

An Act

ENROLLED SENATE
BILL NO. 1050

By: Thompson, Hall and
Montgomery of the Senate

and

Wallace and Hilbert of the
House

An Act related to regulated utilities; creating the February 2021 Regulated Utility Consumer Protection Act; providing legislative intent; providing definitions; authorizing Corporation Commission to determine costs eligible under act; requiring utilities provide certain information to Commission; authorizing Commission to develop forms and procedures; requiring Commission to consider certain factors; authorizing Commission to engage certain professionals; providing for recovery of certain expenses; exempting engagement of certain professionals from the Oklahoma Central Purchasing Act; directing Commission to make certain determination; directing Commission to determine rate and time certain costs included in bonds will accrue; requiring certain funds be used for specific purpose; authorizing Commission to direct certain funds; providing for funds to accrue carrying charges as determined by the Commission; directing Commission to issue financing order; providing information required in financing order; requiring Commission to consult with the Deputy Treasurer for Policy and Debt Management for certain purpose; directing Commission to issue financing order in certain time; requiring Commission to submit financing order to Legislature and Governor; providing effective date of financing order; setting time period for a certain appeal; stating exception; prohibiting certain cost recovery by utility under certain circumstance; prohibiting impairment of financing order; creating a

securitization property right; designating securitization property right as a present property right; requiring certain order remain in effect for certain period; designating owner of certain revenues; preserving rights of securitization property owner against certain actions; providing financing order is effective notwithstanding certain actions; allowing certain lien to be created; providing for sale of securitization property; providing interest in securitization property is perfected in certain transfers; prohibiting impairment of lien; authorizing bond holder to foreclose on certain funds in certain circumstances; specifying additional authority of the Oklahoma Development Finance Authority; authorizing Authority to establish certain fee; requiring notification to certain entities; requiring annual report; authorizing Authority to receive certain property; authorizing Authority to provide bond proceeds to utility; authorizing Authority to borrow money for certain purpose; directing Authority to provide for repayment of bonds; authorizing Authority to issue ratepayer-backed bonds; construing clause; requiring approval by certain entities prior to bond issuance; providing that ratepayer-backed bonds are not an indebtedness of the state; requiring certain disclosure; authorizing State Treasurer to purchase certain bonds; directing certain funds be deposited in Treasury; creating the Regulated Utility Consumer Protection Fund; directing utilities to provide certain funds to the Authority; authorizing certain entities to invest in ratepayer-backed bonds; authorizing Commission to require audit of certain funds; requiring audit report be provided to certain persons; directing Authority to file certain application with the Supreme Court of Oklahoma; providing original jurisdiction to the Court; providing severability provision; providing conflict provision; amending 74 O.S. 2011, Section 5062.8, which relates to the Oklahoma Development Finance Authority; authorizing Authority to provide certain loans; authorizing Authority to provide ratepayer-

backed bonds; modifying duties of Authority; amending 62 O.S. 2011, Section 695.9, as last amended by Section 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp. 2020, Section 695.9), which relates to the Oklahoma Bond Oversight and Reform Act; providing that Act apply to certain bonds; providing for codification; and declaring an emergency.

SUBJECT: Regulated utilities

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 9070 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 Regulated Utility Consumer Protection Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9071 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 costs will be passed through to Oklahoma customers of utilities from regulated utility entities. The purpose of this act is to provide for the issuance of ratepayer-backed bonds to these entities and thereby allow customers to pay their utility bills at a lower amount and over a longer period.

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

As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The Oklahoma Corporation Commission may determine upon receiving an application or in any proceeding where the issue is properly brought before it that extreme purchase costs, extraordinary costs or both, requested for recovery by a regulated utility are subject to this act and may be mitigated through securitization in order to reduce the utility bill impact on

customers. For the purposes set forth in this section, the utility shall:

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

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

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

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

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

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

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

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

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

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

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

F. Extreme purchase costs and extraordinary costs determined by the Commission to be subject to this act and to be mitigated by issuing ratepayer-backed bonds shall include carrying costs at an appropriate rate determined by the Commission as set forth in a financing order. The carrying costs shall begin accruing at a time determined by the Commission in the financing order and continue until the date that ratepayer-backed bonds are issued, or the costs are otherwise recovered.

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

after the issuance of ratepayer-backed bonds, the amounts shall accrue carrying charges at a rate determined by the Commission.

