

1-1 By: Paddie, et al. (Senate Sponsor - Hancock) H.B. No. 1520
1-2 (In the Senate - Received from the House April 20, 2021;
1-3 May 13, 2021, read first time and referred to Committee on Natural
1-4 Resources & Economic Development; May 22, 2021, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 9, Nays 0; May 22, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Birdwell</u>	X		
1-10	<u>Zaffirini</u>	X		
1-11	<u>Alvarado</u>	X		
1-12	<u>Hancock</u>	X		
1-13	<u>Hinojosa</u>	X		
1-14	<u>Hughes</u>	X		
1-15	<u>Kolkhorst</u>	X		
1-16	<u>Lucio</u>	X		
1-17	<u>Seliger</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1520 By: Hancock

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to certain extraordinary costs incurred by certain gas
1-22 utilities relating to Winter Storm Uri and a study of measures to
1-23 mitigate similar future costs; providing authority to issue bonds
1-24 and impose fees and assessments.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 1232.002, Government Code, is amended to
1-27 read as follows:

1-28 Sec. 1232.002. PURPOSE. The purpose of this chapter is to
1-29 provide a method of financing for:

1-30 (1) the acquisition or construction of buildings;
1-31 [~~and~~]

1-32 (2) the purchase or lease of equipment by executive or
1-33 judicial branch state agencies; and

1-34 (3) customer rate relief bonds authorized by the
1-35 Railroad Commission of Texas in accordance with Subchapter I,
1-36 Chapter 104, Utilities Code.

1-37 SECTION 2. Section 1232.066(a), Government Code, is amended
1-38 to read as follows:

1-39 (a) The board's authority under this chapter is limited to
1-40 the financing of:

1-41 (1) the acquisition or construction of a building;

1-42 (2) the purchase or lease of equipment; [~~or~~]

1-43 (3) stranded costs of a municipal power agency; or

1-44 (4) customer rate relief bonds approved by the
1-45 Railroad Commission of Texas in accordance with Subchapter I,
1-46 Chapter 104, Utilities Code.

1-47 SECTION 3. Subchapter C, Chapter 1232, Government Code, is
1-48 amended by adding Section 1232.1072 to read as follows:

1-49 Sec. 1232.1072. ISSUANCE OF OBLIGATIONS FOR FINANCING
1-50 CUSTOMER RATE RELIEF PROPERTY. (a) The definitions in Section
1-51 104.362, Utilities Code, apply to terms used in this section.

1-52 (b) The authority may create an issuing financing entity for
1-53 the purpose of issuing customer rate relief bonds approved by the
1-54 Railroad Commission of Texas in a financing order, as provided by
1-55 Subchapter I, Chapter 104, Utilities Code.

1-56 (c) An issuing financing entity created under this section
1-57 is a duly constituted public authority and instrumentality of the
1-58 state and is authorized to issue customer rate relief bonds on
1-59 behalf of the state for the purposes of Section 103, Internal
1-60 Revenue Code of 1986 (26 U.S.C. Section 103).

2-1 (d) The issuing financing entity must be governed by a
2-2 governing board of three members appointed by the authority. A
2-3 member of the governing board may be a current or former director of
2-4 the authority. A member of the governing board serves without
2-5 compensation but is entitled to reimbursement for travel expenses
2-6 incurred in attending board meetings.

2-7 (e) The issuing financing entity must be formed in
2-8 accordance with, be governed by, and have the powers, rights, and
2-9 privileges provided for a nonprofit corporation organized under the
2-10 Business Organizations Code, including Chapter 22 of that code,
2-11 subject to the express exceptions and limitations provided by this
2-12 section and Subchapter I, Chapter 104, Utilities Code. A single
2-13 organizer selected by the executive director of the authority shall
2-14 prepare the certificate of formation of the issuing financing
2-15 entity under Chapters 3 and 22, Business Organizations Code. The
2-16 certificate of formation must be consistent with the provisions of
2-17 this section.

2-18 (f) The authority shall establish the issuing financing
2-19 entity to act on behalf of the state as its duly constituted
2-20 authority and instrumentality to issue customer rate relief bonds
2-21 approved under Subchapter I, Chapter 104, Utilities Code.

2-22 (g) On a request to the authority from the Railroad
2-23 Commission of Texas, the authority shall direct an issuing
2-24 financing entity to issue customer rate relief bonds in accordance
2-25 with a financing order issued by the railroad commission as
2-26 provided in Subchapter I, Chapter 104, Utilities Code.

2-27 (h) Before the issuance of any customer rate relief bonds,
2-28 the authority and the Railroad Commission of Texas shall ensure
2-29 that adequate provision is made in any financing order for the
2-30 recovery of all issuance costs and all other fees, costs, and
2-31 expenses of the authority, the issuing financing entity, and any
2-32 advisors or counsel hired by the authority or the entity for the
2-33 purposes of this section during the life of the customer rate relief
2-34 bonds.

2-35 (i) Customer rate relief bonds are limited obligations of
2-36 the issuing financing entity payable solely from customer rate
2-37 relief property and any other money pledged by the issuing
2-38 financing entity to the payment of the bonds and are not a debt of
2-39 this state, the Railroad Commission of Texas, the authority, or a
2-40 gas utility.

2-41 (j) The Railroad Commission of Texas shall ensure that
2-42 customer rate relief charges are imposed, collected, and enforced
2-43 in an amount sufficient to pay on a timely basis all bond
2-44 obligations, financing costs, and bond administrative expenses
2-45 associated with any issuance of customer rate relief bonds.

