

"WARNING"

"It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter."

Twenty names only allowed on a petition  
of this nature.

INITIATIVE PETITION

To the Honorable E. W. Marland,  
Governor of Oklahoma:

We, the undersigned citizens and legal voters of the State of Oklahoma, respectfully order that the following proposed amendment to the Constitution of the State of Oklahoma shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the next regular general election held throughout the State or at a special election ordered by the Governor or Legislature for that express purpose, and each for himself says:

I have personally signed this petition; I am a legal voter of the state of Oklahoma; my residence and postoffice are correctly written after my name, The time for filing this petition expires ninety days from April 23, 1935.

The question we herewith submit to our fellow voters is: Shall the following proposed amendment to the Constitution of the State of Oklahoma be adopted:

A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF OKLAHOMA:  
Authorizing counties, cities, towns and rural utility districts to incur Revenue Indebtedness for the purpose of constructing, purchasing, acquiring, improving, extending, enlarging, maintaining and operating public utilities, payable exclusively out of the revenues derived from the operation of the utility and prohibiting the levy of any ad valorem

taxes for such purpose; defining and authorizing the issuance of Certificates of Revenue Indebtedness for the payment of Revenue Indebtedness; authorizing the issuance of a mortgage or deed of trust on public utility property to secure the payment of its purchase price; providing that the cost of acquisition or construction may be paid out of the proceeds of a sale of Certificates of Revenue Indebtedness or that the contract provide payment in said Certificates at their par value; authorizing the refunding of Certificates of Revenue Indebtedness when payment cannot be made according to the terms of the original issue; authorizing the conversion of taxable indebtedness into Certificates of Revenue Indebtedness for the purpose of discharging bonded indebtedness; authorizing the governing body of school districts and/or state institutions to issue Certificates of Revenue Indebtedness for the purpose of constructing public buildings or parks for hire; authorizing counties to engage in public utility service; authorizing the incorporation of rural utility districts and extension districts for rural utility service; providing extension service outside corporate limits and gate-rate contracts; authorizing two or more bodies politic to combine public utilities therein upon terms agreeable to the parties; prescribing a rule limiting liability for current maintenance and operation; providing for apportionment of net earnings of public utilities acquired under this Amendment to the city, town and school district governments in the areas of utility operation or service; requiring ad-valorem taxes to be reduced in the bodies politic where the utility is operated or renders service in an amount equal to the net earnings which each receives; authorizing the calling and holding of elections and exercise of eminent domain for the purposes of this Amendment; authorizing contracts with the Federal Government with power to vary terms and conditions to conform to Federal requirements; denying jurisdiction to the Corporation Commission over municipally-owned public utilities; and providing a rule of construction for this Amendment in relation to the Constitution of the State of Oklahoma.

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

Sec. 1. Definitions. For the purpose of this Amendment, words, phrases, and terms are defined as follows, to-wit:

(a) A body politic is a county, city, town or school district as the same is now or may be authorized by law. The words "body politic" shall also include a rural utility district as the same is provided in this Amendment.

(b) The term "public utility" when used in this Amendment, means and includes any plant, equipment or property, and any franchise, license or permit, used or to be used for or in connection with the transportation of persons, the production, storage, transmission, sale, delivery, or furnishing of cold, heat, light, power, water, drainage, irrigation, any public sewer system or part thereof not provided for or created by special assessment, and any building, park or other property including equipment necessary or useful for its intended purposes and owned or to be owned by the body politic for hire, the product or service of any or either of which is to be supplied to the body politic or its inhabitants.

(c) A municipally-owned public utility is any public utility which is the property of and is operated by a body politic.

(d) The term "governing body" shall be the Mayor and Council, the Board of Commissioners or the Board of Trustees, as the case may be.

Sec. 2. Authority to Incur Revenue Indebtedness. Any incorporated county, city, town or rural utility district as herein provided may be a majority vote of the qualified voters residing therein respectively and voting at an election to be held for that purpose, be allowed to assume a revenue indebtedness, the payment of which is limited to revenues derived from the operation of the public utility for the purpose of acquiring, purchasing, constructing or extending such public utility within or outside its own corporate limits to be owned exclusively and operated by such body politic as a municipally-owned public utility. The governing body of any body politic is authorized to assume such a revenue indebtedness in behalf of the body politic without the necessity of an election for the purpose of maintaining, repairing, replacing, enlarging, or improving any municipally-owned public utility. Revenue indebtedness is hereby declared to be

any obligation which is to be paid or retired exclusively out of the revenues accruing from the operation of the public utility and the payment of which may be secured by a mortgage or deed of trust on the public utility or a part thereof. No revenue indebtedness shall be a general obligation of or against any body politic nor shall any tax of any kind ever be levied or collected for the purpose of payment or part payment of such indebtedness. This authority to incur revenue indebtedness is in addition to and independent of any powers now allowed a body politic by the Constitution of the State of Oklahoma to incur any indebtedness.

