

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                         1st Session of the 58th Legislature (2021)

4   ENGROSSED SENATE  
5   BILL NO. 1050

By: Thompson, Hall and  
Montgomery of the Senate

and

Wallace and Hilbert of the  
House

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10         An Act related to regulated utilities; creating the  
11         February 2021 Regulated Utility Consumer Protection  
12         Act; providing legislative intent; providing  
13         definitions; authorizing Corporation Commission to  
14         determine costs eligible under act; requiring  
15         utilities provide certain information to Commission;  
16         authorizing Commission to develop forms and  
17         procedures; requiring Commission to consider certain  
18         factors; authorizing Commission to engage certain  
19         professionals; providing for recovery of certain  
20         expenses; exempting engagement of certain  
21         professionals from the Oklahoma Central Purchasing  
22         Act; directing Commission to make certain  
23         determination; directing Commission to determine rate  
24         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

1 impairment of financing order; creating a  
2 securitization property right; designating  
3 securitization property right as a present property  
4 right; requiring certain order remain in effect for  
5 certain period; designating owner of certain  
6 revenues; preserving rights of securitization  
7 property owner against certain actions; providing  
8 financing order is effective notwithstanding certain  
9 actions; allowing certain lien to be created;  
10 providing for sale of securitization property;  
11 providing interest in securitization property is  
12 perfected in certain transfers; prohibiting  
13 impairment of lien; authorizing bond holder to  
14 foreclose on certain funds in certain circumstances;  
15 specifying additional authority of the Oklahoma  
16 Development Finance Authority; authorizing Authority  
17 to establish certain fee; requiring notification to  
18 certain entities; requiring annual report;  
19 authorizing Authority to receive certain property;  
20 authorizing Authority to provide bond proceeds to  
21 utility; authorizing Authority to borrow money for  
22 certain purpose; directing Authority to provide for  
23 repayment of bonds; authorizing Authority to issue  
24 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

1 Bond Oversight and Reform Act; providing that Act  
2 apply to certain bonds; providing for codification;  
3 and declaring an emergency.

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

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 9070 of Title 74, unless there  
7 is created a duplication in numbering, reads as follows:

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

10 SECTION 2. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 9071 of Title 74, unless there  
12 is created a duplication in numbering, reads as follows:

13 The Legislature recognizes the significant economic impact of  
14 the extreme weather event that occurred during the month of February  
15 2021. In the wake of this weather event, unprecedented utility  
16 costs will be passed through to Oklahoma customers of utilities from  
17 regulated utility entities. The purpose of this act is to provide  
18 for the issuance of ratepayer-backed bonds to these entities and  
19 thereby allow customers to pay their utility bills at a lower amount  
20 and over a longer period.

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

24 As used in this act:

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

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

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

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

20           5. "Nonbypassable mechanism" shall mean that the payment of the  
21 utility customer charges under this act shall not be modified or  
22 avoided by any utility customer at an address located within a  
23 utility service area by switching providers, switching fuel sources  
24 or materially changing usage, and shall be paid by the customer for

1 as long as bonds issued pursuant to Section 8 of this act remain  
2 outstanding;

3 6. "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 beginning February 7, 2021, and ending  
7 February 21, 2021;

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

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

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

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

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

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

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

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

18 A. The Oklahoma Corporation Commission may determine upon  
19 receiving an application or in any proceeding where the issue is  
20 properly brought before it that extreme purchase costs,  
21 extraordinary costs or both, requested for recovery by a regulated  
22 utility are subject to this act and may be mitigated through  
23 securitization in order to reduce the utility bill impact on  
24

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

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

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

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

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

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

23 1. Substantial revenue requirement savings that may be incurred  
24 to the benefit of customers by relying on lower carrying charges

1 related to ratepayer-backed bonds rather than by conventional  
2 financing obtained by the regulated utility;

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

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

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

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

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



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

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

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

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

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

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

18 3. The creation of an irrevocable and nonbypassable mechanism  
19 under which the regulated utility will recover from customers an  
20 amount necessary to service, repay and administer the ratepayer-  
21 backed bonds. A customer's monthly billing charges collected  
22 pursuant to the nonbypassable mechanism established under a  
23 financing order shall be based upon the then-current monthly billing  
24 of the customer and shall be a separate line-item on the monthly

1 bill of the customer. The nonbypassable mechanism shall include  
2 procedures for receiving accounting information from the Oklahoma  
3 Development Finance Authority and calculating factors to be applied  
4 to customer bills. The mechanism shall remain in effect until the  
5 complete repayment and retirement of any ratepayer-backed bonds, or  
6 refunding bonds, authorized under the financing order;

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

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

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

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

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

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

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

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

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

19 H. Upon the issuance of any financing order pursuant to this  
20 section, the periodic determination of factors for customer  
21 collection with true-up and reconciliation authorized by the  
22 financing order shall not be removed, adjusted or interrupted by any  
23 other regulatory determination of the Commission except where  
24 adjustments are warranted as a result of an audit of amounts

1 actually collected from customers and provided to the Authority or  
2 where insurance proceeds, government grants or other funding sources  
3 offset or reduce the amount of extreme purchase costs and  
4 extraordinary costs to be recovered from customers. No adjustments  
5 shall in any manner impair or prevent the collection of sufficient  
6 revenues to service and repay ratepayer-backed bonds.

