

1 ENGROSSED SENATE
2 BILL NO. 1049

By: Thompson, Hall and
Montgomery of the Senate

3 and

4 Wallace and Hilbert of the
5 House

6
7 An Act relating to unregulated utilities; creating
8 the February 2021 Unregulated Utility Consumer
9 Protection Act; declaring purpose of act; defining
10 terms; authorizing the Oklahoma Development Finance
11 Authority to provide a pooled loan program for
12 specified costs incurred for a specific time period
13 by certain utilities; specifying duties of Authority;
14 requiring Authority to notify certain persons when
15 loan is issued and prepare annual report; providing
16 that certain utilities may submit application to
17 Authority for loan; authorizing Authority to work
18 with Corporation Commission to determine certain
19 costs of certain utilities; authorizing Authority to
20 develop procedures to review applications; specifying
21 required items on applications; requiring the
22 Authority to transmit applications to Commission;
23 authorizing Commission to review applications for
24 loans and audit certain costs; requiring Authority to
approve or disapprove applications and transmit
notice of action to certain persons; requiring
Authority to provide reasons for disapproval to
utility; authorizing utility to resubmit application
for loan under certain circumstances; authorizing
Authority to issue loans after costs determined;
providing that Authority shall determine loan terms;
requiring utility to collect and remit certain
monies; requiring utility to establish certain
customer charge; authorizing Authority to take
security interest in certain property; prohibiting
persons from providing certain services; authorizing
Authority to issue bonds for certain purpose;
specifying terms of bonds; authorizing Authority to
refinance or restructure certain obligations;
providing that certain bonds and obligations are not
debts of the state; requiring certain statement be on

1 face of bonds issued; authorizing State Treasurer to
2 purchase certain bonds; establishing terms of such
3 purchase; specifying that certain proceeds be placed
4 in certain fund; specifying terms of investment of
5 such proceeds; authorizing certain entities to invest
6 in certain bonds; creating the Unregulated Utility
7 Consumer Protection Fund; specifying proceeds of
8 fund; providing for receipt of certain funds to
9 utilities; authorizing Authority to file application
10 with Supreme Court for approval of certain bonds;
11 specifying terms of Supreme Court review; providing
12 for severability; construing provision; amending 62
13 O.S. 2011, Section 695.9, as last amended by Section
14 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp. 2020,
15 Section 695.9), which relates to the Oklahoma Bond
16 Oversight and Reform Act; providing that Act apply to
17 certain bonds; amending 74 O.S. 2011, Section 5062.8,
18 which relates to the Oklahoma Development Finance
19 Authority; modifying duties of Authority; providing
20 for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 9050 of Title 74, unless there
is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 9051 of Title 74, unless there
is created a duplication in numbering, reads as follows:

The Legislature recognizes the significant economic impact of
the extreme weather event that occurred during the month of February
2021. In the wake of this weather event, unprecedented utility

1 costs will be passed through to Oklahoma customers of utilities from
2 unregulated utility entities. The purpose of this act is to provide
3 financing options to these entities that may not otherwise be
4 available and thereby allow customers to pay their utility bills at
5 a lower amount and over a longer period.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 9052 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Authority" shall mean the Oklahoma Development Finance
11 Authority pursuant to Section 5062.1 et seq. of Title 74 of the
12 Oklahoma Statutes;

13 2. "Extraordinary costs" shall mean costs incurred by an
14 unregulated utility related to the extreme weather that occurred
15 beginning February 7, 2021, and ending February 21, 2021, including
16 but not limited to fuel-related storage and associated costs,
17 emergency compressed or liquified natural gas supplies, contracts
18 for services providing additional pressurization on lines and
19 transportation pipeline penalties. Extraordinary costs shall not
20 include extreme purchase costs, as defined in this section;

21 3. "Extreme purchase costs" shall mean expenses incurred for
22 the purchase of fuel, purchased power, natural gas commodity or any
23 combination thereof, whether at spot pricing, index pricing or
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1 otherwise with delivery from February 7, 2021, through February 21,
2 2021;

3 4. "Qualified costs" shall mean the extreme purchase costs and
4 extraordinary costs, as calculated and set out by the Oklahoma
5 Development Finance Authority following a review of a loan
6 application of an unregulated utility submitted pursuant to this
7 act, less any insurance proceeds, governmental grants or other
8 funding sources;

