 2017, 695.11 and 695.19 (62 O.S. Supp. 2018, Sections 695.6a, 695.7, 695.8, 695.9 and 695.10a), which relate to the Oklahoma Bond Oversight and Reform Act; updating references; amending 62 O.S. 2011, Sections 695.23, 695.24 and 695.25, which relate to the Oklahoma Private Activity Bond Allocation Act; updating references; amending Section 1, Chapter 278, O.S.L. 2017 (62 O.S. Supp. 2018, Section 34.200-1), which relates to the Oklahoma State Finance Act; updating references; amending 73 O.S. 2011, Section 156.1, which relates to the Oklahoma Capitol Improvement Authority; updating reference; and providing an effective date.

SUBJECT: Public finance

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

SECTION 1. AMENDATORY Section 4, Chapter 275, O.S.L. 2012, as amended by Section 2, Chapter 374, O.S.L. 2017 (62 O.S. Supp. 2018, Section 695.6a), is amended to read as follows:

Section 695.6a. A. The Council of Bond Oversight shall consist of five (5) members as follows:

1. One member shall be appointed by the President Pro Tempore of the Senate;

2. One member shall be appointed by the Speaker of the House of Representatives;

3. Two members shall be appointed by the Governor, with the advice and consent of the Senate; and

4. The State Treasurer or his or her designee shall be a member.

B. Three members shall constitute a quorum. The affirmative vote of three members shall be necessary for any action to be taken by the Council.

C. Members appointed to the Council shall serve a term of four (4) years and may be removed for cause by the appointing authority. Members may be reappointed for additional terms.

D. A vacancy on the Council shall be filled in the same manner as the original appointment, to hold office during the unexpired term for which the member was appointed. The Council shall elect one of its members chair and may elect such other officers as it deems necessary. No vacancy in the membership of the Council shall impair the right of the Council to exercise all duties of the Council.

E. The ~~Oklahoma State Bond Advisor~~ State Treasurer, as provided in Section 695.7 of this title, shall provide support staff as necessary to implement the purposes and functions of the Council.

F. The Attorney General shall provide legal counsel to the Council.

G. No member of the Oklahoma State Legislature shall be eligible to serve as a member of the Council.

SECTION 2. AMENDATORY 62 O.S. 2011, Section 695.7, as last amended by Section 3, Chapter 374, O.S.L. 2017 (62 O.S. Supp. 2018, Section 695.7), is amended to read as follows:

Section 695.7. A. The State Treasurer shall engage the services of a person knowledgeable in the current state of the art of national and international standards for the issuance of obligations by governmental entities and experienced in the negotiation of fees for various goods and services requisite to or deemed desirable in the issuance of such obligations as well as the negotiation of other matters essential to provide the best current price and terms of the issuance of such obligations for the benefit of the State of Oklahoma, who shall have the title "~~Oklahoma State Bond Advisor~~" "Deputy Treasurer for Debt Management".

When hiring a person to the position of ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management, the State Treasurer shall conduct a national search in seeking requests for proposals for the position.

B. The ~~Oklahoma State Bond Advisor~~ State Treasurer may employ the necessary staff to carry out the duties ~~of the Bond Advisor related to debt management and the duties of the Council of Bond Oversight, with approval of the State Treasurer.~~

C. 1. Except as provided in Section 695.8 of this title, prior to engaging the services of underwriters, bond or other legal counsel, financial advisors, consultants, a financial institution to serve as trustee, paying agent or in any fiduciary capacity in connection with any program, indenture or general resolution of the State Governmental Entity, or any other experts, except as provided in Section 5062.8 of Title 74 of the Oklahoma Statutes, the State Governmental Entity shall, in conjunction with a State Governmental Entity Financing, request proposals for such services from a plurality of persons engaged in the particular activity for such services and the selection of such persons shall be made on the basis of the response to the request which is the most economical and will provide competent service which furthers the best interest of the State Governmental Entity and the state. In negotiating

requests for proposals to engage such services, the State Governmental Entity shall seek the advice and assistance of the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management. Under no circumstances shall proprietary inducements be granted. The ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management shall provide assistance and advice to State Governmental Entities with respect to the issuance of obligations by the State Governmental Entities, review, negotiate, and approve or disapprove the fees and expenses for goods and services requisite to or deemed desirable in the issuance of State Governmental Entity obligations and State Governmental Entity Financing and shall represent the interests of the state before rating agencies and credit enhancement providers.

2. Any State Governmental Entity or Local Governmental Entity proposing to make a significant modification to the terms of any State Governmental Entity Financing, including modification of collateral by substitution, swap, or other derivative product shall first obtain the written approval of the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management. If the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management denies approval, the State Governmental Entity or Local Governmental Entity may request the Council of Bond Oversight to review and approve proposed modifications.

D. The ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management shall serve as an advisor to the Governor and to the Legislature with respect to issuance of indebtedness reviewed by the Council and shall prepare an annual report to be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives as of January 15 each year. The report shall contain a summary of the issuance of indebtedness by State Governmental Entities during the preceding year.

E. The ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management or any member of the immediate family of the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management shall not have any direct or indirect financial or contractual relationship with any firm or corporation or any officer, partner or principal stockholder of any firm or corporation directly involved in public finance.