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

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

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

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

3. The creation of an irrevocable and nonbypassable mechanism under which the regulated utility will recover from customers an amount necessary to service, repay and administer the ratepayer-backed bonds. A customer's monthly billing charges collected pursuant to the nonbypassable mechanism established under a financing order shall be based upon the then-current monthly billing of the customer and shall be a separate line-item on the monthly bill of the customer. The nonbypassable mechanism shall include procedures for receiving accounting information from the Oklahoma Development Finance Authority and calculating factors to be applied to customer bills. The mechanism shall remain in effect until the complete repayment and retirement of any ratepayer-backed bonds, or refunding bonds, authorized under the financing order;

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

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

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

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

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

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

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

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

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

H. Upon the issuance of any financing order pursuant to this section, the periodic determination of factors for customer collection with true-up and reconciliation authorized by the financing order shall not be removed, adjusted or interrupted by any other regulatory determination of the Commission except where adjustments are warranted as a result of an audit of amounts actually collected from customers and provided to the Authority or where insurance proceeds, government grants or other funding sources offset or reduce the amount of extreme purchase costs and extraordinary costs to be recovered from customers. No adjustments shall in any manner impair or prevent the collection of sufficient revenues to service and repay ratepayer-backed bonds.

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

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

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

B. The securitization property right under a financing order shall constitute a present property right for purposes of contracts concerning the sale or pledge of property, even though the imposition and collection of the relevant charges depend on future acts of the regulated utility, the Oklahoma Corporation Commission and acts of others. The financing order shall remain in effect, and the property interest shall continue to exist for the same period as the maturity, with reasonable true-up and reconciliation periods set out in the financing order.

C. All revenues and collections received through the irrevocable and nonbypassable mechanism created pursuant to a

financing order shall be the further property and right of the owner of the securitization property.

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

E. A valid and enforceable lien and security interest in securitization property may be created by a financing order and the execution and delivery of a security agreement with the Oklahoma Development Finance Authority in connection with the issuance of ratepayer-backed bonds. The lien and security interest shall attach automatically from the time the value is received by the Authority for the bonds and transferred to the regulated utility in exchange for securitization property and, on perfection through the filing of notice with the Oklahoma Secretary of State, shall be a continuously perfected lien and security interest in the securitization property and all proceeds from the property shall have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor.

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

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

H. The priority of a lien and security interest perfected under this section is not impaired by any later modification of the financing order or by the commingling of funds with other revenues paid by customers to the regulated utility, by utilities to the

Authority or otherwise paid. If securitization property has been transferred to an assignee, any revenues related to that property shall be held in trust for the assignee.

I. If a default or termination occurs under the ratepayer-backed bonds, holders of the bonds or their representatives may foreclose on or otherwise enforce their lien and security interest in any securitization property, and the Commission may require any revenues received under the irrevocable and nonbypassable mechanism created by a financing order be paid to a new holder of the securitization property.

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

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

1. To issue ratepayer-backed bonds as provided in this act;

2. To establish and adjust from time to time the actual cost of an administrative fee for the costs associated with the Authority carrying out its power and duties under this act, to include costs of the Corporation Commission incurred under Section 4 of this act. The fee shall be included in the calculation of utility customer payments created by the financing order; and

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

B. The Authority shall take the following actions:

1. To notify the Governor, President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Oklahoma Corporation Commission upon issuance of a ratepayer-backed bond. The notification shall be in writing and include the amount and terms of the bond; and

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

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

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

B. The Authority is hereby authorized to borrow money on the credit of the revenues to be derived from securitization property received under subsection A of this section, and in anticipation of the collection of revenues, issue negotiable bonds necessary for such purposes. The Authority shall provide for the payment of such bonds and the rights of the holders thereof, as hereinafter provided. Said bonds may be issued in one or more series, may be sold in such manner and at such price or prices, may bear such date or dates, may mature at such time or times, may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration or conversion privileges, may be executed in such manner, may be payable in such medium of payments, at such place or places, may be subject to such terms of redemption, with or without premium, and may bear such rate or rates of interest, and shall be subject to such call for redemption as may be provided by resolution or resolutions to be adopted by the Authority and are consistent with the terms of the financing order issued by the Commission. The bonds shall have all of the qualities and incidents of negotiable paper, and the bonds and the interest

earned on the bonds shall not be subject to taxation by the state, or by any county, municipality or political subdivision therein.

C. The Authority may only pledge the securitization property and the revenues received from such property arising from a single financing order for a single series of bonds. No revenues arising from a separate financing order shall be pledged for or used to repay the bonds or series issued with respect to a separate financing order.

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

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

F. 1. The ratepayer-backed bonds issued under this section shall not be an indebtedness of the state or of the Authority, but shall be special obligations payable solely from revenues related to securitization property received under subsection A of this section. The Authority is authorized and directed to pledge all or any part of such revenues to the payment of principal and interest on the bonds and to create a reserve for such purposes.