2-46 (k) The authority and the Railroad Commission of Texas have
2-47 all the powers necessary to perform the duties and responsibilities
2-48 described by this section. This section shall be interpreted
2-49 broadly in a manner consistent with the most cost-effective
2-50 financing of customer rate relief property, including regulatory
2-51 assets, extraordinary costs, and related financing costs approved
2-52 by the Railroad Commission of Texas in accordance with Subchapter
2-53 I, Chapter 104, Utilities Code.

2-54 (l) Any interest on the customer rate relief bonds is not
2-55 subject to taxation by and may not be included as part of the
2-56 measurement of a tax by this state or a political subdivision of
2-57 this state.

2-58 (m) The authority shall make periodic reports to the
2-59 Railroad Commission of Texas and the public regarding each
2-60 financing made in accordance with Section 104.373(b), Utilities
2-61 Code, and if required by the applicable financing order.

2-62 (n) The issuing financing entity shall issue customer rate
2-63 relief bonds in accordance with and subject to other provisions of
2-64 Title 9 applicable to the authority.

2-65 (o) The issuing financing entity may exercise the powers
2-66 granted to the governing body of an issuer with regard to the
2-67 issuance of obligations and the execution of credit agreements
2-68 under Chapter 1371. A purpose for which bonds, obligations, or
2-69 other evidences of indebtedness are issued under this section and

3-1 Subchapter I, Chapter 104, Utilities Code, constitutes an eligible
 3-2 project for purposes of Chapter 1371 of this code.

3-3 (p) Assets of an issuing financing entity may not be
 3-4 considered part of any state fund and must be held outside the state
 3-5 treasury. The liabilities of the issuing financing entity may not
 3-6 be considered to be a debt of the state or a pledge of the state's
 3-7 credit. An issuing financing entity must be self-funded from
 3-8 customer rate relief property and established in accordance with
 3-9 Subchapter I, Chapter 104, Utilities Code. A state agency may
 3-10 provide money appropriated for the purpose to the issuing financing
 3-11 entity to provide for initial operational expenses of the issuing
 3-12 financing entity.

3-13 SECTION 4. Section 1232.108, Government Code, is amended to
 3-14 read as follows:

3-15 Sec. 1232.108. LEGISLATIVE AUTHORIZATION REQUIRED. Except
 3-16 as permitted by Section 1232.1072, 1232.109, 2166.452, or 2166.453,
 3-17 before the board may issue and sell bonds, the legislature by the
 3-18 General Appropriations Act or other law must have authorized:

3-19 (1) the specific project for which the bonds are to be
 3-20 issued and sold; and

3-21 (2) the estimated cost of the project or the maximum
 3-22 amount of bonded indebtedness that may be incurred by the issuance
 3-23 and sale of bonds for the project.

3-24 SECTION 5. Chapter 104, Utilities Code, is amended by
 3-25 adding Subchapter I to read as follows:

3-26 SUBCHAPTER I. CUSTOMER RATE RELIEF BONDS

3-27 Sec. 104.361. PURPOSE; RAILROAD COMMISSION DUTY. (a) The
 3-28 purpose of this subchapter is to reduce the cost that customers
 3-29 would otherwise experience because of extraordinary costs that gas
 3-30 utilities incurred to secure gas supply and provide service during
 3-31 Winter Storm Uri, and to restore gas utility systems after that
 3-32 event, by providing securitization financing for gas utilities to
 3-33 recover those costs. The securitization financing mechanism
 3-34 authorized by this subchapter will:

3-35 (1) provide rate relief to customers by extending the
 3-36 period during which the costs described by this subsection are
 3-37 recovered from customers; and

3-38 (2) support the financial strength and stability of
 3-39 gas utility companies.

3-40 (b) The railroad commission shall ensure that
 3-41 securitization provides tangible and quantifiable benefits to
 3-42 customers, greater than would have been achieved absent the
 3-43 issuance of customer rate relief bonds.

3-44 Sec. 104.362. DEFINITIONS. In this subchapter:

3-45 (1) "Ancillary agreement" means a financial
 3-46 arrangement entered into in connection with the issuance or payment
 3-47 of customer rate relief bonds that enhances the marketability,
 3-48 security, or creditworthiness of customer rate relief bonds,
 3-49 including a bond, insurance policy, letter of credit, reserve
 3-50 account, surety bond, interest rate or currency swap arrangement,
 3-51 interest rate lock agreement, forward payment conversion
 3-52 agreement, credit agreement, other hedging arrangement, or
 3-53 liquidity or credit support arrangement.

3-54 (2) "Authority" means the Texas Public Finance
 3-55 Authority.

3-56 (3) "Bond administrative expenses" means all costs and
 3-57 expenses incurred by the railroad commission, the authority, or any
 3-58 issuing financing entity to evaluate, issue, and administer
 3-59 customer rate relief bonds issued under this subchapter, including
 3-60 fees and expenses of the authority, any bond administrator, and the
 3-61 issuing financing entity, fees for paying agents, trustees, and
 3-62 attorneys, and fees for paying for other consulting and
 3-63 professional services necessary to ensure compliance with this
 3-64 subchapter, applicable state or federal law, and the terms of the
 3-65 financing order.

3-66 (4) "Bond obligations" means the principal of a
 3-67 customer rate relief bond and any premium and interest on a customer
 3-68 rate relief bond issued under this subchapter, together with any
 3-69 amount owed under a related ancillary agreement or credit

4-1 agreement.

4-2 (5) "Credit agreement" has the meaning assigned by
4-3 Section 1371.001, Government Code.