SECTION 3. AMENDATORY 62 O.S. 2011, Section 695.8, as amended by Section 7, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2018, Section 695.8), is amended to read as follows:

Section 695.8. A. The Council of Bond Oversight shall:

1. Make determinations as to whether the purposes for which obligations proposed to be issued by a State Governmental Entity, in conjunction with a State Governmental Entity Financing, are for the furtherance and accomplishment of authorized and proper public functions or purposes of the state or of any county or municipality, as specified in the statutes governing public trusts organized pursuant to Title 60 of the Oklahoma Statutes;

2. Review proposed issuance of debt by State Governmental Entities for compliance with any applicable provisions of federal, state or other laws;

3. Review such other matters as the Council deems relevant to the Application, including, without limitation, sources of repayment and security for the obligation. However, the Council shall not review the merits of the project. The Council shall only determine that the project has a legal and beneficial purpose which can be legitimately funded by bond or similar indebtedness, issued by a State Governmental Entity or Local Governmental Entity;

4. a. Except as provided in subparagraph b of this paragraph, review the findings of the Program Development and Credit Review Committee to determine if the Rules Regarding the Administration of the Credit Enhancement Reserve Fund and related regulations and policies as implemented by the Oklahoma Development Finance Authority adequately and sufficiently fulfill the intents and purposes of the Credit Enhancement Reserve Fund Act, provided such provision shall not apply to Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to May 30, 1990; and, except as provided in subparagraph b of this paragraph, approve or disapprove any bonds or indebtedness being issued by the Oklahoma Development Finance Authority to the extent ~~said~~ the bonds or

indebtedness are enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act.

- b. The Council shall not be required to review or approve individual projects or loans under the Small Business Credit Enhancement Program created by Section 5063.4b of Title 74 of the Oklahoma Statutes, or the Oklahoma Beginning Agricultural Producer Pool Act, but may approve a package of such projects or loans in advance. Each project or loan shall be individually listed in the package and the dollar amount of the project or loan shall be specifically set out together with the total dollar amount involved in the package. The Council or the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management may, in their discretion, remove any such individual project or loan from the package submitted, for individual action. Should the Oklahoma Development Finance Authority submit an application to the Council for the approval of an obligation or credit enhancement under these two programs, the application shall be deemed approved if not disapproved by the Council within forty-five (45) days of filing such an application or, as to an individual project or loan, removed from the submitted package within such forty-five-day period.

- c. The Council may establish maximum compensation levels to be paid to individuals and firms acting in a fiduciary capacity in connection with Credit Enhancement Reserve Fund Program financings. The Council may set such compensation levels for a one-year period and such compensation will be applicable to all individuals and firms participating in the program for that period. Providers of such services selected prior to making application may be employed subject to the established maximum compensation levels. Prior to December 31 of each year, the Council shall review market conditions and set new compensation levels for the program. Provided, such compensation levels may not exceed the compensation levels obtained by the Oklahoma Development Finance Authority through its most recent invitation to bid

for the services of individuals and firms acting in a fiduciary capacity in connection with Credit Enhancement Reserve Fund Program financing; and

5. Adopt, amend and repeal rules to regulate affairs of the Council and to implement the powers and purposes of the Council.

B. The Council ~~may establish budgets and Deputy Treasurer for Debt Management,~~ in order to fulfill ~~its~~ their duties pursuant to the Oklahoma Bond Oversight and Reform Act ~~and,~~ shall be authorized to charge and collect a fee, in accordance with the rules of the Council, derived from proceeds of bond issues approved by the Council.

SECTION 4. AMENDATORY 62 O.S. 2011, Section 695.9, as amended by Section 8, Chapter 275, O.S.L. 2012 (62 O.S. Supp. 2018, Section 695.9), is amended to read as follows:

Section 695.9. A. No State Governmental Entity or Local Governmental Entity shall issue any State Governmental Entity Financing obligations unless such obligations have been approved by the Council of Bond Oversight as provided for in Section 695.8 of this title; provided, however, that in no event shall the Council's approval be required for the issuance of any obligations pursuant to a remarketing or a change in interest rate or maturity under the terms of indentures or agreements securing obligations heretofore issued prior to July 1, 1987, or pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act.

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

2. With respect to bonds or indebtedness proposed to be issued by the Oklahoma Development Finance Authority which will be enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act,

the Council shall review the description of such proposed financing in accordance with paragraph 1 of this subsection and additionally shall approve or disapprove the proposed financing on a determination of sufficient compliance with the Rules Regarding the Administration of the Credit Enhancement Reserve Fund as implemented by the Oklahoma Development Finance Authority. Such determinations by the Council shall be based on a written report prepared for and provided to the Council by the Program Development and Credit Review Committee as provided in Section 5062.6a of Title 74 of the Oklahoma Statutes, provided the Council shall not be bound to follow the conclusions reached by the committee in such reports. All orders issued by the Council approving or disapproving bonds or indebtedness enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act shall be final and shall not be subject to any type of appeal.

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

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

5. In the event there is a substantial change in the nature or purpose of a proposed financing after approval by the Council, the prior approval shall be void and the State Governmental Entity shall be required to seek approval from the Council in the manner provided in paragraph 1 of this subsection.

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

D. Upon the request of a Local Governmental Entity, the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management may provide advice and assistance to the Local Governmental Entity with respect to the issuance of obligations. The ~~Oklahoma State Bond Advisor~~ State Treasurer may assess reasonable fees for such services.

SECTION 5. AMENDATORY Section 5, Chapter 374, O.S.L. 2017 (62 O.S. Supp. 2018, Section 695.10a), is amended to read as follows:

Section 695.10a. A. As used in this section, "public finance service provider" means underwriters, bond or other legal counsel, financial advisors, consultants, and financial institutions who serve as trustee, paying agent or in any fiduciary capacity, who seek to provide services to State Governmental Entities or Local Governmental Entities with regard to the issuance of bonds, notes or other evidences of indebtedness.