Sec. 3. Certificates of Revenue Indebtedness--Issuance. The revenue indebtedness herein authorized shall be clearly, definitely and fully set forth in written or printed Certificates of Revenue Indebtedness and, in so far as necessary, the revenues of the public utility shall be primarily subject to the payment of said indebtedness and the interest thereon on conditions hereinafter provided. The Certificates of Revenue Indebtedness shall be issued by the governing body of the body politic at a regular or special session and shall be signed by the Mayor or Chairman and attested by the Clerk. Before or at the time of incurring said indebtedness, the body politic shall provide for the payment thereof out of the revenues receipts accruing from the operation of said public utility and not otherwise. Such certificates may be issued and secured on any public utility property in an amount not exceeding the cost of construction or acquisition thereof and (10%) per cent in addition thereto. All certificates shall be issued serially on a monthly, quarterly, semi-annual or annual plan of payment with interest not to exceed six (6%) per centum per annum and they shall all be made payable within a period not to exceed twenty years from the date of issue. It shall be mandatory upon the governing body to create rates sufficient to pay said certificates according to their terms. Every Certificate of Revenue Indebtedness shall state on its face that payment thereof is limited to revenues derived from the operation of a public utility (naming the utility) and the property which is pledged

as security for the payment thereof and that no other liability whatever for the payment thereof shall exist against the body politic and that no tax of any kind shall ever be allowed or levied for the purpose of discharging said indebtedness. Every certificate shall further state that the right is reserved by the body politic to pay the certificate at any interest bearing period upon thirty days notice to the holder of record.

Sec. 4. Certificates of Revenue Indebtedness--Security. In order to secure the payment of any such Certificates of Revenue Indebtedness and the interest thereon, the body politic may convey, by way of mortgage or deed of trust, any or all of the public utility property acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in such manner as may be directed by law for the acknowledgment and recording of mortgages on real estate, and may contain such provisions and conditions not to conflict with the provisions of this Amendment as may be deemed necessary to secure the payment of the Certificates of Revenue Indebtedness described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the public utility property covered thereby for a period not exceeding twenty (20) years from and after the date such property may come into the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates or charges which the person or corporation securing the same as a result of foreclosure proceedings shall be entitled to charge in the operation of said property for a period not exceeding twenty (20) years. Whenever and as often as default shall be made in the payment of any Certificates of Revenue Indebtedness issued and secured by a mortgage or Deed of Trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of twelve (12) months after notice thereof has been given to the Mayor or Chairman of the governing body and to the Treasurer, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the

Certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers of the property and the rights and privileges sold, if he or they be the highest bidders. Any public utilities acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings.

Sec. 5. Attestation--Certification. Certificates of Revenue Indebtedness when issued as herein provided shall be valid to the extent herein authorized without the necessity of any attestation, certification or verification by any officer of the State, or any of its subdivisions other than as required by this Amendment. Provided that the governing body of any body politic may, in its discretion, submit the same to the Attorney General for his inspection and certification in which case it shall be his duty, when he so finds to certify that the Certificates of Revenue Indebtedness are issued pursuant to law.

Sec. 6. Contracts for Construction--Payment in Certificates. The entire cost of acquisition, construction or improvement of any public utility or any part thereof may be paid out of the proceeds of a sale of Revenue Certificates or the body politic may, in lieu of payment in money, enter into a contract with any person, firm or corporation to acquire, construct or improve such public utility in behalf of the body politic and to accept therefor its duly authorized Certificates of Revenue Indebtedness at their par value for the full amount of the sum due under the contract together with the security herein provided for the payment of same.

Sec. 7. Refunding. Any issue or part of an issue of Certificates of Revenue Indebtedness may be refunded by the governing body without

the necessity of an election upon terms otherwise required of the original issue and when conditions are such that payments cannot be made according to the terms of the existing indebtedness.

Sec. 8. Conversion of Taxable Indebtedness. The unincumbered net earnings of any body politic, derived from the operation or service of a public utility within a body politic and which accrue by apportionment and transfer as herein provided to said body politic out of the net earning funds, may be pledged for the payment of any issue or issues of bonds or other indebtedness which are claims on the sinking fund or are dependent upon ad valorem tax levied for their discharge. In all such cases the conversion shall be upon terms and conditions herein provided for in the issuance of Certificates of Revenue Indebtedness, provided that no election shall be necessary to authorize the conversion of such indebtedness.

Sec. 9. School Districts--State Institutions--Powers. The governing body of a school district, when authorized by the qualified voters at an election held for that purpose, or the governing body of any state institution may issue Certificates of Revenue Indebtedness for the purpose of constructing, purchasing and/or operation of any public building and/or public park for hire including equipment necessary or useful for its intended purposes, in which case all net earnings derived therefrom shall be applied to the liquidation of said indebtedness. Any such building or park shall remain the property of such district or institution and may be pledged as herein provided to secure the purchase price or cost of construction.