4-4 (6) "Customer rate relief bonds" means bonds, notes,
4-5 certificates, or other evidence of indebtedness or ownership the
4-6 proceeds of which are used directly or indirectly to recover,
4-7 finance, or refinance regulatory assets approved by the railroad
4-8 commission, including extraordinary costs and related financing
4-9 costs, and that are:

4-10 (A) issued by an issuing financing entity under a
4-11 financing order; and

4-12 (B) payable from and secured by customer rate
4-13 relief property and amounts on deposit in any trust accounts
4-14 established for the benefit of the customer rate relief bondholders
4-15 as approved by the applicable financing order.

4-16 (7) "Customer rate relief charges" means the amounts
4-17 authorized by the railroad commission as nonbypassable charges to
4-18 repay, finance, or refinance regulatory assets, including
4-19 extraordinary costs, financing costs, bond administrative
4-20 expenses, and other costs authorized by the financing order:

4-21 (A) imposed on and included in customer bills of
4-22 a gas utility that has received a regulatory asset determination
4-23 under Section 104.365;

4-24 (B) collected in full by a gas utility that has
4-25 received a regulatory asset determination under Section 104.365, or
4-26 its successors or assignees, or a collection agent, as servicer,
4-27 separate and apart from the gas utility's base rates; and

4-28 (C) paid by all existing or future customers
4-29 receiving service from a gas utility that has received a regulatory
4-30 asset determination under Section 104.365 or its successors or
4-31 assignees, even if a customer elects to purchase gas from an
4-32 alternative gas supplier.

4-33 (8) "Customer rate relief property" means:

4-34 (A) all rights and interests of an issuing
4-35 financing entity or any successor under a financing order,
4-36 including the right to impose, bill, collect, and receive customer
4-37 rate relief charges authorized in the financing order and to obtain
4-38 periodic adjustments to those customer rate relief charges as
4-39 provided in the financing order and in accordance with Section
4-40 104.370; and

4-41 (B) all revenues, collections, claims, rights to
4-42 payments, payments, money, or proceeds arising from the rights and
4-43 interests specified by Paragraph (A), regardless of whether the
4-44 revenues, collections, claims, rights to payments, payments,
4-45 money, or proceeds are imposed, billed, received, collected, or
4-46 maintained together with or commingled with other revenues,
4-47 collections, rights to payments, payments, money, or proceeds.

4-48 (9) "Financing costs" means any of the following:

4-49 (A) interest and acquisition, defeasance, or
4-50 redemption premiums that are payable on customer rate relief bonds;

4-51 (B) a payment required under an ancillary
4-52 agreement or credit agreement or an amount required to fund or
4-53 replenish reserve or other accounts established under the terms of
4-54 an indenture, ancillary agreement, or other financing document
4-55 pertaining to customer rate relief bonds;

4-56 (C) issuance costs or ongoing costs related to
4-57 supporting, repaying, servicing, or refunding customer rate relief
4-58 bonds, including servicing fees, accounting or auditing fees,
4-59 trustee fees, legal fees or expenses, consulting fees,
4-60 administrative fees, printing fees, financial advisor fees or
4-61 expenses, Securities and Exchange Commission registration fees,
4-62 issuer fees, bond administrative expenses, placement and
4-63 underwriting fees, capitalized interest, overcollateralization
4-64 funding requirements including amounts to fund or replenish any
4-65 reserve established for a series of customer rate relief bonds,
4-66 rating agency fees, stock exchange listing and compliance fees,
4-67 filing fees, and any other bond administrative expenses; and

4-68 (D) the costs to the railroad commission of
4-69 acquiring professional or consulting services for the purpose of

5-1 evaluating extraordinary costs under this subchapter.
5-2 (10) "Financing order" means an order adopted under
5-3 Section 104.366 approving the issuance of customer rate relief
5-4 bonds and the creation of customer rate relief property and
5-5 associated customer rate relief charges for the recovery of
5-6 regulatory assets, including extraordinary costs, related
5-7 financing costs, and other costs authorized by the financing order.
5-8 (11) "Financing party" means a holder of customer rate
5-9 relief bonds, including a trustee, a pledgee, a collateral agent,
5-10 any party under an ancillary agreement, or other person acting for
5-11 the holder's benefit.
5-12 (12) "Gas utility" means:
5-13 (A) an operator of natural gas distribution
5-14 pipelines that delivers and sells natural gas to the public and that
5-15 is subject to the railroad commission's jurisdiction under Section
5-16 102.001; or
5-17 (B) an operator that transmits, transports,
5-18 delivers, or sells natural gas or synthetic natural gas to
5-19 operators of natural gas distribution pipelines and whose rates for
5-20 those services are established by the railroad commission in a rate
5-21 proceeding filed under this chapter.
5-22 (13) "Issuing financing entity" means a special
5-23 purpose nonmember, nonstock, nonprofit public corporation
5-24 established by the authority under Section 1232.1072, Government
5-25 Code.
5-26 (14) "Nonbypassable" means a charge that:
5-27 (A) must be paid by all existing or future
5-28 customers receiving service from a gas utility that has received a
5-29 regulatory asset determination under Section 104.365 or the gas
5-30 utility's successors or assignees, even if a customer elects to
5-31 purchase gas from an alternative gas supplier; and
5-32 (B) may not be offset by any credit.
5-33 (15) "Normalized market pricing" means the average
5-34 monthly pricing at the Henry Hub for the three months immediately
5-35 preceding the month during which extraordinary costs were incurred,
5-36 plus contractual adders to the index price and other non-indexed
5-37 gas procurement costs.
5-38 (16) "Regulatory asset" includes extraordinary costs:
5-39 (A) recorded by a gas utility in the utility's
5-40 books and records in accordance with the uniform system of accounts
5-41 prescribed for natural gas companies subject to the provisions of
5-42 the Natural Gas Act (15 U.S.C. Section 717 et seq.) by the Federal
5-43 Energy Regulatory Commission and generally accepted accounting
5-44 principles; or
5-45 (B) classified as a receivable or financial asset
5-46 under international financial reporting standards under the
5-47 railroad commission's authorization in the Notice of Authorization
5-48 for Regulatory Asset Accounting for Local Distribution Companies
5-49 Affected by the February 2021 Winter Weather Event issued February
5-50 13, 2021.
5-51 (17) "Servicer" means, with respect to each issuance
5-52 of customer rate relief bonds, the entity identified by the
5-53 railroad commission in the financing order as servicer responsible
5-54 for collecting customer rate relief charges from participating gas
5-55 utilities, remitting all collected funds to the applicable issuing
5-56 financing entity or the bond trustee, calculating true-up
5-57 adjustments, and performing any other duties as specified in the
5-58 financing order.
5-59 (18) "Winter Storm Uri" means the North American
5-60 winter storm that occurred in February 2021.
5-61 Sec. 104.363. EXTRAORDINARY COSTS. For the purposes of
5-62 this subchapter, extraordinary costs are the reasonable and
5-63 necessary costs related to Winter Storm Uri, including carrying
5-64 costs, placed in a regulatory asset and approved by the railroad
5-65 commission in a regulatory asset determination under Section
5-66 104.365.
5-67 Sec. 104.364. JURISDICTION AND POWERS OF RAILROAD
5-68 COMMISSION AND OTHER REGULATORY AUTHORITIES. (a) The railroad
5-69 commission may authorize the issuance of customer rate relief bonds