B. Any public finance service provider shall be required to make a disclosure, upon such form as the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management may prescribe, of any and all direct financial contributions made by the public finance service provider which exceed Five Thousand Dollars (\$5,000.00) in any calendar year on a cumulative basis to any nonprofit organization, regardless of its exempt status pursuant to the provisions of the Internal Revenue Code of 1986, as amended, the primary purpose of which is to provide services to one or more political subdivisions of the state or the membership of which consists primarily of public school administrators, common school districts or common school district boards of education, common school superintendents, career technology districts or career technology district governing boards, municipal government entities, county commissioners or other public officials or local government entity having authority to issue debt obligations either directly or which is the beneficiary of a public

trust organized pursuant to the provisions of Section 176 ~~et. seq.~~
et seq. of Title 60 of the Oklahoma Statutes.

C. In addition, the public finance service provider shall be required to make disclosure of any and all direct financial contributions which exceed One Hundred Dollars (\$100.00) on a cumulative basis during any calendar year made to any elected officials or employees of a State Governmental Entity or Local Governmental Entity to which financial services are to be provided in connection with issuance of debt obligations or contributions made to any individuals associated with any of the nonprofit organizations described by subsection B of this section.

D. The disclosure shall be filed annually with the ~~Oklahoma State Bond Adviser~~ Deputy Treasurer for Debt Management not later than January 15, or the first business day after such date if January 15 is not a date upon which the State Treasurer's office is open for business, and shall include an itemized description of all direct financial contributions made to any and all of the entities described by subsections B and C of this section by the public finance service provider during the immediately preceding calendar year.

E. Any public finance service provider shall submit a copy of the most recent disclosure document on file with the ~~Oklahoma State Bond Adviser~~ Deputy Treasurer for Debt Management as required pursuant to subsection D of this section prior to the selection of a public finance service provider by any county, city, town, common school district, career technology district or other local government entity or any public trust organized pursuant to the provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes having one or more political subdivisions as its beneficiary or beneficiaries, with respect to the issuance of any obligations described by subsection A of this section. The disclosure document shall be provided to each member of the governing board of the unit of local government to which services will be provided and, if applicable, to each member of the board of trustees of any public trust as described in this subsection to which public finance services will be provided. If the board of trustees of such public trust is comprised of persons who are also members of the governing board of the unit of local government, the disclosure document may be provided to the members of the governing

board of the unit of local government and the document will not be required to be provided to any member of the board of trustees of the public trust unless such person is not a member of the governing board of the unit of local government.

SECTION 6. AMENDATORY 62 O.S. 2011, Section 695.11, is amended to read as follows:

Section 695.11. The provisions of the Oklahoma Central Purchasing Act shall not be applicable to any actions of a State Governmental Entity in regard to the sale and issuance of its obligations, including any contracts and undertakings relating thereto; however, such issuance, contracts and undertakings shall be subject to the provisions of ~~this act~~ the Oklahoma Bond Oversight and Reform Act regarding review or approval of such matters by the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management.

SECTION 7. AMENDATORY 62 O.S. 2011, Section 695.19, is amended to read as follows:

Section 695.19. Notwithstanding any other provision of law, a State Governmental Entity, as such term is defined in Section 695.3 of ~~Title 62 of the Oklahoma Statutes~~ this title, is authorized to issue refunding bonds for the purpose of refinancing existing bonds or obligations without further authorization from the Legislature provided the issuance of the refunding bonds and any services, fees and expenses related thereto are reviewed and approved by the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management and the Council of Bond Oversight pursuant to the provisions of the Oklahoma Bond Oversight and Reform Act.

SECTION 8. AMENDATORY 62 O.S. 2011, Section 695.23, is amended to read as follows:

Section 695.23. As used in the Oklahoma Private Activity Bond Allocation Act:

1. "Application for state ceiling allocation" means the written application form provided by the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management which shall be filed by or on behalf of the issuer in compliance with the requirements of this act;

2. "Beginning Agricultural Producer Pool" means the portion of the state ceiling reserved for bonds relating to the Oklahoma Beginning Agricultural Producer Pool Act;

3. "Carryforward" shall have the same meaning as in Section 146(f) of the Internal Revenue Code;

4. "Confirmation" means a written confirmation of allocation issued by the ~~State Bond Adviser~~ Deputy Treasurer for Debt Management;

5. "Consolidated Pool" means an aggregation of unallocated sums of the state ceiling derived from pools as set forth in subsection M of Section 695.24 of this title;

6. "Economic Development Pool" means that portion of the state ceiling reserved for projects specifically authorized by the Council of Bond Oversight, as provided for in subsection B of Section 695.24 of this title;

7. "Exempt facility bonds" means exempt facility bonds as defined in Section 142(a) of the Internal Revenue Code;

8. "Exempt Facility Pool" means the portion of the state ceiling reserved for exempt facility bonds;

9. "Final certification" or "final certificate" means a certification or certificate filed with the ~~State Bond Adviser~~ Deputy Treasurer for Debt Management by or on behalf of the issuer specifying the exact amount of indebtedness issued by an issuer, or, in the case of mortgage credit certificates, a copy of the document or election filed with the Internal Revenue Service exchanging bond issuance authority for mortgage credit certificate issuance authority;

10. "Internal Revenue Code" means the Internal Revenue Code of 1986 (26 U.S.C., Section 1 et seq.), as amended;

11. "Issued" means any issue of bonds which have been delivered and the purchase price therefor remitted to or for the account of the issuer, or a copy of the document or election filed with the

Internal Revenue Service exchanging bond issuance authority for mortgage credit certificate issuance authority;