Sec. 10. Counties. A county may engage in the public utility service as herein provided, when a majority of the qualified voters residing therein shall so approve at an election held for that purpose. In all such cases, the County Board of Commissioners shall ex-officio constitute the governing body and exercise all the powers, duties and rights herein authorized for other bodies politic in the purchase, construction, extension, maintenance and operation of a public utility. Provided, that incorporated bodies politic existing within or partly

within such county at such time and operating a public utility of the same nature as proposed in the County, shall not be included within the County Utility District, except in so far as the qualified voters residing in such incorporated body politic shall approve the combination.

Sec. 11. Rural Utility District. (a) Incorporation. For the purpose of purchasing, constructing and/or operating a public utility in rural areas, the qualified voters, residing within any compact area as herein defined, and not otherwise incorporated as a city, town or county, may incorporate as a Rural Utility District in the same manner as is now provided or may be provided by law for the incorporation of towns, excepting that boundaries shall in all cases be a section line, half-section line or a quarter-section line. Each and every Rural Utility District which is created by authority of this Amendment shall be assigned a separate and distinct number by the County Clerk of the County in which the same or a major part thereof may be located, which number shall be a part of its corporate name and such district shall be known and designated as Rural Utility District No. (being the number designated by the County Clerk) of the County of (the same being the county of its original incorporation). In its corporate name, a Rural Utility District shall have all the right and power granted to incorporated towns of this State or as may be granted in so far as the same may be necessary, expedient and incident to the acquisition, construction and the proper and efficient maintenance, administration and operation of the public utility. Each Rural Utility District shall be governed and all its powers exercised by a Board of Commissioners, composed of three members, elected for a term of two years at the regular biennial municipal election, each of whom shall be a qualified resident voter of such district. The Board of Commissioners so elected shall choose one of their number to act as Chairman, one to act as Clerk and one to act as Treasurer. Vacancies may be filled and removals from office made in like manner and for like causes as in the case of town trustees or as may be provided by law. All provisions of law relating to town officers are hereby made binding and applicable to officers of

a Rural Utility District in so far as the same may be consistent with the purposes of its incorporation.

(b) Compact Area. A compact area for the purpose of creating a Rural Utility District shall consist of any land area which is all in one body, any part of which is contiguous to or a prolongation of some other part. It may adjoin or completely surround a body politic without the incorporation thereof within itself or in any manner infringing upon the corporate rights of the surrounded body politic.

Sec. 12. Extension Districts. (a) Platted. With the consent of a majority of the qualified voters, residing therein, the governing body of any body politic shall have power to extend transmission lines outside its incorporated area whether adjacent or not, for the purpose of extending a public utility service to the inhabitants of unincorporated platted areas. Provided that all such territory to be served by any extension line shall first be platted by the body politic so as to show its outside boundary lines by section, half-section or quarter-section lines and copy of said plat shall be filed with the County Clerk, who shall assign it a separate and distinct Extension District number. The said plat shall further show the school district or districts in which the platted area or parts thereof is located and the parts of its land area in each such school district.

(b) Unplatted. Extensions of utility service may be made by the governing body of any body politic to outside unincorporated and unplatted areas, without submitting the proposition to an election but such unplatted Extension Districts shall not be considered in net earning apportionments.

Sec. 13. Gate-Rate, Contracts. Each and every body politic operating a public utility shall have the power to make connections to serve other cities, towns, counties, or rural utility districts or any of them on a gate-rate basis upon terms agreeable to the contracting parties, provided that such contracts shall first be approved by a majority of the qualified voters residing in each of the bodies politic and voting at an election held for that purpose; and provided further,

that service to such gate-rate parties shall be conditioned on the ability to adequately and efficiently serve the demand within its own corporation. Each and every body politic receiving service on a gate-rate basis shall apportion and transfer its net earnings the same as if it were an original producing unit.

Sec. 14. Combinations. Any two or more bodies politic may combine the public utilities therein or any of them or they may combine for the purpose of acquiring and/or operating a public utility upon terms agreeable to the contracting parties, by submitting the proposition of agreement to a vote of the qualified voters residing in each of the corporations, in which case it shall be necessary that the proposition of combination shall be sustained by a majority vote of the qualified voters in each of the corporations, voting on the question. Combinations shall not be limited to contiguous or adjacent corporations and the right and power is hereby granted to construct transmission lines over intervening territory for the purpose of serving remote areas.

Sec. 15. Current Maintenance and Operation - Liability. The liability of a body politic, arising out of the operation or maintenance of any public utility, shall in all cases be limited to the revenues derived from the operation of such utility in the fiscal year in which such liability shall arise and all current expense authorized in the annual budget shall be a prior claim to any and all other liability arising from maintenance and/or operation.

