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1st Session of the 58th Legislature (2021)

ENGROSSED SENATE  
BILL NO. 1049

By: Thompson, Hall and  
Montgomery of the Senate

and

Wallace and Hilbert of the House

An Act relating to unregulated utilities; creating the February 2021 Unregulated Utility Consumer Protection Act; declaring purpose of act; defining terms; authorizing the Oklahoma Development Finance Authority to provide a pooled loan program for specified costs incurred for a specific time period by certain utilities; specifying duties of Authority; requiring Authority to notify certain persons when loan is issued and prepare annual report; providing that certain utilities may submit application to Authority for loan; authorizing Authority to work with Corporation Commission to determine certain costs of certain utilities; authorizing Authority to develop procedures to review applications; specifying required items on applications; requiring the Authority to transmit applications to Commission; authorizing Commission to review applications for 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

1 persons from providing certain services; authorizing  
2 Authority to issue bonds for certain purpose;  
3 specifying terms of bonds; authorizing Authority to  
4 refinance or restructure certain obligations;  
5 providing that certain bonds and obligations are not  
6 debts of the state; requiring certain statement be on  
7 face of bonds issued; authorizing State Treasurer to  
8 purchase certain bonds; establishing terms of such  
9 purchase; specifying that certain proceeds be placed  
10 in certain fund; specifying terms of investment of  
11 such proceeds; authorizing certain entities to invest  
12 in certain bonds; creating the Unregulated Utility  
13 Consumer Protection Fund; specifying proceeds of  
14 fund; providing for receipt of certain funds to  
15 utilities; authorizing Authority to file application  
16 with Supreme Court for approval of certain bonds;  
17 specifying terms of Supreme Court review; providing  
18 for severability; construing provision; amending 62  
19 O.S. 2011, Section 695.9, as last amended by Section  
20 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp. 2020,  
21 Section 695.9), which relates to the Oklahoma Bond  
22 Oversight and Reform Act; providing that Act apply to  
23 certain bonds; amending 74 O.S. 2011, Section 5062.8,  
24 which relates to the Oklahoma Development Finance  
Authority; modifying duties of Authority; providing  
for codification; and declaring an emergency.

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:

1       The Legislature recognizes the significant economic impact of  
2 the extreme weather event that occurred during the month of February  
3 2021. In the wake of this weather event, unprecedented utility  
4 costs will be passed through to Oklahoma customers of utilities from  
5 unregulated utility entities. The purpose of this act is to provide  
6 financing options to these entities that may not otherwise be  
7 available and thereby allow customers to pay their utility bills at  
8 a lower amount and over a longer period.

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

12       As used in this act:

13       1. "Authority" shall mean the Oklahoma Development Finance  
14 Authority pursuant to Section 5062.1 et seq. of Title 74 of the  
15 Oklahoma Statutes;

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

1       3. "Extreme purchase costs" shall mean expenses incurred for  
2 the purchase of fuel, purchased power, natural gas commodity or any  
3 combination thereof, whether at spot pricing, index pricing or  
4 otherwise with delivery from February 7, 2021, through February 21,  
5 2021;

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

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

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

22       7. "Utility revenue bond" shall mean any bond, revenue bond,  
23 notes or other evidence of obligations of the Oklahoma Development  
24 Finance Authority issued by the Authority pursuant to this act

1 including, but not limited to, bond anticipation notes and refunding  
2 bonds, for the purpose set forth in this act; and

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

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

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

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

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

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

23 B. The Authority shall take the following action:  
24

1        1. To notify the Governor, President Pro Tempore of the Senate,  
2 the Speaker of the House of Representatives and the Oklahoma  
3 Corporation Commission upon issuance of a loan pursuant to this act.  
4 The notification shall be in writing and include the amount and  
5 terms of the loan; and

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

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

14        A. In the event an unregulated utility opts for financing  
15 pursuant to this act, the unregulated utility shall submit to the  
16 Oklahoma Development Finance Authority an application for  
17 determination and approval of qualified costs as defined in this  
18 act. The Authority, with assistance from the Public Utility  
19 Division of the Oklahoma Corporation Commission pursuant to  
20 subsection C of this section, shall determine the qualified costs an  
21 unregulated utility actually and lawfully incurred and that were  
22 directly related to the extreme weather experienced in February  
23 2021.  
24

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

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

6 2. Whether the unregulated utility is requesting a loan for all  
7 or a portion of the extreme purchase costs and extraordinary costs  
8 eligible for recovery;

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

14 4. Any other information or documentation required by the  
15 Authority to effectuate this act.

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

20 C. 1. The Commission is hereby authorized, for the limited  
21 purposes of this act, to receive an application by an unregulated  
22 utility for administrative review of extreme purchase costs and  
23 extraordinary costs to be recovered through the issuance of loans by  
24 the Authority. In determining the amount of costs to be recovered,

1 the Commission shall audit these amounts requested to ensure they  
2 meet the definition of extreme purchase costs and extraordinary  
3 costs, were actually incurred, were paid or are payable and would be  
4 recovered from customers in the normal course of business.

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

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

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



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.

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

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

4        27. To provide loans to unregulated utilities pursuant to the  
5 February 2021 Unregulated Utility Consumer Protection Act; and

6        28. To issue securitized bonds pursuant to the February 2021  
7 Regulated Utility Consumer Protection Act.

8        SECTION 13. It being immediately necessary for the preservation  
9 of the public peace, health or safety, an emergency is hereby  
10 declared to exist, by reason whereof this act shall take effect and  
11 be in full force from and after its passage and approval.

12  
13 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS  
14 AND BUDGET, dated 04/14/2021 - DO PASS, As Amended.