9 5. "Unregulated utility" shall mean any utility, as defined in
10 this act, doing business in this state, or any public trust
11 designated for the benefit of a utility or municipality, which is
12 not a regulated utility subject to the regulatory jurisdiction of
13 the Oklahoma Corporation Commission with respect to its rates,
14 charges and terms and conditions of service;

15 6. "Utility" shall mean any person or entity doing business in
16 this state that furnishes natural gas or electric current to its
17 customers or members located at an address in this state and within
18 the service area of the utility;

19 7. "Utility revenue bond" shall mean any bond, revenue bond,
20 notes or other evidence of obligations of the Oklahoma Development
21 Finance Authority issued by the Authority pursuant to this act
22 including, but not limited to, bond anticipation notes and refunding
23 bonds, for the purpose set forth in this act; and
24

1 8. "Unregulated Utility Consumer Protection Fund" shall mean
2 the fund created pursuant to Section 7 of this act.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 9053 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

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

10 1. To provide, with assistance from the Public Utility Division
11 of the Oklahoma Corporation Commission, a pooled loan program for
12 the efficient financing of qualified costs of unregulated utilities
13 pursuant to Section 6 of this act for the purposes of mitigating the
14 significant impact of extreme purchase costs and extraordinary costs
15 to customers of an unregulated utility;

16 2. To assess an administrative fee for the costs associated
17 with the Authority carrying out its power and duties under this act;
18 and

19 3. To do all things necessary or convenient to carry out the
20 powers expressly granted in this act.

21 B. The Authority shall take the following action:

22 1. To notify the Governor, President Pro Tempore of the Senate,
23 the Speaker of the House of Representatives and the Oklahoma
24 Corporation Commission upon issuance of a loan pursuant to this act.

1 The notification shall be in writing and include the amount and
2 terms of the loan; and

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

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 9054 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 A. In the event an unregulated utility opts for financing
12 pursuant to this act, the unregulated utility shall submit to the
13 Oklahoma Development Finance Authority an application for
14 determination and approval of qualified costs as defined in this
15 act. The Authority, with assistance from the Public Utility
16 Division of the Oklahoma Corporation Commission pursuant to
17 subsection C of this section, shall determine the qualified costs an
18 unregulated utility actually and lawfully incurred and that were
19 directly related to the extreme weather experienced in February
20 2021.

21 B. The Authority may develop procedures to receive and review
22 applications for the establishment of qualified costs; provided, the
23 application shall require but not be limited to:

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1 1. The amount of extreme purchase costs and extraordinary costs
2 requested for recovery;

3 2. Whether the unregulated utility is requesting a loan for all
4 or a portion of the extreme purchase costs and extraordinary costs
5 eligible for recovery;

6 3. Estimated amounts of cost savings from or demonstration of
7 how utility bill impact to customers would be mitigated by receiving
8 a loan for the eligible extreme purchase costs and extraordinary
9 costs, in comparison with traditional financing or any other utility
10 recovery methods; and

11 4. Any other information or documentation required by the
12 Authority to effectuate this act.

13 After the Authority receives an application pursuant to subsection A
14 of this section, a copy of the application shall be transmitted to
15 the Commission for administrative review pursuant to subsection C of
16 this section.

17 C. 1. The Commission is hereby authorized, for the limited
18 purposes of this act, to receive an application by an unregulated
19 utility for administrative review of extreme purchase costs and
20 extraordinary costs to be recovered through the issuance of loans by
21 the Authority. In determining the amount of costs to be recovered,
22 the Commission shall audit these amounts requested to ensure they
23 meet the definition of extreme purchase costs and extraordinary
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1 costs, were actually incurred, were paid or are payable and would be
2 recovered from customers in the normal course of business.

3 2. Once the Commission has completed administrative review of
4 the costs to be recovered, a written copy of the findings of the
5 review shall be transmitted to the Authority.

6 D. After receiving the findings of the administrative review
7 conducted by the Corporation Commission pursuant to subsection C of
8 this section, the Authority shall issue a written approval or
9 disapproval of the application to the Authority quantifying the
10 approved or disapproved qualified costs. A copy of the written
11 approval or disapproval of the application shall be provided to the
12 Governor, the President Pro Tempore of the Senate and the Speaker of
13 the House of Representatives on the same date the approval or
14 disapproval is issued by the Authority.