6-1 if the requirements of Section 104.366 are met.

6-2 (b) The railroad commission may assess to a gas utility
6-3 costs associated with administering this subchapter. Assessments
6-4 must be recovered from rate-regulated customers as part of gas
6-5 cost.

6-6 (c) The railroad commission has exclusive, original
6-7 jurisdiction to issue financing orders that authorize the creation
6-8 of customer rate relief property. Customer rate relief property
6-9 must be created and vested in an issuing financing entity and does
6-10 not constitute property of the railroad commission or any gas
6-11 utility.

6-12 (d) Except as provided by Subsection (c), this subchapter
6-13 does not limit or impair a regulatory authority's plenary
6-14 jurisdiction over the rates, charges, and services rendered by gas
6-15 utilities in this state under Chapter 102.

6-16 Sec. 104.365. REGULATORY ASSET DETERMINATION. (a) The
6-17 railroad commission, on application of a gas utility to recover a
6-18 regulatory asset, shall determine the regulatory asset amount to be
6-19 recovered by the gas utility. A gas utility may request recovery of
6-20 a regulatory asset under this subchapter only if the regulatory
6-21 asset is related to Winter Storm Uri.

6-22 (b) A gas utility desiring to participate in the customer
6-23 rate relief bond process under a financing order by requesting
6-24 recovery of a regulatory asset must file an application with the
6-25 railroad commission on or before the 60th day after the effective
6-26 date of the Act enacting this subchapter.

6-27 (c) If the railroad commission does not make a final
6-28 determination regarding the regulatory asset amount to be recovered
6-29 by a gas utility before the 91st day after the gas utility files the
6-30 application, the railroad commission is considered to have approved
6-31 the regulatory asset amount requested by the gas utility.

6-32 (d) The regulatory asset determination is not subject to
6-33 reduction, impairment, or adjustment by further action of the
6-34 railroad commission, except as authorized by Section 104.370.

6-35 (e) The regulatory asset determination is not subject to
6-36 rehearing by the railroad commission and may be appealed only to a
6-37 Travis County district court by a party to the proceeding. The
6-38 appeal must be filed not later than the 15th day after the date the
6-39 order is signed by the railroad commission.

6-40 (f) The judgment of the district court may be reviewed only
6-41 by direct appeal to the Supreme Court of Texas. The appeal must be
6-42 filed not later than the 15th day after the date of entry of
6-43 judgment.

6-44 (g) All appeals shall be heard and determined by the
6-45 district court and the Supreme Court of Texas as expeditiously as
6-46 possible with lawful precedence over other matters. Review on
6-47 appeal shall be based solely on the record before the railroad
6-48 commission and briefs to the court and limited to whether the
6-49 financing order:

6-50 (1) complies with the constitution and laws of this
6-51 state and the United States; and

6-52 (2) is within the authority of the railroad commission
6-53 to issue under this subchapter.

6-54 (h) The railroad commission shall establish a schedule,
6-55 filing requirements, and a procedure for determining the prudence
6-56 of the costs included in a gas utility's regulatory asset.

6-57 (i) To the extent a gas utility subject to this subchapter
6-58 receives insurance proceeds, governmental grants, or other sources
6-59 of funding that compensate or otherwise reimburse or indemnify the
6-60 gas utility for extraordinary costs following the issuance of
6-61 customer rate relief bonds, the gas utility may record the amount in
6-62 a regulatory liability account and that amount shall be reviewed in
6-63 a future proceeding. If an audit conducted under a valid gas
6-64 purchase agreement identifies a change of greater than five percent
6-65 to the total amount of the gas supply costs incurred during the
6-66 event for which regulatory asset recovery was approved, the gas
6-67 utility may record the amount in a regulatory asset or regulatory
6-68 liability account and that amount shall be reviewed for recovery in
6-69 a future proceeding.