12. "Issuer" or "issuing authority" means any public trust or other entity which is authorized to issue tax-exempt bonds, notes and other like obligations, or has the authority to exchange single-family mortgage bond authority for mortgage credit certificate authority, under the Constitution or laws of the state;

13. "Local issuer" means any municipality, county or public trust having counties or municipalities or combinations thereof as beneficiary, or a public trust having the state as beneficiary with jurisdiction limited to one county of the state;

14. "Local Issuer Single Family Pool" means the portion of the state ceiling reserved for local issuers of single-family, mortgage revenue bonds and mortgage credit certificates;

15. "Metropolitan Area Housing Pool" means the portion of the state ceiling reserved pursuant to subsection I of Section 695.24 of this title;

16. "Mortgage credit certificate election" means a document or election filed by an issuer with the Internal Revenue Service exchanging single-family mortgage bond issuance authority for mortgage credit certificate issuance authority;

17. "Mortgage credit certificates" shall have the same meaning as in Section 25(c) of the Internal Revenue Code;

18. "Oklahoma Housing Finance Agency Pool" means that portion of the state ceiling reserved for single-family bonds, multifamily bonds, and mortgage credit certificates issued by the Oklahoma Housing Finance Agency;

19. "Private activity bonds" or "bonds" means any bonds or notes or other evidence of indebtedness, the interest on which is exempt from tax pursuant to the Internal Revenue Code, and mortgage credit certificates, except those bonds or certificates specifically excluded from the state ceiling under the terms of federal legislation;

20. "Qualified small issue" used in the context of "bond" or "bonds" or the "Qualified Small Issue Pool" shall have the meaning as in Section 144(a) of the Internal Revenue Code;

21. "Qualified Small Issue Pool" means the portion of the state ceiling reserved for qualified small issue bonds;

22. "Qualified student loan bonds" shall have the same meaning as in Section 144(b) of the Internal Revenue Code;

23. "Rural Area Housing Pool" means the portion of the state ceiling reserved pursuant to subsection J of Section 695.24 of this title;

24. "State" means the State of Oklahoma;

25. "State Bond Advisor" means the ~~Oklahoma State Bond Advisor~~ Deputy Treasurer for Debt Management or his or her designee;

26. "State ceiling" means the limit which is prescribed by the Internal Revenue Code in Section 146 and in such other applicable sections of the Internal Revenue Code on the amount of private activity bonds which may be issued collectively by all of the issuers of the state during a calendar year;

27. "State issuer" means any public trust having the state as beneficiary or any state agency or other entity with powers to issue private activity bonds, provided that the term shall not include a public trust or any local issuer with the state as beneficiary whose jurisdiction is limited to one county;

28. "State Issuer Pool" means the portion of the state ceiling reserved for state issuers of qualified small issuer projects; and

29. "Student Loan Pool" means the portion of the state ceiling reserved for qualified student loan bonds.

SECTION 9. AMENDATORY 62 O.S. 2011, Section 695.24, is amended to read as follows:

Section 695.24. A. 1. Fifteen and five-tenths percent (15.5%) of the state ceiling shall be reserved and placed in the Student Loan Pool.

2. For the period January 1 through September 1 of each calendar year, the Student Loan Pool shall be allocated to qualified student loan bonds issued by eligible state issuers. Allocations will be available to issuers on a first-come, first-serve basis.

B. Twelve percent (12%) of the state ceiling shall be reserved and placed in a pool designated as the Economic Development Pool. For the period January 1 through September 1 of each calendar year, allocations from this pool may be made only upon the recommendation of the Director of the Oklahoma Department of Commerce and following review and approval by the Council of Bond Oversight. In order to approve the recommendation, the Council of Bond Oversight must find that the project seeking an allocation from this pool will result in the creation of manufacturing jobs in this state or will in some other way contribute to an economic development objective of this state. For purposes of this subsection, "manufacturing jobs" means jobs created by manufacturing facilities as that term is defined in subparagraphs a, b, and c of paragraph 1 of subsection B of Section 2902 of Title 68 of the Oklahoma Statutes.

C. 1. Twelve percent (12%) of the state ceiling shall be reserved and placed in a pool to be designated the Qualified Small Issue Pool.

2. For the period January 1 through September 1 of each calendar year, the Qualified Small Issue Pool shall be allocated to qualified small issue bond projects undertaken by either state or local issuers. Allocations will be available to issuers on a first-come, first-serve basis.

D. 1. One percent (1%) of the state ceiling shall be reserved and placed in a pool to be designated the Beginning Agricultural Producer Pool.

2. For the period January 1 through September 1 of each calendar year, the Beginning Agricultural Producer Pool shall be allocated pursuant to the criteria established in Section 5063.23 of Title 74 of the Oklahoma Statutes.

E. 1. Two and five-tenths percent (2.5%) of the state ceiling shall be reserved and placed in a pool to be designated the Exempt Facility Pool.

2. For the period January 1 through September 1 of each calendar year, the Exempt Facility Pool shall be allocated to exempt facility bonds issued by either state or local issuers. Allocations will be available to issuers on a first-come, first-serve basis.