15 E. In the event the Authority rejects an application for
16 failure to provide sufficient information to make a determination of
17 qualified costs, it shall provide the reasons for rejection to the
18 unregulated utility and the unregulated utility may then modify and
19 resubmit the application to the Authority with the necessary
20 documents and information. The Authority shall then transmit a copy
21 of the resubmitted application to the Commission for administrative
22 review pursuant to subsection C of this section.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9055 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Development Finance Authority is hereby
5 authorized to provide loans from the Unregulated Utility Consumer
6 Protection Fund, created pursuant to Section 7 of this act, to
7 unregulated utilities for the purposes provided in this act.

8 B. Prior to executing any loan agreement with an unregulated
9 utility, the Authority shall have determined the approved qualified
10 costs of the unregulated utility. The principal amount of a loan to
11 an unregulated utility shall not exceed the approved qualified
12 costs.

13 C. Loans made by the Authority shall be made pursuant to notes,
14 bonds, revenue bonds or other appropriate form of evidence of
15 indebtedness to the Authority by the unregulated utility. The
16 interest rate and loan term shall be determined by the Authority.
17 As part of the loan documents or other documents evidencing
18 indebtedness under this subsection, the unregulated utility shall
19 agree and pledge to collect and remit sufficient amounts to repay
20 its indebtedness over the loan term agreed with the Authority. The
21 Authority is authorized to issue credit with loan terms of and up to
22 thirty (30) years.

23 D. In the event an unregulated utility receives a loan pursuant
24 to the provisions of this act, the unregulated utility shall base

1 customer charges mitigated pursuant to this act on the then-current
2 monthly billing of the customer and shall line-item such charges on
3 the monthly bill of the unregulated utility customer.

4 E. On the same date a loan is issued, the Authority shall
5 notify in writing the Governor, the President Pro Tempore of the
6 Senate and the Speaker of the House of Representatives. This
7 notification shall include the amount and terms of the loan.

8 F. The Authority shall be authorized to take a security
9 interest in any property or revenues of the unregulated utility, and
10 a pledge of the revenues from the unregulated utility including
11 customer charges may be pledged by the unregulated utility for such
12 purposes.

13 G. During the term of a loan, no person or entity other than
14 the unregulated utility that is a party to the loan, shall provide a
15 service relied upon for the security of any loan issued pursuant to
16 this section and as identified in the loan documents or related
17 security documents.

18 H. The Authority is hereby authorized to issue utility revenue
19 bonds or other obligations to provide adequate funds to capitalize
20 the Unregulated Utility Consumer Protection Fund created pursuant to
21 Section 7 of this act and meet the funding needs of loans approved
22 by the Authority. The Authority is authorized to issue negotiable
23 utility revenue bonds as may, in the opinion of the Authority, be
24 necessary for such purposes, and to provide for the payment of such

1 bonds and the rights of the bond holders, as provided in this act.
2 The bonds may be issued in one or more series, may be sold in such
3 manner and at such price or prices, may bear such date or dates, may
4 mature at such time or times, may be in such denomination or
5 denominations, may be in such form either coupon or registered, may
6 carry such registration or conversion privileges, may be executed in
7 such manner, may be payable in such medium of payments, at such
8 place or places, may be subject to such terms of redemption, with or
9 without premium, and may bear such rate or rates of interest, and
10 shall be subject to such call for redemption as may be provided by
11 resolution or resolutions to be adopted by the Authority and as are
12 consistent with the terms of the loan or loans, security and other
13 documents agreed with unregulated utilities. The Authority may
14 pledge the Unregulated Utility Consumer Protection Fund, revenues
15 from one or more loans to a single series or issuance of bonds as it
16 may provide by resolution or resolutions to be adopted by the
17 Authority. Bonds issued under this section shall have all of the
18 qualities and incidents of negotiable paper, and the bonds and the
19 interest earned on said bonds shall not be subject to taxation by
20 the State of Oklahoma, or by any county, municipality or political
21 subdivision therein.