7-1 Sec. 104.366. FINANCING ORDERS AND ISSUANCE OF CUSTOMER
 7-2 RATE RELIEF BONDS. (a) If the railroad commission determines that
 7-3 customer rate relief bond financing for extraordinary costs is the
 7-4 most cost-effective method of funding regulatory asset
 7-5 reimbursements to be made to gas utilities, the railroad
 7-6 commission, after the final resolution of all applications filed
 7-7 under Section 104.365, may request the authority to direct an
 7-8 issuing financing entity to issue customer rate relief bonds.
 7-9 Before making the request, the railroad commission must issue a
 7-10 financing order that complies with this section.

7-11 (b) To make the determination described by Subsection (a),
 7-12 the railroad commission must find that the proposed structuring,
 7-13 expected pricing, and proposed financing costs of the customer rate
 7-14 relief bonds are reasonably expected to provide benefits to
 7-15 customers by:

7-16 (1) considering customer affordability; and

7-17 (2) comparing:

7-18 (A) the estimated monthly costs to customers
 7-19 resulting from the issuance of customer rate relief bonds; and

7-20 (B) the estimated monthly costs to customers that
 7-21 would result from the application of conventional recovery methods.

7-22 (c) The financing order must:

7-23 (1) include a finding that the use of the
 7-24 securitization financing mechanism is in the public interest and
 7-25 consistent with the purposes of this subchapter;

7-26 (2) detail the total amount of the regulatory asset
 7-27 determinations to be included in the customer rate relief bond
 7-28 issuance;

7-29 (3) authorize the recovery of any tax obligation of
 7-30 the gas utilities arising or resulting from:

7-31 (A) receipt of customer rate relief bond
 7-32 proceeds; or

7-33 (B) collection or remittance of customer rate
 7-34 relief charges through the gas utilities' gas cost recovery
 7-35 mechanism or other means that the railroad commission determines
 7-36 reasonable;

7-37 (4) authorize the issuance of customer rate relief
 7-38 bonds through an issuing financing entity;

7-39 (5) include a statement of:

7-40 (A) the aggregated regulatory asset
 7-41 determination to be included in the principal amount of the
 7-42 customer rate relief bonds, not to exceed \$10 billion for any
 7-43 separate bond issue;

7-44 (B) the maximum scheduled final maturity of the
 7-45 customer rate relief bonds, not to exceed 30 years, except that the
 7-46 legal final maturity may be longer based on rating agency and market
 7-47 considerations; and

7-48 (C) the maximum interest rate that the customer
 7-49 rate relief bonds may bear, not to exceed the maximum net effective
 7-50 interest rate allowed by law;

7-51 (6) provide for the imposition, collection, and
 7-52 mandatory periodic formulaic adjustment of customer rate relief
 7-53 charges in accordance with Section 104.370 by all gas utilities and
 7-54 successors of gas utilities for which a regulatory asset
 7-55 determination has been made under Section 104.365 to ensure that
 7-56 the customer rate relief bonds and all related financing costs will
 7-57 be paid in full and on a timely basis by customer rate relief
 7-58 charges;

7-59 (7) authorize the creation of customer rate relief
 7-60 property in favor of the issuing financing entity and pledge of
 7-61 customer rate relief property to the payment of the customer rate
 7-62 relief bonds;

7-63 (8) direct the issuing financing entity to disperse
 7-64 the proceeds of customer rate relief bonds, net of bond issuance
 7-65 costs, reserves, and any capitalized interest, to gas utilities for
 7-66 which a regulatory asset determination has been made under Section
 7-67 104.365 and include the amounts to be distributed to each
 7-68 participating gas utility;

7-69 (9) provide that customer rate relief charges be

8-1 collected and allocated among customers of each gas utility for
 8-2 which a regulatory determination has been made under Section
 8-3 104.365 through uniform monthly volumetric charges to be paid by
 8-4 customers as a component of the gas utility's gas cost or in another
 8-5 manner that the railroad commission determines reasonable; and

8-6 (10) reflect the commitment made by a gas utility
 8-7 receiving proceeds that the proceeds are in lieu of recovery of
 8-8 those costs through the regular ratemaking process or other
 8-9 mechanism to the extent the costs are reimbursed to the gas utility
 8-10 by customer rate relief bond financing proceeds.

8-11 (d) The financing order may provide for a centralized
 8-12 servicer to coordinate with participating gas utilities who bill
 8-13 and collect customer rate relief charges and to provide certain
 8-14 collection and forecast data required for calculating true-up
 8-15 adjustments. The financing order may not provide for the railroad
 8-16 commission, the authority, the issuing financing entity, or a
 8-17 participating utility to act as servicer.

8-18 (e) The principal amount determined by the railroad
 8-19 commission must be increased to include an amount sufficient to:

8-20 (1) pay the financing costs associated with the
 8-21 issuance, including all bond administrative expenses to be paid
 8-22 from the proceeds of the bonds;

8-23 (2) reimburse the authority and the railroad
 8-24 commission for any costs incurred for the issuance of the customer
 8-25 rate relief bonds and related bond administrative expenses;

8-26 (3) provide for any applicable bond reserve fund; and

8-27 (4) capitalize interest for the period determined
 8-28 necessary by the railroad commission.