Sec. 16. Net Earnings. (a) Definitions-Disposal. The net earnings at the end of each and every fiscal year, which shall consist of the revenues received by a body politic for a public utility service during the fiscal year less any amount necessary to pay installments of any Certificates of Revenue Indebtedness and the interest thereon made dependent of said revenue for payment and accruing within the ensuing fiscal year or having accrued and remaining unpaid, together with any further amount necessary for the current expense of operation, insurance, labor, fuel, repairs and maintenance, shall be apportioned among and transferred by such/<sup>body</sup>politic in a manner herein provided to the cities, towns and school districts or parts thereof in which the

utility is operated and/or renders utility service respectively and which requires an ad valorem levy for current expenses or having a sinking fund indebtedness, to be used by such bodies politic exclusively as follows, to-wit: (1) to defray authorized ensuing current expense which is made dependent on ad valorem levies for payment, or (2) to be placed in the sinking fund to be used in liquidation of any indebtedness existing or arising against said sinking fund, or; (3) to be pledged for the payment of converted taxable indebtedness as authorized by this Amendment. No transfer shall be made in any case except for such purpose or purposes and then only in so far as necessary to discharge the said obligations.

(b) Net Earning Funds. The whole amount of net earnings which are subject to transfer by any unit of government shall first be set up in two funds to be known as: (1) The Municipal Utility Fund, which shall be apportioned and transferred to cities and/or towns, (2) the School District Utility Fund which shall be apportioned and transferred to the School Districts as herein provided. At the end of the fiscal year and before any transfers are made, one-third of all net earnings shall be placed in the Municipal Utility Fund, and two-thirds shall be placed in the School District Utility Fund. In case there are no cities and/or towns in the area of utility service, all of the net earnings shall go into the School District Fund. The Legislature may provide that net earnings shall be divided among these funds on a more equitable basis.

(c) Apportionment-Municipal Utility Fund. The whole amount of the Municipal Utility Fund shall be apportioned among the cities and towns for their use as follows: The amount of net earnings which such body politic receives from the Municipal Utility Fund shall bear a ratio to the whole amount of that fund respectively which is equal to the ratio existing between the gross revenue received by the transferring unit from said body politic and the gross revenue for utility service received by said transferring unit from all sources.

(d) Apportionment-School District Utility Fund. The whole amount of the School District Utility Fund shall be apportioned among the school districts for their use and for this purpose, each city,

town, rural utility district, or platted extension district shall constitute a "Zone of Apportionment" for the school districts therein or partly therein respectively. An amount shall be determined for each "Zone of Apportionment" by the same rule provided for the apportionment of the Municipal Utility Fund. The amount determined for each "Zone of Apportionment" shall be further apportioned among the school districts therein or partly therein according to the ratio of the areas therein respectively to the area of the "Zone of Apportionment."

(e) Transfers. Transfers of the Municipal Utility Fund and the School District Utility Fund shall be made by the transferring unit only upon order of the proper levying authority as herein provided. Notice of apportionments of net earnings, showing the amount for each body politic shall be made at the end of the fiscal year to the treasurers of each respectively, whereupon the governing body thereof shall in each case make an appropriation for a use herein authorized. A record, containing the notice of apportionment and the action taken by the governing body shall be delivered by the clerk of said governing body to all officers who are or may be authorized by law to make levies of ad valorem taxes for or in behalf of said body politic. The levying authority, upon finding that the apportionment has been appropriated as authorized by this Amendment, shall so provide in the annual estimate and order the transferring unit to transfer such fund as set up in the notice of apportionment and where the appropriation does not conform to the conditions of this Amendment, it shall order the apportionment to be carried over in the same fund for the next annual apportionment. Where it remains that an ad valorem is necessary to be made, the levying authority shall (1) estimate the amount necessary to be raised by ad valorem taxes for the ensuing current expenses or to meet the matured or maturing sinking fund indebtedness or both as the case may be; (2) deduct the amount of apportioned net earnings from the aforesaid estimate; (3) fix a rate sufficient to raise a sum equal to the remainder of the estimate after the aforesaid deduction has been made. Provided that in making said estimate for current expenses, net earnings in a previous year shall in no case be estimated as sources of revenue for the purpose of determining the estimated revenues of an ensuing year. The Legislature may authorize

and/or require transfers of net earnings to be made on a monthly, quarterly or semi-annual basis on condition that ratable reserves are set aside to meet pledged indebtedness, herein authorized.

Sec. 17. Elections. (a) Power. The governing body of any body politic shall have the power to order an election for any purpose authorized by this Amendment and to designate the necessary officials and their compensation, together with the time and place of holding such elections in such body politic as herein provided.