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

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

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

20 B. The securitization property right under a financing order  
21 shall constitute a present property right for purposes of contracts  
22 concerning the sale or pledge of property, even though the  
23 imposition and collection of the relevant charges depend on future  
24 acts of the regulated utility, the Oklahoma Corporation Commission

1 and acts of others. The financing order shall remain in effect, and  
2 the property interest shall continue to exist for the same period as  
3 the maturity, with reasonable true-up and reconciliation periods set  
4 out in the financing order.

5 C. All revenues and collections received through the  
6 irrevocable and nonbypassable mechanism created pursuant to a  
7 financing order shall be the further property and right of the owner  
8 of the securitization property.

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

16 E. A valid and enforceable lien and security interest in  
17 securitization property may be created by a financing order and the  
18 execution and delivery of a security agreement with the Oklahoma  
19 Development Finance Authority in connection with the issuance of  
20 ratepayer-backed bonds. The lien and security interest shall attach  
21 automatically from the time the value is received by the Authority  
22 for the bonds and transferred to the regulated utility in exchange  
23 for securitization property and, on perfection through the filing of  
24 notice with the Oklahoma Secretary of State, shall be a continuously

1 perfected lien and security interest in the securitization property  
2 and all proceeds from the property shall have priority in the order  
3 of filing and take precedence over any subsequent judicial or other  
4 lien creditor.

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

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

16 H. The priority of a lien and security interest perfected under  
17 this section is not impaired by any later modification of the  
18 financing order or by the commingling of funds with other revenues  
19 paid by customers to the regulated utility, by utilities to the  
20 Authority or otherwise paid. If securitization property has been  
21 transferred to an assignee, any revenues related to that property  
22 shall be held in trust for the assignee.

23 I. If a default or termination occurs under the ratepayer-  
24 backed bonds, holders of the bonds or their representatives may

1 foreclose on or otherwise enforce their lien and security interest  
2 in any securitization property, and the Commission may require any  
3 revenues received under the irrevocable and nonbypassable mechanism  
4 created by a financing order be paid to a new holder of the  
5 securitization property.

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

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

- 13 1. To issue ratepayer-backed bonds as provided in this act;
- 14 2. To establish and adjust from time to time the actual cost of  
15 an administrative fee for the costs associated with the Authority  
16 carrying out its power and duties under this act, to include costs  
17 of the Corporation Commission incurred under Section 4 of this act.  
18 The fee shall be included in the calculation of utility customer  
19 payments created by the financing order; and
- 20 3. To do all things necessary or convenient to carry out the  
21 powers expressly granted in this act.

22 B. The Authority shall take the following actions:

- 23 1. To notify the Governor, President Pro Tempore of the Senate,  
24 the Speaker of the House of Representatives and the Oklahoma



1 Corporation Commission upon issuance of a ratepayer-backed bond.  
2 The notification shall be in writing and include the amount and  
3 terms of the bond; and

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

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

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

24

1       B. The Authority is hereby authorized to borrow money on the  
2 credit of the revenues to be derived from securitization property  
3 received under subsection A of this section, and in anticipation of  
4 the collection of revenues, issue negotiable bonds necessary for  
5 such purposes. The Authority shall provide for the payment of such  
6 bonds and the rights of the holders thereof, as hereinafter  
7 provided. Said bonds may be issued in one or more series, may be  
8 sold in such manner and at such price or prices, may bear such date  
9 or dates, may mature at such time or times, may be in such  
10 denomination or denominations, may be in such form either coupon or  
11 registered, may carry such registration or conversion privileges,  
12 may be executed in such manner, may be payable in such medium of  
13 payments, at such place or places, may be subject to such terms of  
14 redemption, with or without premium, and may bear such rate or rates  
15 of interest, and shall be subject to such call for redemption as may  
16 be provided by resolution or resolutions to be adopted by the  
17 Authority and are consistent with the terms of the financing order  
18 issued by the Commission. The bonds shall have all of the qualities  
19 and incidents of negotiable paper, and the bonds and the interest  
20 earned on the bonds shall not be subject to taxation by the state,  
21 or by any county, municipality or political subdivision therein.

22       C. The Authority may only pledge the securitization property  
23 and the revenues received from such property arising from a single  
24 financing order for a single series of bonds. No revenues arising

1 from a separate financing order shall be pledged for or used to  
2 repay the bonds or series issued with respect to a separate  
3 financing order.