8-29 (f) The authority, consistent with this subchapter and the
 8-30 terms of the financing order, shall:

8-31 (1) direct an issuing financing entity to issue
 8-32 customer rate relief bonds at the railroad commission's request, in
 8-33 accordance with the requirements of Chapter 1232, Government Code,
 8-34 and other provisions of Title 9, Government Code, that apply to bond
 8-35 issuance by a state agency;

8-36 (2) determine the methods of sale, types of bonds,
 8-37 bond forms, interest rates, principal amortization, amount of
 8-38 reserves or capitalized interest, and other terms of the customer
 8-39 rate relief bonds that in the authority's judgment best achieve the
 8-40 economic goals of the financing order and effect the financing at
 8-41 the lowest practicable cost; and

8-42 (3) reimburse the railroad commission, the authority,
 8-43 or any issuing financing entity for bond administrative expenses
 8-44 and other costs authorized under this subchapter.

8-45 (g) To the extent authorized in the applicable financing
 8-46 order, an issuing financing entity may enter into credit agreements
 8-47 or ancillary agreements in connection with the issuance of customer
 8-48 rate relief bonds.

8-49 (h) The financing order becomes effective in accordance
 8-50 with its terms. The financing order, together with the customer
 8-51 rate relief property and the customer rate relief charges
 8-52 authorized by the financing order, is irrevocable and not subject
 8-53 to reduction, impairment, or adjustment by further action of the
 8-54 railroad commission, except as provided under Subsection (j) and
 8-55 authorized by Section 104.370.

8-56 (i) The railroad commission shall issue a financing order
 8-57 under this section not later than the 90th day following the date of
 8-58 the conclusion of all proceedings filed under Section 104.365.

8-59 (j) A financing order is not subject to rehearing by the
 8-60 railroad commission. A financing order may be appealed only to a
 8-61 Travis County district court by a party to the proceeding. The
 8-62 appeal must be filed not later than the 15th day after the date the
 8-63 financing order is signed by the railroad commission.

8-64 (k) The judgment of the district court may be reviewed only
 8-65 by direct appeal to the Supreme Court of Texas. The appeal must be
 8-66 filed not later than the 15th day after the date of entry of
 8-67 judgment.

8-68 (l) All appeals shall be heard and determined by the
 8-69 district court and the Supreme Court of Texas as expeditiously as

9-1 possible with lawful precedence over other matters. Review on
 9-2 appeal shall be based solely on the record before the railroad
 9-3 commission and briefs to the court and is limited to whether the
 9-4 financing order:

9-5 (1) complies with the constitution and laws of this
 9-6 state and the United States; and

9-7 (2) is within the authority of the railroad commission
 9-8 to issue under this subchapter.

9-9 (m) The railroad commission shall transmit a financing
 9-10 order to the authority after all appeals under this section have
 9-11 been exhausted.

9-12 (n) The authority shall direct an issuing financing entity
 9-13 to issue customer rate relief bonds as soon as practicable and not
 9-14 later than the 180th day after receipt of a financing order issued
 9-15 under this section, except that the authority may cause the
 9-16 issuance after the 180th day if necessary based on bond market
 9-17 conditions, the receipt of necessary approvals, and the timely
 9-18 receipt of necessary financial disclosure information from each
 9-19 participating gas utility.

9-20 (o) The issuing financing entity shall deliver customer
 9-21 rate relief bond proceeds net of upfront financing costs in
 9-22 accordance with the applicable financing order.

9-23 (p) For the benefit of the authority, the issuing financing
 9-24 entity, holders of customer rate relief bonds, and all other
 9-25 financing parties, the railroad commission shall guarantee in a
 9-26 financing order that the railroad commission will take all actions
 9-27 in the railroad commission's powers to enforce the provisions of
 9-28 the financing order to ensure that customer rate relief charge
 9-29 revenues are sufficient to pay on a timely basis scheduled
 9-30 principal and interest on the customer rate relief bonds and all
 9-31 related financing costs and bond administrative expenses.

9-32 (q) The railroad commission shall make periodic reports to
 9-33 the public regarding each financing.

9-34 Sec. 104.367. PROPERTY RIGHTS. (a) Customer rate relief
 9-35 bonds are the limited obligation solely of the issuing financing
 9-36 entity and are not a debt of a gas utility or a debt or a pledge of
 9-37 the faith and credit of this state or any political subdivision of
 9-38 this state.

9-39 (b) Customer rate relief bonds are nonrecourse to the credit
 9-40 or any assets of this state or the authority. A trust fund created
 9-41 in connection with the issuance of customer rate relief bonds is not
 9-42 subject to Subtitle B, Title 9, Property Code.

9-43 (c) The rights and interests of an issuing financing entity
 9-44 or the successor under a financing order, including the right to
 9-45 receive customer rate relief charges authorized in the financing
 9-46 order, are only contract rights until pledged in connection with
 9-47 the issuance of the customer rate relief bonds, at which time the
 9-48 rights and interests become customer rate relief property.

9-49 (d) Customer rate relief property created under a financing
 9-50 order is vested ab initio in the issuing financing entity. Customer
 9-51 rate relief property constitutes a present property right for
 9-52 purposes of contracts concerning the sale or pledge of property,
 9-53 notwithstanding that the imposition and collection of customer rate
 9-54 relief charges depends on further acts of the gas utility or others
 9-55 that have not yet occurred. The financing order remains in effect,
 9-56 and the customer rate relief property continues to exist, for the
 9-57 same period as the pledge of the state described by Section 104.374.

9-58 (e) All revenue and collections resulting from customer
 9-59 rate relief charges constitute proceeds only of a property right
 9-60 arising from the financing order.