(b) Initiative. Any number of qualified voters residing within a body politic, such number being not less than ten (10%) of the total number of votes cast at the next preceding general municipal election in the body politic, may by initiative petition, prepared and circulated in a manner otherwise provided by law, order an election for the purpose of authorizing the issue of any Certificates of Indebtedness provided by this Amendment. All such elections shall be held not less than thirty nor more than sixty days from the filing of the petition and proof of its sufficiency.

Sec. 18. Eminent Domain. The right of eminent domain is hereby extended to each and every body politic in so far as the same may be necessary for the exercise of any power authorized by this Amendment. Such power shall be subject to all provisions and conditions of the Constitution of the United States and the Constitution of the State of Oklahoma and the exercise thereof shall be in a manner as required by law.

Sec. 19. Federal Relations. (A) Any body politic, jointly with others or severally is hereby authorized to vary the terms and/or conditions of any certificate of indebtedness which is authorized by this Amendment to conform to the terms and/or conditions required by the United States of America when the same is necessary in order to make a contract with the said United States for the purpose of selling, negotiating, assigning or otherwise transferring said certificates to the United States of America or for the purpose of procuring money, credit or other thing of value therefrom.

(b) Any body politic, jointly with others or severally is hereby authorized to enter into a contract with the United States of America, according to the terms and conditions required by the said

United States for the purpose of; (1) acting as agent for the said United States in the merchandising of any and all apparatus, fixtures and/or appliances to be used in connection with any public utility which it operates, (2) buying outright or on consignment any apparatus, fixtures and/or appliances from the said United States to be used in connection with any public utility which it operates for the purpose of selling same to the users of its public utility which it operates for the purpose of selling same to the users of its public utility service.

Sec. 20. Jurisdiction-Corporation Commission-Denied. The provisions of this Amendment shall apply only to municipally-owned public utilities and no others and the Corporation Commission of the State of Oklahoma shall have no power or authority over such municipally-owned public utilities whatsoever. No certificate of convenience and/or necessity shall be required or any body politic for the purpose of acquisition, construction or operation of any municipally-owned public utility nor shall the issue of any such certificates by any extraneous or superior governmental authority have the effect of limiting, conflicting with or preventing a body politic from the full and complete exercise of the powers conferred by this Amendment.

Sec. 21. Constitutional Relations. The provisions of this Amendment shall prevail against any conditions of the Constitution of the State of Oklahoma which contravene, traverse or are in conflict herewith, but nothing herein contained shall be so construed as to prohibit the further exercise of any right or power now allowed by the said Constitution independent of this Amendment to a body politic, except in so far as the same may abridge or conflict with the unlimited exercise of power or rights conferred by this Amendment.

THE END

signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, postoffice address and residence correctly, and that each signer is a legal voter of the State of Oklahoma.

\_\_\_\_\_  
(Post Office Address) Street  
\_\_\_\_\_, Oklahoma

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ A. D.  
193\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public.

(SEAL) (Post Office Address) \_\_\_\_\_ Street  
\_\_\_\_\_, Oklahoma

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Sec. 3. Certificates of Revenue Indebtedness--Issuance. The revenue indebtedness herein authorized shall be clearly, definitely and fully set forth in written or printed Certificates of Revenue Indebtedness and, in so far as necessary, the revenues of the public utility shall be primarily subject to the payment of said indebtedness and the interest thereon on conditions hereinafter provided. The Certificates of Revenue Indebtedness shall be issued by the governing body of the body politic at a regular or special session and shall be signed by the Mayor or Chairman and attested by the Clerk. Before or at the time of incurring said indebtedness, the body politic shall provide for the payment thereof out of the revenues receipts accruing from the operation of said public utility and not otherwise. Such certificates may be issued and secured on any public utility property in an amount not exceeding the cost of construction or acquisition thereof and (10%) per cent in addition thereto. All certificates shall be issued serially on a monthly, quarterly, semi-annual or annual plan of payment with interest not to exceed six (6%) per centum per annum and they shall all be made payable within a period not to exceed twenty years from the date of issue. It shall be mandatory upon the governing body to create rates sufficient to pay said certificates according to their terms. Every Certificate of Revenue Indebtedness shall state on its face that payment thereof is limited to revenues derived from the operation of a public utility (naming the utility) and the property which is pledged

as security for the payment thereof and that no other liability whatever for the payment thereof shall exist against the body politic and that no tax of any kind shall ever be allowed or levied for the purpose of discharging said indebtedness. Every certificate shall further state that the right is reserved by the body politic to pay the certificate at any interest bearing period upon thirty days notice to the holder of record.