F. 1. Except as otherwise provided by this subsection, fifteen percent (15%) of the state ceiling shall be reserved and placed in a pool to be designated the Oklahoma Housing Finance Agency Pool. Provided, however, that the allocation of the state ceiling to the Oklahoma Housing Finance Agency as otherwise authorized pursuant to this subsection shall be increased up to ten percent (10%) of the state ceiling amount for any calendar year subsequent to a certification by the Oklahoma Strategic Military Planning Commission that the available housing stock in an area located on or near a military installation at risk for closure or adverse realignment pursuant to federal law is inadequate and an increase in available funds for construction or rehabilitation of such housing would make closure or an adverse realignment of the military installation less likely. The certification by the Oklahoma Strategic Military Planning Commission shall be made and communicated to the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management not later than November 15 each year. The Oklahoma Strategic Military Planning Commission shall make a specific recommendation to the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management regarding the percentage increase to be adopted for the Oklahoma Housing Finance Agency pool for the ensuing year. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall make the final determination regarding the amount of such increase. Any certification made by the Oklahoma Strategic Military Planning Commission shall be valid only for the calendar year immediately following such certification.

2. a. For the period January 1 through September 1 of each year, the Oklahoma Housing Finance Agency Pool shall be allocated to qualified single family bonds, multifamily bonds, or mortgage credit certificates issued by the Oklahoma Housing Finance Agency.

- b. Provided, thirty-five percent (35%) of the allocation from the Oklahoma Housing Finance Agency Pool shall be set aside for at least three (3) months for the origination of single-family loans in counties with populations of three hundred thousand (300,000) or less.

G. 1. Four percent (4%) of the state ceiling shall be reserved and placed in a pool to be designated the State Issuer Pool. For the period commencing January 1 of each calendar year through September 1 of the same year, the State Issuer Pool shall be allocated to those qualified small issuer projects undertaken by state issuers which have issued in excess of Seventy-five Million Dollars (\$75,000,000.00) in qualified small issue bonds.

2. Notwithstanding the provisions of this section, a state issuer specifically limited in jurisdiction to one county shall be treated as a local issuer for the purposes of allocation.

H. Seventeen and five-tenths percent (17.5%) of the state ceiling shall be reserved and placed in a pool to be designated the Local Issuer Single Family Pool. For the period commencing January 1 of each calendar year through September 1 of the same year, the Local Issuer Single Family Pool shall be allocated to single-family projects undertaken by local issuers in counties with populations of three hundred thousand (300,000) or less on a first-come, first-serve basis with no single local issuer or project to receive an allocation in excess of Ten Million Dollars (\$10,000,000.00) from the Local Issuer Single Family Pool. An issuer which has not received any allocation from the State Issuer Pool and having a single-family project limited in jurisdiction to twenty counties or less, each of which has a population of three hundred thousand (300,000) or less, shall be considered a local issuer for the purposes of this subsection.

I. Twelve and five-tenths percent (12.5%) of the state ceiling shall be reserved and placed in a pool to be designated the Metropolitan Area Housing Pool. Allocations from the Metropolitan Area Housing Pool may only be made to any public trust created to provide single-family housing having a county with a population in excess of three hundred thousand (300,000) as its sole beneficiary and which has issued tax exempt single-family housing revenue bonds

in the amount of at least Four Hundred Million Dollars (\$400,000,000.00). Provided, no more than fifty percent (50%) of the amount allocated pursuant to this subsection shall be awarded to any single county.

J. Eight percent (8%) of the state ceiling shall be reserved and placed in a pool to be designated the Rural Area Housing Pool which shall be allocated to single-family projects undertaken by other local issuers in counties with populations of three hundred thousand (300,000) persons or less on a first-come, first-serve basis with no single local issuer or project to receive an allocation in excess of four percent (4%) of the state ceiling.

K. Provided, however, that the percentage otherwise authorized by subsections A, B, C, D, E, F, G, H, I and J of this section shall be proportionately reduced by the amount of increase in the percentage authorized to the Oklahoma Housing Finance Agency as a result of a recommendation by the Oklahoma Strategic Military Planning Commission pursuant to paragraph 1 of subsection F of this section.

L. The state ceiling for each calendar year shall be allocated within the categories set forth in subsections A, B, C, D, E, F, G, H, I and J of this section to all private activity bonds, as follows:

1. Except as provided in Section 695.21 et seq. of this title, the state ceiling shall be allocated in the order in which confirmations are issued;

2. ~~The State Bond Advisor~~ Deputy Treasurer for Debt Management shall issue confirmations in the order in which fully and properly completed applications for state ceiling allocation are received. ~~The State Bond Advisor~~ Deputy Treasurer for Debt Management shall have the limited authority to defer or deny confirmation on applications for state ceiling allocation which appear to be incomplete or premature based upon information submitted or which fail to show demand for funds pursuant to subsections F and G of Section 695.25 of this title; and

3. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall have no discretionary control regarding the issuance of confirmations, except as specifically provided in the Oklahoma Private Activity Bond Allocation Act.

In the event a confirmation or application is denied, the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management, within five (5) business days following such denial, shall send written notice of such denial to the applicant together with a brief recital of the reason therefor.

M. 1. On September 2 of each calendar year, nonallocated sums remaining in the Economic Development Pool, Qualified Small Issue Pool, the Beginning Agricultural Producer Pool, the Exempt Facility Pool, the Student Loan Pool, the Oklahoma Housing Finance Agency Pool, the State Issuer Pool, the Local Issuer Single Family Pool, the Metropolitan Area Housing Pool and the Rural Area Housing Pool shall be consolidated into the Consolidated Pool.

2. All local issuers and state issuers shall be entitled to obtain allocations from the Consolidated Pool for any private activity bond or mortgage credit certificate program based on the chronological order of completed applications received after January 1 of each calendar year which applications have not received an allocation.

SECTION 10. AMENDATORY 62 O.S. 2011, Section 695.25, is amended to read as follows:

Section 695.25. A. On January 1 of each calendar year or the first business day thereafter, the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall determine the maximum total volume of private activity bonds that may be issued pursuant to federal law by the state during that year.