9-61 (f) An amount owed by an issuing financing entity under an
 9-62 ancillary agreement or a credit agreement is payable from and
 9-63 secured by a pledge and interest in the customer rate relief
 9-64 property to the extent provided in the documents evidencing the
 9-65 ancillary agreement or credit agreement.

9-66 Sec. 104.368. PROPERTY INTEREST NOT SUBJECT TO SETOFF,
 9-67 COUNTERCLAIM, SURCHARGE, OR DEFENSE. The interest of an issuing
 9-68 financing entity or pledgee in customer rate relief property,
 9-69 including the revenue and collections arising from customer rate

relief charges, is not subject to setoff, counterclaim, surcharge, or defense by the gas utility or any other person or in connection with the bankruptcy of the gas utility, the authority, or any other entity. A financing order remains in effect and unabated notwithstanding the bankruptcy of the gas utility, the authority, an issuing financing entity, or any successor or assignee of the gas utility, authority, or issuing financing entity.

Sec. 104.369. CUSTOMER RATE RELIEF CHARGES NONBYPASSABLE. A financing order must include terms ensuring that the imposition and collection of the customer rate relief charges authorized in the order are nonbypassable.

Sec. 104.370. TRUE-UP MECHANISM. (a) A financing order must include a formulaic true-up charge adjustment mechanism that requires that the customer rate relief charges be reviewed and adjusted at least annually by the servicer or replacement servicer, including a subservicer or replacement subservicer, at time periods and frequencies provided in the financing order, to:

(1) correct any overcollections or undercollections of the preceding 12 months; and

(2) ensure the expected recovery of amounts sufficient to provide for the timely payment of customer rate relief bond principal and interest payments and other financing costs.

(b) True-up charge adjustments must become effective not later than the 30th day after the date the railroad commission receives a true-up charge adjustment letter from the servicer or replacement servicer notifying the railroad commission of the pending adjustment.

(c) Any administrative review of true-up charge adjustments must be limited to notifying the servicer of mathematical or clerical errors in the calculation. The servicer may correct the error and refile a true-up charge adjustment letter, with the adjustment becoming effective as soon as practicable but not later than the 30th day after the date the railroad commission receives the refiled letter.

Sec. 104.371. SECURITY INTERESTS; ASSIGNMENT; COMMINGLING; DEFAULT. (a) Customer rate relief property does not constitute an account or general intangible under Section 9.106, Business & Commerce Code. The creation, granting, perfection, and enforcement of liens and security interests in customer rate relief property that secures customer rate relief bonds are governed by Chapter 1208, Government Code.

(b) The priority of a lien and security interest perfected under this section is not impaired by any later adjustment of customer rate relief charges under a mechanism adopted under Section 104.370 or by the commingling of funds arising from customer rate relief charges with other funds. Any other security interest that may apply to those funds is terminated when the funds are transferred to a segregated account for the issuing financing entity or a financing party. If customer rate relief property has been transferred to a trustee or another pledgee of the issuing financing entity, any proceeds of that property must be held in trust for the financing party.

(c) If a default or termination occurs under the customer rate relief bonds, a district court of Travis County, on application by or on behalf of the financing parties, shall order the sequestration and payment to the financing parties of revenue arising from the customer rate relief charges.

Sec. 104.372. BOND PROCEEDS IN TRUST. (a) The issuing financing entity may deposit proceeds of customer rate relief bonds issued by the issuing financing entity under this subchapter with a trustee selected by the issuing financing entity or the proceeds may be held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

(b) Bond proceeds, net of the financing costs and reserves described by Subdivisions (2) and (3), including investment income, must be held in trust for the exclusive benefit of the railroad commission's policy of reimbursing gas utility costs and applied in accordance with the financing order. The issuing financing entity shall deliver the net proceeds, as provided in the applicable

11-1 financing order, to:

11-2 (1) reimburse each gas utility the regulatory asset
 11-3 amount determined to be reasonable for that gas utility in the
 11-4 financing order;

11-5 (2) pay the financing costs of issuing the bonds; and

11-6 (3) provide bond reserves or fund any capitalized
 11-7 interest, as applicable.

11-8 (c) On full payment of the customer rate relief bonds and
 11-9 any related financing costs, any customer rate relief charges or
 11-10 other amounts held as security for the bonds shall be used to
 11-11 provide credits to gas utility customers as provided in the
 11-12 financing order.

11-13 Sec. 104.373. REPAYMENT OF CUSTOMER RATE RELIEF BONDS. (a)
 11-14 As long as any customer rate relief bonds or related financing costs
 11-15 remain outstanding, uniform monthly volumetric customer rate
 11-16 relief charges must be paid by all current and future customers that
 11-17 receive service from a gas utility for which a regulatory asset
 11-18 determination has been made under Section 104.365. A gas utility
 11-19 and its successors, assignees, or replacements shall continue to
 11-20 bill and collect customer rate relief charges from the gas
 11-21 utility's current and future customers until all customer rate
 11-22 relief bonds and financing costs are paid in full.

11-23 (b) The authority shall report to the railroad commission
 11-24 the amount of the outstanding customer rate relief bonds issued by
 11-25 the issuing financing entity under this subchapter and the
 11-26 estimated amount of annual bond administrative expenses.

11-27 (c) All revenue collected from the customer rate relief
 11-28 charges shall be remitted promptly by the applicable servicers to
 11-29 the issuing financing entity or the bond trustee for the customer
 11-30 rate relief bonds to pay bond obligations and ongoing financing
 11-31 costs, including bond administrative expenses, to ensure timely
 11-32 payment of bond obligations and financing costs.