22 I. The Authority may issue utility revenue refunding bonds for
23 the purpose of refinancing or restructuring its outstanding
24 obligations. If bonds are issued under this subsection, the bonds

1 may either be sold or delivered in exchange for the outstanding
2 obligations. If sold, the process may be either applied to the
3 payment of the obligations refunded or deposited in escrow for the
4 retirement thereof.

5 J. The utility revenue bonds or other obligations issued
6 pursuant to this section shall not at any time be deemed to
7 constitute a debt of the state or of any political subdivision
8 thereof or a pledge of the full faith and credit of the state or any
9 political subdivision. Such bonds or other obligations shall
10 contain on the face thereof a statement that neither the faith and
11 credit or the taxing power of the state or any political subdivision
12 thereof is pledged or may hereafter be pledged to the payment of the
13 principal of or interest on the bonds. Any utility revenue bonds or
14 other obligations issued pursuant to this section shall contain on
15 the face thereof a statement to the following effect:

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

19 K. The State Treasurer is hereby authorized to purchase from
20 the Authority at private sale all or any part of the bonds issued
21 under this section as an investment of the public monies in his or
22 her possession. It shall be the responsibility of the State
23 Treasurer to invest only that portion of such public monies as he or
24 she deems to be more than sufficient to meet current expenditures

1 payable from public monies. The State Treasurer is authorized to
2 buy and the Authority is authorized to sell to the State Treasurer
3 at private sale so many of the bonds authorized by this section as
4 may be safely purchased for investment of public monies by the State
5 Treasurer without handicapping the state in promptly meeting its
6 obligations. The State Treasurer may later sell such bonds as are
7 necessary to ensure sufficient cash on hand is available to meet
8 current expenditures payable from public monies.

9 L. Bonds issued under this section shall be delivered to the
10 purchaser only upon payment of par and accrued interest to the date
11 of delivery, together with any premium bid.

12 M. The proceeds of the sale of bonds issued under this section,
13 and revenues received with respect to loans issued pursuant to
14 subsection A of this section, shall be deposited in the State
15 Treasury in the Unregulated Utility Consumer Protection Fund created
16 pursuant to Section 7 of this act, where they shall remain subject
17 to disposition to be provided for by the Authority consistent with
18 this act, provided that the State Treasurer shall invest the monies
19 in an interest-bearing account; and provided further, that all such
20 investments of the monies must be so made that the same may be
21 liquidated in time to enable the Authority to pay, in due course,
22 the valid indebtedness incurred by the Authority for the purposes
23 set forth in this section.

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1 N. Any bank, trust or insurance company organized under the
2 laws of Oklahoma may invest its capital, surplus and reserve funds
3 and other funds under its control in bonds issued under this
4 section.

5 SECTION 7. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 9056 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 A. There is hereby created in the State Treasury a fund to be
9 designated the "Unregulated Utility Consumer Protection Fund", which
10 shall be utilized by the Oklahoma Development Finance Authority to
11 make loans to unregulated utilities to carry out the purposes of
12 this act. The fund shall consist of proceeds from the issuance of
13 obligations authorized in Section 6 of this act, revenues from the
14 loan program and any other contributions from unregulated utilities
15 permitted by law.

16 B. To the extent the unregulated utility receives, prior to the
17 issuance of a loan pursuant to this act, insurance proceeds,
18 governmental grants or any other source of funding that compensates
19 it for extreme purchase costs or extraordinary costs, or if actual
20 amounts are determined to be lower than estimated amounts, those
21 amounts shall be used to reduce the qualified costs of the
22 unregulated utility that are recoverable from customers. If the
23 amounts are received after the issuance of a loan, they shall be
24 remitted to the Authority and deposited into the Unregulated Utility

1 Consumer Protection Fund. Any amounts remitted to the Authority
2 after the issuance of a loan shall be credited against the loan
3 payments of the unregulated utility using a reasonable methodology
4 determined by the Authority.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 9057 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

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

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

13 SECTION 9. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 9058 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 Effective on the date the first loans are issued pursuant to
17 Section 6 of this act, if any provision in this title or portion of
18 this title is held to be invalid or is invalidated, superseded,
19 replaced, repealed or expires for any reason, that occurrence does
20 not affect the validity or continuation of this act or other
21 provision of law that is relevant to the issuance, administration,
22 payment or refunding of a loan or to any actions of the Oklahoma
23 Development Finance Authority or the unregulated utility or their
24 successors, assignees or collections agents.