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

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

23 F. 1. The ratepayer-backed bonds issued under this section  
24 shall not be an indebtedness of the state or of the Authority, but

1 shall be special obligations payable solely from revenues related to  
2 securitization property received under subsection A of this section.  
3 The Authority is authorized and directed to pledge all or any part  
4 of such revenues to the payment of principal and interest on the  
5 bonds and to create a reserve for such purposes.

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

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

12 G. The State Treasurer is hereby authorized to purchase from  
13 the Authority at private sale all or any part of the bonds issued  
14 under this section as an investment of the public monies in his or  
15 her possession. It shall be the responsibility of the State  
16 Treasurer to invest only that portion of the public monies as it  
17 deems to be more than sufficient to meet current expenditures  
18 payable from public monies. The State Treasurer is authorized to  
19 buy and the Authority is authorized and required to sell to the  
20 State Treasurer at private sale so many of the bonds authorized by  
21 this section as may be safely purchased for investment of public  
22 monies by the State Treasurer without handicapping the state in  
23 promptly meeting its obligations. The State Treasurer may later

24

1 sell the bonds as are necessary to ensure sufficient cash on hand is  
2 available to meet current expenditures payable from public monies.

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

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

18 J. In the event a regulated utility has or receives alternative  
19 funds directed by the Commission to be applied to a securitized  
20 balance, the regulated utility shall provide the funds to the  
21 Authority. The Authority shall deposit the funds with the State  
22 Treasury pursuant to subsection I of this section. If the funds are  
23 provided in advance of the bond issuance, the Authority shall use  
24 the funds and interest on the funds to pay expenses related to the

1 issuance, reduce the total bond debt service or reduce the size of  
2 the required issuance. If the funds are provided after the bond  
3 issuance, the Authority shall use the funds and interest on the  
4 funds to offset amounts that would otherwise be recovered from  
5 utility customers under this act.

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

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

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

1 to federal or state law or as determined by the Commission, shall be  
2 redacted.

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

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

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

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

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

24



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

4 If this act, or any provision hereof is, or may be deemed to be,  
5 in conflict or inconsistent with any of the provisions of Section 18  
6 through Section 34, inclusive, of Article IX of the Constitution of  
7 the State of Oklahoma, then, to the extent of any conflicts or  
8 inconsistencies, it is hereby expressly declared this entire act and  
9 this section are amendments to and alterations of such sections of  
10 the Constitution of the State of Oklahoma, as authorized by Section  
11 35 of Article IX of the Constitution of the State of Oklahoma.

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

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

- 18 1. ~~to~~ To adopt, amend, and repeal rules and regulations,  
19 policies, and procedures for the regulation of its affairs and the  
20 conduct of its business;
- 21 2. ~~to~~ To sue and be sued in its own name;
- 22 3. ~~to~~ To have an official seal and power to alter that seal at  
23 will;

24

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

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

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

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

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

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

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

8       28. To issue ratepayer-backed bonds pursuant to the February  
9 2021 Regulated Utility Consumer Protection Act.

10       SECTION 14.        AMENDATORY        62 O.S. 2011, Section 695.9, as  
11 last amended by Section 4, Chapter 53, O.S.L. 2019 (62 O.S. Supp.  
12 2020, Section 695.9), is amended to read as follows:

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



1 of indebtedness issued pursuant to the February 2021 Unregulated  
2 Utility Consumer Protection Act and the February 2021 Regulated  
3 Utility Consumer Protection Act.

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

13 2. With respect to bonds or indebtedness proposed to be issued  
14 by the Oklahoma Development Finance Authority which will be enhanced  
15 or supported pursuant to the Credit Enhancement Reserve Fund Act,  
16 the Council shall review the description of such proposed financing  
17 in accordance with paragraph 1 of this subsection and additionally  
18 shall approve or disapprove the proposed financing on a  
19 determination of sufficient compliance with the Rules Regarding the  
20 Administration of the Credit Enhancement Reserve Fund as implemented  
21 by the Oklahoma Development Finance Authority. Such determinations  
22 by the Council shall be based on a written report prepared for and  
23 provided to the Council by the Program Development and Credit Review  
24 Committee as provided in Section 5062.6a of Title 74 of the Oklahoma

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

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

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

23 5. In the event there is a substantial change in the nature or  
24 purpose of a proposed financing after approval by the Council, the

1 prior approval shall be void and the State Governmental Entity shall  
2 be required to seek approval from the Council in the manner provided  
3 in paragraph 1 of this subsection.

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

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

14 SECTION 15. It being immediately necessary for the preservation  
15 of the public peace, health or safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

18  
19 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS  
20 AND BUDGET, dated 04/14/2021 - DO PASS, As Amended.

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22  
23  
24