Sec. 4. Certificates of Revenue Indebtedness--Security. In order to secure the payment of any such Certificates of Revenue Indebtedness and the interest thereon, the body politic may convey, by way of mortgage or deed of trust, any or all of the public utility property acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in such manner as may be directed by law for the acknowledgment and recording of mortgages on real estate, and may contain such provisions and conditions not to conflict with the provisions of this Amendment as may be deemed necessary to secure the payment of the Certificates of Revenue Indebtedness described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the public utility property covered thereby for a period not exceeding twenty (20) years from and after the date such property may come into the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates or charges which the person or corporation securing the same as a result of foreclosure proceedings shall be entitled to charge in the operation of said property for a period not exceeding twenty (20) years. Whenever and as often as default shall be made in the payment of any Certificates of Revenue Indebtedness issued and secured by a mortgage or Deed of Trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of twelve (12) months after notice thereof has been given to the Mayor or Chairman of the governing body and to the Treasurer, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the

Certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagor or the holders of such certificates may become the purchaser or purchasers of the property and the rights and privileges sold, if he or they be the highest bidders. Any public utilities acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings.

Sec. 5. Attestation--Certification. Certificates of Revenue Indebtedness when issued as herein provided shall be valid to the extent herein authorized without the necessity of any attestation, certification or verification by any officer of the State, or any of its subdivisions other than as required by this Amendment. Provided that the governing body of any body politic may, in its discretion, submit the same to the Attorney General for his inspection and certification in which case it shall be his duty, when he so finds to certify that the Certificates of Revenue Indebtedness are issued pursuant to law.

Sec. 6. Contracts for Construction--Payment in Certificates. The entire cost of acquisition, construction or improvement of any public utility or any part thereof may be paid out of the proceeds of a sale of Revenue Certificates or the body politic may, in lieu of payment in money, enter into a contract with any person, firm or corporation to acquire, construct or improve such public utility in behalf of the body politic and to accept therefor its duly authorized Certificates of Revenue Indebtedness at their par value for the full amount of the sum due under the contract together with the security herein provided for the payment of same.

Sec. 7. Refunding. Any issue or part of an issue of Certificates of Revenue Indebtedness may be refunded by the governing body without

the necessity of an election upon terms otherwise required of the original issue and when conditions are such that payments cannot be made according to the terms of the existing indebtedness.

Sec. 8. Conversion of Taxable Indebtedness. The unincumbered net earnings of any body politic, derived from the operation or service of a public utility within a body politic and which accrue by apportionment and transfer as herein provided to said body politic out of the net earning funds, may be pledged for the payment of any issue or issues of bonds or other indebtedness which are claims on the sinking fund or are dependent upon ad valorem tax levied for their discharge. In all such cases the conversion shall be upon terms and conditions herein provided for in the issuance of Certificates of Revenue Indebtedness, provided that no election shall be necessary to authorize the conversion of such indebtedness.

Sec. 9. School Districts--State Institutions--Powers. The governing body of a school district, when authorized by the qualified voters at an election held for that purpose, or the governing body of any state institution may issue Certificates of Revenue Indebtedness for the purpose of constructing, purchasing and/or operation of any public building and/or public park for hire including equipment necessary or useful for its intended purposes, in which case all net earnings derived therefrom shall be applied to the liquidation of said indebtedness. Any such building or park shall remain the property of such district or institution and may be pledged as herein provided to secure the purchase price or cost of construction.

Sec. 10. Counties. A county may engage in the public utility service as herein provided, when a majority of the qualified voters residing therein shall so approve at an election held for that purpose. In all such cases, the County Board of Commissioners shall ex-officio constitute the governing body and exercise all the powers, duties and rights herein authorized for other bodies politic in the purchase, construction, extension, maintenance and operation of a public utility. Provided, that incorporated bodies politic existing within or partly

within such county at such time and operating a public utility of the same nature as proposed in the County, shall not be included within the County Utility District, except in so far as the qualified voters residing in such incorporated body politic shall approve the combination.

Sec. 11. Rural Utility District. (a) Incorporation. For the purpose of purchasing, constructing and/or operating a public utility in rural areas, the qualified voters, residing within any compact area as herein defined, and not otherwise incorporated as a city, town or county, may incorporate as a Rural Utility District in the same manner as is now provided or may be provided by law for the incorporation of towns, excepting that boundaries shall in all cases be a section line, half-section line or a quarter-section line. Each and every Rural Utility District which is created by authority of this Amendment shall be assigned a separate and distinct number by the County Clerk of the County in which the same or a major part thereof may be located, which number shall be a part of its corporate name and such district shall be known and designated as Rural Utility District No. (being the number designated by the County Clerk) of the County of (the same being the county of its original incorporation). In its corporate name, a Rural Utility District shall have all the right and power granted to incorporated towns of this State or as may be granted in so far as the same may be necessary, expedient and incident to the acquisition, construction and the proper and efficient maintenance, administration and operation of the public utility. Each Rural Utility District shall be governed and all its powers exercised by a Board of Commissioners, composed of three members, elected for a term of two years at the regular biennial municipal election, each of whom shall be a qualified resident voter of such district. The Board of Commissioners so elected shall choose one of their number to act as Chairman, one to act as Clerk and one to act as Treasurer. Vacancies may be filled and removals from office made in like manner and for like causes as in the case of town trustees or as may be provided by law. All provisions of law relating to town officers are hereby made binding and applicable to officers of

a Rural Utility District in so far as the same may be consistent with the purposes of its incorporation.