1 SECTION 10. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9059 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 Nothing in this act shall be construed to place any unregulated
5 utility under the authority of the Corporation Commission beyond the
6 specific authority to effectuate the provisions of this act.

7 SECTION 11. AMENDATORY 62 O.S. 2011, Section 695.9, as
8 last amended by Section 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp.
9 2020, Section 695.9), is amended to read as follows:

10 Section 695.9. A. No State Governmental Entity or Local
11 Governmental Entity shall issue any State Governmental Entity
12 Financing obligations unless such obligations have been approved by
13 the Council of Bond Oversight as provided for in Section 695.8 of
14 this title; provided, however, that in no event shall the Council's
15 approval be required for the issuance of any obligations pursuant to
16 a remarketing or a change in interest rate or maturity under the
17 terms of indentures or agreements securing obligations heretofore
18 issued prior to July 1, 1987, or pursuant to the provisions of the
19 Oklahoma Bond Oversight and Reform Act. The provisions of this
20 subsection shall apply to any notes, bonds, revenue bonds,
21 securitized bonds, loans or other appropriate form of evidence of
22 indebtedness issued pursuant to the February 2021 Unregulated
23 Utility Consumer Protection Act and the February 2021 Regulated
24 Utility Consumer Protection Act.

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

10 2. With respect to bonds or indebtedness proposed to be issued
11 by the Oklahoma Development Finance Authority which will be enhanced
12 or supported pursuant to the Credit Enhancement Reserve Fund Act,
13 the Council shall review the description of such proposed financing
14 in accordance with paragraph 1 of this subsection and additionally
15 shall approve or disapprove the proposed financing on a
16 determination of sufficient compliance with the Rules Regarding the
17 Administration of the Credit Enhancement Reserve Fund as implemented
18 by the Oklahoma Development Finance Authority. Such determinations
19 by the Council shall be based on a written report prepared for and
20 provided to the Council by the Program Development and Credit Review
21 Committee as provided in Section 5062.6a of Title 74 of the Oklahoma
22 Statutes, provided the Council shall not be bound to follow the
23 conclusions reached by the committee in such reports. All orders
24 issued by the Council approving or disapproving bonds or

1 indebtedness enhanced or supported pursuant to the Credit
2 Enhancement Reserve Fund Act shall be final and shall not be subject
3 to any type of appeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 When engaging the services of underwriters, bond or other legal
24 counsel, financial advisors, consultants, a financial institution to

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

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

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

20 10. ~~to~~ To receive and accept aid or contributions from any
21 source of money, property, labor, or other things of value to be
22 held, used and applied to carry out the purposes of the Oklahoma
23 Development Finance Authority Act subject to the conditions upon
24 which the grants and contributions are made, including, but not

1 limited to, gifts or grants from any department, agency or
2 instrumentality of the United States or of the state for any purpose
3 consistent with the Oklahoma Development Finance Authority Act;

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

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

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

23 14. ~~to~~ To acquire, purchase, hold, store, advertise, market,
24 sell, trade, barter, exchange, distribute, transport, process,

1 utilize and contract in all manner with respect thereto and for
2 commodities, products and services, and real or personal property or
3 any interest therein and to contract for, issue and utilize letters
4 of credit and other credit facilities and incur indebtedness and to
5 arrange, form, make, guarantee, issue, remit, receive, receipt,
6 process and collect payments and equivalents, howsoever nominated,
7 in connection with or for purposes of any of the foregoing and for
8 the purpose of executing and fulfilling the purposes of the
9 Authority;

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

24

1 facilities of every nature, which may be useful in pursuing,
2 promoting, executing and/or fulfilling the aforementioned purposes;

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

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

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

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

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

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 and its political subdivisions are hereby
7 authorized to enter into contracts with the Authority for such
8 services and to pay for such services as may be provided them;

9 22. ~~to~~ To contract, cooperate~~7~~ or join with any one or more
10 other governments or public agencies, or with the state, any
11 political subdivisions of this state~~7~~ or the United States, to
12 perform any administrative service, activity~~7~~ or undertaking which
13 any such contracting party is authorized by law to perform~~7~~
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

