

**OKLAHOMA STATE SENATE
JOINT
COMMITTEE REPORT**

April 14, 2021

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

SB 1049

By: Thompson of the Senate and Wallace of the House

Title: Utilities; creating the February 2021 Unregulated Utility Consumer Protection Act; providing for the issuance of loans in certain circumstance. Emergency.

Recommendation: **DO PASS AS AMENDED**

Aye: Brooks, Dossett (J.J.), Dugger, Floyd, Haste, Howard, Jech, Kidd, Kirt, Montgomery, Newhouse, Pederson, Pemberton, Rader, Rosino, Simpson, Weaver, Hall, Thompson, Treat

Nay:

Constitutional Privilege:

Senator Roger Thompson, Chair

Committee Substitute, motion by Senator THOMPSON - Adopted (Request No: 2090)

OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET COMMITTEE

SB1049

By: Wallace et al of the House

Thompson et al of the Senate

Title: Utilities; creating the February 2021 Unregulated Utility Consumer Protection Act; providing for the issuance of loans in certain circumstance. Emergency.

Coauthored By:

Recommendation: **DO PASS AS AMENDED BY CS**

Amendments:

1. Committee Substitute Attached

 Chr.
Representative Kevin Wallace

YEAS: 33

Baker, Bennett, Blancett, Boatman, Dills, Echols, Fetgatter, Goodwin, Hilbert, Hill, Kannady, Lawson, Lepak, Martinez, McBride, McDugle, McEntire, Miller, Mize, Munson, Newton, Nichols, Osburn, Pfeiffer, Roberts (D), Russ, Sterling, Strom, Virgin, Walke, Wallace, West (J), West (T)

NAYS: 0

CONSTITUTIONAL PRIVILEGE: 0

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1049

6 By: Thompson and Hall of the
7 Senate

8 and

9 Wallace and Hilbert of the
10 House

11 COMMITTEE SUBSTITUTE

12 An Act relating to unregulated utilities; creating
13 the February 2021 Unregulated Utility Consumer
14 Protection Act; declaring purpose of act; defining
15 terms; authorizing the Oklahoma Development Finance
16 Authority to provide a pooled loan program for
17 specified costs incurred for a specific time period
18 by certain utilities; specifying duties of Authority;
19 requiring Authority to notify certain persons when
20 loan is issued and prepare annual report; providing
21 that certain utilities may submit application to
22 Authority for loan; authorizing Authority to work
23 with Corporation Commission to determine certain
24 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

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

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

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

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

15 As used in this act:

16 1. "Authority" shall mean the Oklahoma Development Finance
17 Authority pursuant to Section 5062.1 et seq. of Title 74 of the
18 Oklahoma Statutes;

19 2. "Extraordinary costs" shall mean costs incurred by an
20 unregulated utility related to the extreme weather that occurred
21 beginning February 7, 2021, and ending February 21, 2021, including
22 but not limited to fuel-related storage and associated costs,
23 emergency compressed or liquified natural gas supplies, contracts
24 for services providing additional pressurization on lines and

1 transportation pipeline penalties. Extraordinary costs shall not
2 include extreme purchase costs, as defined in this section;

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

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

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

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

24

1 7. "Utility revenue bond" shall mean any bond, revenue bond,
2 notes or other evidence of obligations of the Oklahoma Development
3 Finance Authority issued by the Authority pursuant to this act
4 including, but not limited to, bond anticipation notes and refunding
5 bonds, for the purpose set forth in this act; and

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

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

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

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

21 2. To assess an administrative fee for the costs associated
22 with the Authority carrying out its power and duties under this act;
23 and
24

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

3 B. The Authority shall take the following action:

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

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

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

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

1 directly related to the extreme weather experienced in February
2 2021.

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

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

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

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

16 4. Any other information or documentation required by the
17 Authority to effectuate this act.

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

22 C. 1. The Commission is hereby authorized, for the limited
23 purposes of this act, to receive an application by an unregulated
24 utility for administrative review of extreme purchase costs and

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

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

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

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

1 of the resubmitted application to the Commission for administrative
2 review pursuant to subsection C of this section.

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

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

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

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

1 D. In the event an unregulated utility receives a loan pursuant
2 to the provisions of this act, the unregulated utility shall base
3 customer charges mitigated pursuant to this act on the then-current
4 monthly billing of the customer and shall line-item such charges on
5 the monthly bill of the unregulated utility customer.