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

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

G. The State Treasurer is hereby authorized to purchase from the Authority at private sale all or any part of the bonds issued under this section as an investment of the public monies in his or her possession. It shall be the responsibility of the State Treasurer to invest only that portion of the public monies as it deems to be more than sufficient to meet current expenditures payable from public monies. The State Treasurer is authorized to buy and the Authority is authorized and required to sell to the State Treasurer at private sale so many of the bonds authorized by this section as may be safely purchased for investment of public monies by the State Treasurer without handicapping the state in promptly meeting its obligations. The State Treasurer may later sell the bonds as are necessary to ensure sufficient cash on hand is available to meet current expenditures payable from public monies.

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

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

J. In the event a regulated utility has or receives alternative funds directed by the Commission to be applied to a securitized balance, the regulated utility shall provide the funds to the Authority. The Authority shall deposit the funds with the State Treasury pursuant to subsection I of this section. If the funds are

provided in advance of the bond issuance, the Authority shall use the funds and interest on the funds to pay expenses related to the issuance, reduce the total bond debt service or reduce the size of the required issuance. If the funds are provided after the bond issuance, the Authority shall use the funds and interest on the funds to offset amounts that would otherwise be recovered from utility customers under this act.

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

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

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

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

The Oklahoma Development Finance Authority shall file an application with the Supreme Court of Oklahoma for the approval of ratepayer-backed bonds issued under this act, and exclusive original jurisdiction is hereby conferred upon the Court to hear and determine each application. The Court shall give such an application precedence over the other business of the Court and

consider and pass upon the application and any protests which may be filed against such application as speedily as possible. Notice of the hearing on each application shall be given by notice published in a newspaper of general circulation in the state that on a day named by the Authority will ask the Oklahoma Supreme Court to hear its application and approve the bonds. The notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. The notice shall be published one time, not less than ten (10) days prior to the date named for the hearing, and the hearing may be adjourned from time to time at the discretion of the Court. If the Court shall be satisfied that the bonds or any portions thereof have been properly authorized in accordance with this act and the Constitution of the State of Oklahoma, and that when issued they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the ratepayer-backed bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, the state, its officers, agents and instrumentalities, and all other persons, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in this state.

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

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

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

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

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

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

1. ~~to~~ To adopt, amend, and repeal rules and regulations, policies, and procedures for the regulation of its affairs and the conduct of its business;
2. ~~to~~ To sue and be sued in its own name;
3. ~~to~~ To have an official seal and power to alter that seal at will;
4. ~~to~~ To maintain an office at such place or places within this state as it may designate;
5. ~~to~~ To adopt, amend and repeal bylaws and rules and regulations, not inconsistent with the Oklahoma Development Finance Authority Act, to carry into effect the powers and purposes of the Authority and the conduct of its business;
6. ~~to~~ To make and execute contracts with any individual, corporation, whether profit or nonprofit, association or any other entity and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Oklahoma Development Finance Authority Act;

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

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

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

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

10. ~~to~~ To receive and accept aid or contributions from any source of money, property, labor; or other things of value to be held, used and applied to carry out the purposes of the Oklahoma Development Finance Authority Act subject to the conditions upon

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

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

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

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

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

15. ~~to~~ To acquire, reacquire, construct, reconstruct, extend, rent, lease, purchase, use, loan, borrow, install, equip, maintain, operate, renovate, refurbish, enlarge, remodel, convey, sell, at

public or private sale, encumber, alleviate, transfer, exchange, dispose of and/or resell, any property, real, personal or mixed, improvements, buildings, equipment, chattels, furnishings, fixtures, trade fixtures, and any and all other facilities and/or property of whatever nature, including any and all rights to or therein for use by corporations, individuals, cooperatives, partnerships, associations or proprietary companies for any of or for the purpose of executing and/or fulfilling the purposes of the Authority, and to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer property, buildings, improvements, and facilities of every nature, which may be useful in pursuing, promoting, executing and/or fulfilling the aforementioned purposes;

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

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

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

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

20. ~~to~~ To collect fees and charges in connection with its loans, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the Authority shall determine to be reasonable and as shall be approved by the Authority;

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

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

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

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

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

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

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

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

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

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

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

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

Enhancement Reserve Fund Act shall be final and shall not be subject to any type of appeal.

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

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

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

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

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

SECTION 15. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 15th day of April, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

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

By: _____

Approved by the Governor of the State of Oklahoma this _____

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

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

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

By: _____