(b) Compact Area. A compact area for the purpose of creating a Rural Utility District shall consist of any land area which is all in one body, any part of which is contiguous to or a prolongation of some other part. It may adjoin or completely surround a body politic without the incorporation thereof within itself or in any manner infringing upon the corporate rights of the surrounded body politic.

Sec. 12. Extension Districts. (a) Platted. With the consent of a majority of the qualified voters, residing therein, the governing body of any body politic shall have power to extend transmission lines outside its incorporated area whether adjacent or not, for the purpose of extending a public utility service to the inhabitants of unincorporated platted areas. Provided that all such territory to be served by any extension line shall first be platted by the body politic so as to show its outside boundary lines by section, half-section or quarter-section lines and copy of said plat shall be filed with the County Clerk, who shall assign it a separate and distinct Extension District number. The said plat shall further show the school district or districts in which the platted area or parts thereof is located and the parts of its land area in each such school district.

(b) Unplatted. Extensions of utility service may be made by the governing body of any body politic to outside unincorporated and unplatted areas, without submitting the proposition to an election but such unplatted Extension Districts shall not be considered in net earning apportionments.

Sec. 13. Gate-Rate, Contracts. Each and every body politic operating a public utility shall have the power to make connections to serve other cities, towns, counties, or rural utility districts or any of them on a gate-rate basis upon terms agreeable to the contracting parties, provided that such contracts shall first be approved by a majority of the qualified voters residing in each of the bodies politic and voting at an election held for that purpose; and provided further,

that service to such gate-rate parties shall be conditioned on the ability to adequately and efficiently serve the demand within its own corporation. Each and every body politic receiving service on a gate-rate basis shall apportion and transfer its net earnings the same as if it were an original producing unit.

Sec. 14. Combinations. Any two or more bodies politic may combine the public utilities therein or any of them or they may combine for the purpose of acquiring and/or operating a public utility upon terms agreeable to the contracting parties, by submitting the proposition of agreement to a vote of the qualified voters residing in each of the corporations, in which case it shall be necessary that the proposition of combination shall be sustained by a majority vote of the qualified voters in each of the corporations, voting on the question. Combinations shall not be limited to contiguous or adjacent corporations and the right and power is hereby granted to construct transmission lines over intervening territory for the purpose of serving remote areas.

Sec. 15. Current Maintenance and Operation - Liability. The liability of a body politic, arising out of the operation or maintenance of any public utility, shall in all cases be limited to the revenues derived from the operation of such utility in the fiscal year in which such liability shall arise and all current expense authorized in the annual budget shall be a prior claim to any and all other liability arising from maintenance and/or operation.

Sec. 16. Net Earnings. (a) Definitions-Disposal. The net earnings at the end of each and every fiscal year, which shall consist of the revenues received by a body politic for a public utility service during the fiscal year less any amount necessary to pay installments of any Certificates of Revenue Indebtedness and the interest thereon made dependent of said revenue for payment and accruing within the ensuing fiscal year or having accrued and remaining unpaid, together with any further amount necessary for the current expense of operation, insurance, labor, fuel, repairs and maintenance, shall be apportioned among and transferred by such/<sup>body</sup>politic in a manner herein provided to the cities, towns and school districts or parts thereof in which the

utility is operated and/or renders utility service respectively and which requires an ad valorem levy for current expenses or having a sinking fund indebtedness, to be used by such bodies politic exclusively as follows, to-wit: (1) to defray authorized ensuing current expense which is made dependent on ad valorem levies for payment, or (2) to be placed in the sinking fund to be used in liquidation of any indebtedness existing or arising against said sinking fund, or; (3) to be pledged for the payment of converted taxable indebtedness as authorized by this Amendment. No transfer shall be made in any case except for such purpose or purposes and then only in so far as necessary to discharge the said obligations.

(b) Net Earnings Funds. The whole amount of net earnings which are subject to transfer by any unit of government shall first be set up in two funds to be known as: (1) The Municipal Utility Fund, which shall be apportioned and transferred to cities and/or towns, (2) the School District Utility Fund which shall be apportioned and transferred to the School Districts as herein provided. At the end of the fiscal year and before any transfers are made, one-third of all net earnings shall be placed in the Municipal Utility Fund, and two-thirds shall be placed in the School District Utility Fund. In case there are no cities and/or towns in the area of utility service, all of the net earnings shall go into the School District Fund. The Legislature may provide that net earnings shall be divided among these funds on a more equitable basis.

(c) Apportionment-Municipal Utility Fund. The whole amount of the Municipal Utility Fund shall be apportioned among the cities and towns for their use as follows: The amount of net earnings which such body politic receives from the Municipal Utility Fund shall bear a ratio to the whole amount of that fund respectively which is equal to the ratio existing between the gross revenue received by the transferring unit from said body politic and the gross revenue for utility service received by said transferring unit from all sources.