B. On or before February 15 of each calendar year, the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall cause to be published in The Oklahoma Register, or any successor publication, a notice specifying the amount of the state ceiling for the calendar year.

C. Allocations from the pools set forth in Section 695.24 of this title will be processed on the basis of the chronological order of receipt of completed applications for state ceiling allocation unless otherwise provided in said section, and on the basis of the information and provisions set forth in subsections D, E, F, G and H of this section. Allocations from the Consolidated Pool will be processed on the basis of the system set out in subsection M of Section 695.24 of this title and on the basis of information and provisions set forth in subsections D, E, F, G and H of this section.

D. An issuer which proposes to issue private activity bonds for a specific project or purpose shall make application for an allocation of a portion of the state ceiling for the particular project or purpose by submitting to the ~~State Bond Adviser~~ Deputy Treasurer for Debt Management an application for state ceiling allocation together with copies of the following:

1. A certified copy of the resolution or other action adopted by the issuer for the purpose of taking "official action" as required by the Treasury Regulations relating to Section 103 of the Internal Revenue Code, if the issuer of private activity bonds for which the allocation is requested requires "official action" under applicable Treasury Regulations and the Internal Revenue Code; and

2. A final resolution of the beneficiary of the issuer evidencing its approval of the issuance of the issuer's obligations, if the issuer is a municipal or county public trust, or a certificate signed by the Governor of the state evidencing his approval of the issuance of the issuer's obligations, to the extent required under the Internal Revenue Code, if the issuer is a public trust having the state as its beneficiary.

E. The application for state ceiling allocation shall contain the following information:

1. The name and mailing address of the issuer, the beneficiary and jurisdiction thereof, the name of the presiding officer of the issuer and the respective pool from which an allocation is requested;

2. The name and mailing address or other definitive description of the location of the project or bonds and the purpose for which an allocation of the state ceiling is requested, the name and mailing address of both the initial owner or operator of the project, where applicable, and an appropriate person from whom information regarding the project or bonds can be obtained, and the name and address of the person to whom the confirmation should be sent;

3. The amount of the state ceiling which the Issuer is requesting;

4. A statement of bond counsel for the issuer that the proposed issue requires, pursuant to Section 103, Section 146 or such other applicable sections of the Internal Revenue Code, an allocation of a portion of the state ceiling; and

5. Where applicable, the intention to exchange single-family mortgage bond authority for mortgage credit certificates.

F. 1. Applications for single-family mortgage bonds or mortgage credit certificate programs shall also include the submission of information demonstrating a reasonable expectation to use an allocation of the state ceiling for its intended purpose. This information shall include historical usage of mortgage revenue bond proceeds or mortgage credit certificates in the geographic area subject to an application over the previous twenty-four-month period and the impact of known or possible competing programs that would act to reduce demand. This information may also include demand surveys. Provided, in cases where historical usage cannot be documented, demand surveys shall be included with an application.

2. Applications for qualified student loan bonds shall also include the submission of information showing a reasonable expectation to use the state ceiling for its intended purpose. This information shall include historical lending activity over the previous twenty-four-month period as well as a demonstration of need based upon such factors as increased enrollment costs, enrollment increases, or new federal regulations that act to increase demand by making changes to eligibility requirements to certain federally guaranteed or subsidized student loan programs. This information may also include demand surveys. Provided, in cases where

historical usage cannot be documented, demand surveys shall be included with an application.

3. Applications shall also include evidence of a structure to deliver the financing derived from single-family mortgage bond proceeds or mortgage credit certificates or from qualified student loan bond proceeds to ultimate users, particularly the extent of lender participation in the case of mortgage revenue bonds or mortgage credit certificate programs.

G. 1. Upon receipt of the completed application for state ceiling allocation, copies of the official action and final resolutions or certificates as required by subsection D of this section and the information required by subsections E and F of this section and assuming availability of the sum requested and compliance with the Oklahoma Private Activity Bond Allocation Act, the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall send, within five (5) business days of the receipt thereof, a confirmation of the allocation of the state ceiling for the subject project or purpose to the person designated in the application for state ceiling allocation. Provided, the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management may reject an application or deny a confirmation pursuant to the provisions of this subsection.

2. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management may reject any application which is incomplete or filed with insufficient information. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management may reject any application where, in the ~~State Bond Advisor's~~ Deputy Treasurer for Debt Management judgment, a reasonable likelihood has not been shown that single-family mortgage and student loan bond proceeds or mortgage credit certificates will be used for their intended public purposes. In the event an application or confirmation is denied, within five (5) business days following such denial, the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall send the applicant written notice of the denial of an application or confirmation together with the reason or reasons therefor. In the case of disapprovals of applications or confirmations, an applicant may appeal the disapproval by submitting a new application to the Council of Bond Oversight, along with an explanation addressing the reasons for disapproval cited in the ~~State Bond Advisor's~~ Deputy Treasurer for Debt Management letter. The Council of Bond Oversight, through affirmative action of the

Council, may accept an application rejected by the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management, or order the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management to issue a confirmation of allocation, subject to provisions of the Oklahoma Private Activity Bond Allocation Act. Applicants may submit only one new application based on an appeal of any specific application previously submitted.

3. Only complete applications, as determined by the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management, shall be used to establish the chronological order of applications. In the case of a new application submitted based on an appeal, chronological order shall be established at the time the new application is submitted.