11-33 (d) Customer rate relief property, including customer rate
 11-34 relief charges, may be applied only as provided by this subchapter.

11-35 (e) Bond obligations are payable only from sources provided
 11-36 for payment by this subchapter.

11-37 Sec. 104.374. PLEDGE OF STATE. (a) Customer rate relief
 11-38 bonds issued under this subchapter and any related ancillary
 11-39 agreements or credit agreements are not a debt or pledge of the
 11-40 faith and credit of this state or a state agency or political
 11-41 subdivision of this state. A customer rate relief bond, ancillary
 11-42 agreement, or credit agreement is payable solely from customer rate
 11-43 relief charges as provided by this subchapter.

11-44 (b) Notwithstanding Subsection (a), this state, including
 11-45 the railroad commission and the authority, pledges for the benefit
 11-46 and protection of the financing parties and the gas utility that
 11-47 this state will not take or permit any action that would impair the
 11-48 value of customer rate relief property, or, except as permitted by
 11-49 Section 104.370, reduce, alter, or impair the customer rate relief
 11-50 charges to be imposed, collected, and remitted to financing parties
 11-51 until the principal, interest and premium, and contracts to be
 11-52 performed in connection with the related customer rate relief bonds
 11-53 and financing costs have been paid and performed in full. Each
 11-54 issuing financing entity shall include this pledge in any
 11-55 documentation relating to customer rate relief bonds.

11-56 (c) Before the date that is two years and one day after the
 11-57 date that an issuing financing entity no longer has any payment
 11-58 obligation with respect to customer rate relief bonds, the issuing
 11-59 financing entity may not wind up or dissolve the financing entity's
 11-60 operations, may not file a voluntary petition under federal
 11-61 bankruptcy law, and neither the board of the issuing financing
 11-62 entity nor any public official nor any organization, entity, or
 11-63 other person may authorize the issuing financing entity to be or to
 11-64 become a debtor under federal bankruptcy law during that period.
 11-65 The state covenants that it will not limit or alter the denial of
 11-66 authority under this subsection, and the provisions of this
 11-67 subsection are hereby made a part of the contractual obligation
 11-68 that is subject to the state pledge made in this section.

11-69 Sec. 104.375. TAX EXEMPTION. (a) Customer rate relief

12-1 bonds issued under this subchapter, the proceeds of those bonds,
12-2 the customer rate relief charges, and any transactions relating to
12-3 customer rate relief bonds are exempt from taxation by this state or
12-4 a political subdivision of this state.

12-5 (b) A gas utility's receipt or collection of customer rate
12-6 relief charges is exempt from state and local sales and use,
12-7 franchise, and gross receipts taxes.

12-8 (c) A tax obligation of the gas utility arising from receipt
12-9 of customer rate relief bond proceeds or from the collection or
12-10 remittance of customer rate relief charges is an expense that may be
12-11 recovered by the gas utility.

12-12 Sec. 104.376. ISSUING FINANCING ENTITY OR FINANCING PARTY
12-13 NOT PUBLIC UTILITY. An issuing financing entity or financing party
12-14 may not be considered to be a public utility or person providing
12-15 natural gas service solely by virtue of the transactions described
12-16 by this subchapter.

12-17 Sec. 104.377. NO PERSONAL LIABILITY. A commissioner of the
12-18 railroad commission, a railroad commission employee, a member of
12-19 the board of directors of the authority, an employee of the
12-20 authority, or a director, officer, or employee of any issuing
12-21 financing entity is not personally liable for a result of an
12-22 exercise of a duty or responsibility established under this
12-23 subchapter.

12-24 Sec. 104.378. CATASTROPHIC WEATHER EVENT STUDY. (a) The
12-25 railroad commission shall conduct a study on measures to mitigate
12-26 catastrophic weather events, including measures to:

12-27 (1) establish natural gas storage capacity to ensure a
12-28 reliable gas supply, including location, ownership, and other
12-29 pertinent factors regarding gas storage capacity;

12-30 (2) assess the advantages and disadvantages of
12-31 requiring local distribution companies to use hedging tactics to
12-32 avoid volatile customer rates; and

12-33 (3) assess the advantages and disadvantages of
12-34 prohibiting spot market purchases during a catastrophic weather
12-35 event that contribute to volatile customer rates.

12-36 (b) Not later than December 1, 2022, the railroad commission
12-37 shall report the railroad commission's findings to the governor,
12-38 the lieutenant governor, and the speaker of the house of
12-39 representatives.

12-40 (c) This section expires August 31, 2023.

12-41 Sec. 104.379. SEVERABILITY. After the date customer rate
12-42 relief bonds are issued under this subchapter, if any provision in
12-43 this title or portion of this title or related provisions in Title
12-44 9, Government Code, are held to be invalid or are invalidated,
12-45 superseded, replaced, repealed, or expire for any reason, that
12-46 occurrence does not affect the validity or continuation of this
12-47 subchapter or any other provision of this title or related
12-48 provisions in Title 9, Government Code, that are relevant to the
12-49 issuance, administration, payment, retirement, or refunding of
12-50 customer rate relief bonds or to any actions of a gas utility, its
12-51 successors, an assignee, a collection agent, or a financing party,
12-52 which shall remain in full force and effect.

12-53 SECTION 6. This Act takes effect immediately if it receives
12-54 a vote of two-thirds of all the members elected to each house, as
12-55 provided by Section 39, Article III, Texas Constitution. If this
12-56 Act does not receive the vote necessary for immediate effect, this
12-57 Act takes effect September 1, 2021.

12-58 * * * * *