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

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

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

20 H. The Authority is hereby authorized to issue utility revenue
21 bonds or other obligations to provide adequate funds to capitalize
22 the Unregulated Utility Consumer Protection Fund created pursuant to
23 Section 7 of this act and meet the funding needs of loans approved
24 by the Authority. The Authority is authorized to issue negotiable

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

24

1 I. The Authority may issue utility revenue refunding bonds for
2 the purpose of refinancing or restructuring its outstanding
3 obligations. If bonds are issued under this subsection, the bonds
4 may either be sold or delivered in exchange for the outstanding
5 obligations. If sold, the process may be either applied to the
6 payment of the obligations refunded or deposited in escrow for the
7 retirement thereof.

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

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

22 K. The State Treasurer is hereby authorized to purchase from
23 the Authority at private sale all or any part of the bonds issued
24 under this section as an investment of the public monies in his or

1 her possession. It shall be the responsibility of the State
2 Treasurer to invest only that portion of such public monies as he or
3 she deems to be more than sufficient to meet current expenditures
4 payable from public monies. The State Treasurer is authorized to
5 buy and the Authority is authorized to sell to the State Treasurer
6 at private sale so many of the bonds authorized by this section as
7 may be safely purchased for investment of public monies by the State
8 Treasurer without handicapping the state in promptly meeting its
9 obligations. The State Treasurer may later sell such bonds as are
10 necessary to ensure sufficient cash on hand is available to meet
11 current expenditures payable from public monies.

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

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

1 the valid indebtedness incurred by the Authority for the purposes
2 set forth in this section.

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

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

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

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

1 amounts are received after the issuance of a loan, they shall be
2 remitted to the Authority and deposited into the Unregulated Utility
3 Consumer Protection Fund. Any amounts remitted to the Authority
4 after the issuance of a loan shall be credited against the loan
5 payments of the unregulated utility using a reasonable methodology
6 determined by the Authority.

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

10 The Oklahoma Development Finance Authority may file an
11 application with the Oklahoma Supreme Court for the approval of
12 bonds issued under this act, and exclusive original jurisdiction is
13 hereby conferred upon the Court to hear and determine each
14 application. The Court shall give such an application precedence
15 over the other business of the Court and consider and pass upon the
16 application and any protests which may be filed against such
17 application as speedily as possible. Notice of the hearing on each
18 application shall be given by notice published in a newspaper of
19 general circulation in the state that on a day named by the
20 Authority will ask the Oklahoma Supreme Court to hear its
21 application and approve any bonds issued pursuant to the provisions
22 of this act. The notice shall inform all persons interested that
23 they may file protests against the issuance of the bonds and be
24 present at the hearing and contest the legality thereof. The notice

1 shall be published one time not less than ten (10) days prior to the
2 date named for the hearing, and the hearing may be adjourned from
3 time to time at the discretion of the Court. If the Court shall be
4 satisfied that the bonds or any portions thereof have been properly
5 authorized in accordance with this act and the Constitution of the
6 State of Oklahoma, and that, when issued, they will constitute valid
7 obligations in accordance with their terms, the Court shall render
8 its written opinion approving the bonds and shall fix the time
9 within which a petition for rehearing may be filed. The decision of
10 the Court shall be a judicial determination of the validity of the
11 bonds, shall be conclusive as to the Authority, this state, its
12 officers, agents and instrumentalities and all other persons, and
13 thereafter the bonds so approved and the revenues pledged to their
14 payment shall be incontestable in any court in this state.

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

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

1 Development Finance Authority or the unregulated utility or their
2 successors, assignees or collections agents.

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

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

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

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

1 Utility Consumer Protection Act and the February 2021 Regulated
2 Utility Consumer Protection Act.

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

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

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

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

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

22 5. In the event there is a substantial change in the nature or
23 purpose of a proposed financing after approval by the Council, the
24 prior approval shall be void and the State Governmental Entity shall

1 be required to seek approval from the Council in the manner provided
2 in paragraph 1 of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 21. ~~to~~ To provide services, technical assistance and advice to
4 this state and political subdivisions and to enter into contracts
5 with this state and political subdivisions to provide such services.
6 The State of Oklahoma 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~~,~~ or join with any one or more
10 other governments or public agencies, or with the state, any
11 political subdivisions of this state~~,~~ or the United States, to
12 perform any administrative service, activity~~,~~ or undertaking which
13 any such contracting party is authorized by law to perform~~,~~
14 including the issuance of bonds;

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

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

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

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

4 27. To provide loans 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.

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