H. An original confirmation shall cease to be effective to assure allocation of any portion of the state ceiling unless the bonds, notes, other evidences of indebtedness, or the appropriate election filed with the Internal Revenue Service exchanging mortgage bond authority for mortgage credit certificate authority have been issued or filed within one hundred twenty (120) days after the date of such confirmation. No extensions shall be granted. Such issuance shall be evidenced by the mailing, transmittal or delivery of a final certification to the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management within the time specified by this subsection. Receipt by an issuer of a confirmation as contemplated by this section shall entitle the issuer to rely conclusively upon the accuracy of the ~~State Bond Advisor's~~ Deputy Treasurer for Debt Management's mathematical calculation and the allocation for purposes of closing.

I. The confirmation given in advance of bond issuance or mortgage credit certificate election will assure allocation for only the amount of such bonds or mortgage credit certificate authority as is therein set forth, unless a supplementary application for state ceiling allocation for an increase in amount is filed with and a supplementary confirmation is issued by the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management for such requested allocation prior to such bond issuance or such election, pursuant to the Oklahoma Private Activity Bond Allocation Act. The supplementary confirmation shall be effective for the same period as the prior confirmation which it supplements. Provided, however, no supplementary confirmation shall be effective to preempt any

intervening confirmation as to allocation of a portion of the state ceiling.

J. Notwithstanding the provisions of this section, all confirmation dates for an issue of private activity bonds or mortgage credit certificate programs expire on December 20 of each calendar year. Final certification of issuance shall be delivered to the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management by 9:00 a.m. on December 20 of each calendar year.

K. On or after 9:00 a.m. on December 20 of each calendar year, issuing authorities may apply to the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management to carry forward a portion of the state ceiling for such calendar year allocated to any qualified carryforward project, as said term is used in Section 103(n)(10) and 146(f) of the Internal Revenue Code and which shall be evidenced by the issuance of confirmations for all carryforward projects within the limitations of the state ceiling. Provided, issuers or projects with more than Twenty Million Dollars (\$20,000,000.00) of carryforward outstanding as of the date of the application for carryforward shall only be eligible for carryforward allocations to the extent other issuers with less than Twenty Million Dollars (\$20,000,000.00) of outstanding carryforward authority do not fully commit the state ceiling. Allocations on carryforward projects shall be processed on the basis of the chronological receipt of applications. No portion of the state ceiling carried forward for any given year may be carried forward for a period in excess of three (3) calendar years following the calendar year in which the carryforward arose, except as otherwise permitted under federal law.

L. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall maintain continuous and cumulative records which shall include a list and cumulative dollar total of the private activity bonds for which:

1. Private activity bonds have been issued or state ceiling exchanged for mortgage credit certificate authority and final certifications have been received by the ~~State Bond Advisor~~ Deputy Treasurer for Debt Management;

2. Confirmations of carryforward have been issued; and

3. Confirmations in effect and outstanding for which no private activity bonds or mortgage credit certificate elections have been issued or filed.

The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall keep continuous and cumulative records and totals for each of the categories specified in paragraphs 1, 2 and 3 of this subsection as well as the aggregate total of all categories. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall not give further confirmations at such time as the aggregate amount of bonds, other indebtedness, carryforward or mortgage credit certificate elections specified by paragraphs 1, 2 and 3 of this subsection equals the state ceiling authorized for the applicable year. The ~~State Bond Advisor~~ Deputy Treasurer for Debt Management shall not award a confirmation if such award would cause indebtedness, carryforward or elections as specified by paragraphs 1, 2 and 3 of this subsection to exceed the state ceiling. Confirmation records shall be compiled and furnished to any local issuer and state issuer upon written request and payment of a fee of Fifteen Dollars (\$15.00) which shall be apportioned to the General Revenue Fund. Upon issuance of a confirmation, the amounts of the proposed bond issue, mortgage credit certificate election and carryforward confirmation shall be included in the continuing, mathematical calculation, until the same shall have been terminated in accordance with this section.

M. The person signing any confirmation for any allocations granted pursuant to the Oklahoma Private Activity Bond Allocation Act shall certify under penalty of perjury that such allocation was not made in consideration of any bribe, gift, gratuity or direct or indirect contribution to any political campaign.

N. A state or local issuer, who intentionally overissues mortgage credit certificates or bonds, shall be prohibited from making application for an allocation of the state ceiling for any purpose for a period of three (3) years following discovery of such over issuance.

SECTION 11. AMENDATORY Section 1, Chapter 278, O.S.L. 2017 (62 O.S. Supp. 2018, Section 34.200-1), is amended to read as follows:

Section 34.200-1. A. The State ~~Bond Advisor~~ Treasurer in cooperation with the Office of Management and Enterprise Services shall produce a written debt affordability study (study) to be presented to the Legislature and the Governor.

B. The study shall be used to determine Oklahoma's debt position relative to its benchmark debt ratio of debt service as a percentage of revenues. The study shall incorporate information available in other sources, such as the Annual ~~Report of the Oklahoma State Bond Advisor~~ and the Bonded Indebtedness Report produced by the State Treasurer, into an analysis of Oklahoma's debt position.

C. The study shall include the net tax-supported and net revenue-supported debt of this state for the most recently concluded fiscal year. It shall also include the debt for the most recently concluded fiscal year of state agencies and state-beneficiary public trusts which are authorized to issue debt.

D. The study shall include the following:

1. Projections of debt service, future debt issuance, and debt to capacity, such as debt service as a percentage of revenues. Each projection shall extend at least five (5) years from the study's fiscal year of publication;

2. A discussion of Oklahoma's unfunded pension liabilities and the impact of these liabilities on the state's ability to borrow and cost of debt;

3. An identification and calculation of relevant metrics including, but not limited to, debt service as a percentage of revenues, total debt as a percentage of state personal income, and total debt per capita;

4. A comparison of debt metrics to a select group of at least ten other states so that Oklahoma may be able to measure and contextualize its debt relative to other states;

5. A sensitivity analysis to understand the effects of uncertain conditions. This sensitivity analysis may include analysis on the impact of debt ratios of revenues being above or

below expectations or interest rates increasing or decreasing from positions at time of publication; and

6. An estimate of available debt capacity the state may issue over the next five (5) years without causing the benchmark debt ratio of debt service as a percentage of revenues to exceed five percent (5%). This estimate is based on the state's net tax-supported debt and the debt of the relevant state units and agencies.

E. In preparing any authorization of new debt, the debt-issuing entity, the Legislature, and the Governor shall take the study's recommendations and estimates into consideration. In addition, the study's recommendations and estimates shall be taken into consideration by the Legislature and the Governor during capital planning and budgeting processes.

F. The State ~~Bond Advisor~~ Treasurer and the Office of Management and Enterprise Services shall report the results of the study to the Legislature by transmitting a copy to the Speaker of the House of Representatives, the President Pro Tempore of the State Senate, and to the Governor on or before January 15 of each year.

G. The study's recommendations and estimates shall be advisory and not binding.

SECTION 12. AMENDATORY 73 O.S. 2011, Section 156.1, is amended to read as follows:

Section 156.1. A. The Oklahoma Capitol Improvement Authority is authorized to issue bonds, notes, or other obligations for the purpose of refinancing or restructuring its outstanding obligations.

B. The bonds or other obligations issued pursuant to this section shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or any such political subdivision.

C. Such bonds or other obligations shall contain on the face thereof a statement that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged,

or may hereafter be pledged to the payment of the principal of or the interest on such bonds.

D. To the extent funds are available from the proceeds of the borrowing authorized by this section, the Oklahoma Capitol Improvement Authority shall provide for the payment of professional fees and other associated costs approved by the ~~Oklahoma State Bond Adviser~~ Deputy Treasurer for Debt Management. The Authority is authorized to hire bond counsel, financial consultants, and such other professionals as it may deem necessary to provide for the efficient sale of the obligations and may utilize a portion of the proceeds of any borrowing to create such reserves as may be deemed necessary and to pay costs associated with the issuance and administration of such obligations.

E. An issuance of bonds under this section may be undertaken to achieve an overall debt service savings, modify restrictive bond document covenants, or reduce payment requirements during periods of fiscal stress. To achieve these objectives, the Authority is authorized to extend the final maturity of its outstanding obligations if necessary, but in no event shall the final maturity of an individual bond issue be extended more than ten (10) years without the approval of the Council of Bond Oversight.

F. The obligations authorized under this section may be sold at either competitive or negotiated sale, as determined by the Authority, and in such form and at such prices as may be authorized by the Authority. The Authority may issue obligations in one or more series and may set such other terms and conditions as may be necessary, in its judgment to achieve an efficient financing. The Authority may enter into agreements with such credit enhancers and liquidity providers as may be determined necessary to efficiently market the obligations, including the purchase of surety policies or other financial instruments to be utilized in lieu of reserve funds. The obligations may mature and have such provisions for redemption as shall be determined by the Authority, but in no event shall the final maturity of such obligations occur later than thirty (30) years from the delivery date.

G. Any interest on the funds or accounts created for the purposes of this section may be utilized as partial payment of the annual debt service or for the purposes directed by the Authority.

H. The obligations issued under this section, the transfer thereof and the interest earned on such obligations, including any profit derived from the sale thereof, shall not be subject to taxation of any kind by the State of Oklahoma, or by any county, municipality or political subdivision therein.

I. The Authority may direct the investment of all monies in any funds or accounts created in connection with the offering of the obligations authorized under this section. Such investments shall be made in a manner consistent with the investment guidelines of the State Treasurer. The Authority may place additional restrictions on the investment of such monies if necessary to enhance the marketability of the obligations.

J. The obligations issued under this section shall be retired by payments made to the Oklahoma Capitol Improvement Authority from the various agencies that entered into leases and other agreements in connection with the original financings. To the extent required by the Authority, such agencies are authorized and directed to enter into new lease agreements with the Authority.

K. The Authority is hereby specifically authorized to purchase surety policies or other financial instruments to replace existing debt service reserves. Any payment for such policies or other instruments may be made from the cash reserves being replaced or any other legally available source.

L. The Oklahoma Department of Transportation shall make payments from the State Transportation Fund to pay obligations incurred pursuant to agreements with the Oklahoma Capitol Improvement Authority. It is the intent of the Oklahoma Legislature to maintain the funding level of the State Transportation Fund as required in order for the Department of Transportation to fully pay any and all obligations incurred by the Department of Transportation with respect to agreements entered into by the Department of Transportation and the Oklahoma Capitol Improvement Authority. With respect to other state agencies that have entered into agreements with the Oklahoma Capitol Improvement Authority, it is the intent of the Oklahoma Legislature to appropriate sufficient monies to make rental payments for the purposes of retiring the obligations created pursuant to this section.

M. Insofar as they are not in conflict with the provisions of this section, the provisions of Section 151 et seq. of ~~Title 73 of the Oklahoma Statutes~~ this title shall apply to bonds issued pursuant to this section, including the provision relating to the exclusive original jurisdiction of the Supreme Court of the State of Oklahoma.

SECTION 13. This act shall become effective November 1, 2019.

Passed the Senate the 13th day of February, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 8th day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____