(d) Apportionment-School District Utility Fund. The whole amount of the School District Utility Fund shall be apportioned among the school districts for their use and for this purpose, each city,

town, rural utility district, or platted extension district shall constitute a "Zone of Apportionment" for the school districts therein or partly therein respectively. An amount shall be determined for each "Zone of Apportionment" by the same rule provided for the apportionment of the Municipal Utility Fund. The amount determined for each "Zone of Apportionment" shall be further apportioned among the school districts therein or partly therein according to the ratio of the areas therein respectively to the area of the "Zone of Apportionment."

(e) Transfers. Transfers of the Municipal Utility Fund and the School District Utility Fund shall be made by the transferring unit only upon order of the proper levying authority as herein provided. Notice of apportionments of net earnings, showing the amount for each body politic shall be made at the end of the fiscal year to the treasurers of each respectively, whereupon the governing body thereof shall in each case make an appropriation for a use herein authorized. A record, containing the notice of apportionment and the action taken by the governing body shall be delivered by the clerk of said governing body to all officers who are or may be authorized by law to make levies of ad valorem taxes for or in behalf of said body politic. The levying authority, upon finding that the apportionment has been appropriated as authorized by this Amendment, shall so provide in the annual estimate and order the transferring unit to transfer such fund as set up in the notice of apportionment and where the appropriation does not conform to the conditions of this Amendment, it shall order the apportionment to be carried over in the same fund for the next annual apportionment. Where it remains that an ad valorem is necessary to be made, the levying authority shall (1) estimate the amount necessary to be raised by ad valorem taxes for the ensuing current expenses or to meet the matured or maturing sinking fund indebtedness or both as the case may be; (2) deduct the amount of apportioned net earnings from the aforesaid estimate; (3) fix a rate sufficient to raise a sum equal to the remainder of the estimate after the aforesaid deduction has been made. Provided that in making said estimate for current expenses, net earnings in a previous year shall in no case be estimated as sources of revenue for the purpose of determining the estimated revenues of an ensuing year. The Legislature may authorize

and/or require transfers of net earnings to be made on a monthly, quarterly or semi-annual basis on condition that ratable reserves are set aside to meet pledged indebtedness, herein authorized.

Sec. 17. Elections. (a) Power. The governing body of any body politic shall have the power to order an election for any purpose authorized by this Amendment and to designate the necessary officials and their compensation, together with the time and place of holding such elections in such body politic as herein provided.

(b) Initiative. Any number of qualified voters residing within a body politic, such number being not less than ten (10%) of the total number of votes cast at the next preceding general municipal election in the body politic, may by initiative petition, prepared and circulated in a manner otherwise provided by law, order an election for the purpose of authorizing the issue of any Certificates of Indebtedness provided by this Amendment. All such elections shall be held not less than thirty nor more than sixty days from the filing of the petition and proof of its sufficiency.

Sec. 18. Eminent Domain. The right of eminent domain is hereby extended to each and every body politic in so far as the same may be necessary for the exercise of any power authorized by this Amendment. Such power shall be subject to all provisions and conditions of the Constitution of the United States and the Constitution of the State of Oklahoma and the exercise thereof shall be in a manner as required by law.

Sec. 19. Federal Relations. (A) Any body politic, jointly with others or severally is hereby authorized to vary the terms and/or conditions of any certificate of indebtedness which is authorized by this Amendment to conform to the terms and/or conditions required by the United States of America when the same is necessary in order to make a contract with the said United States for the purpose of selling, negotiating, assigning or otherwise transferring said certificates to the United States of America or for the purpose of procuring money, credit or other thing of value therefrom.

(b) Any body politic, jointly with others or severally is hereby authorized to enter into a contract with the United States of America, according to the terms and conditions required by the said

United States for the purpose of; (1) acting as agent for the said United States in the merchandising of any and all apparatus, fixtures and/or appliances to be used in connection with any public utility which it operates, (2) buying outright or on consignment any apparatus, fixtures and/or appliances from the said United States to be used in connection with any public utility which it operates for the purpose of selling same to the users of its public utility which it operates for the purpose of selling same to the users of its public utility service.

Sec. 20. Jurisdiction-Corporation Commission-Denied. The provisions of this Amendment shall apply only to municipally-owned public utilities and no others and the Corporation Commission of the State of Oklahoma shall have no power or authority over such municipally-owned public utilities whatsoever. No certificate of convenience and/or necessity shall be required of any body politic for the purpose of acquisition, construction or operation of any municipally-owned public utility nor shall the issue of any such certificate by any extraneous or superior governmental authority have the effect of limiting, conflicting with or preventing a body politic from the full and complete exercise of the powers conferred by this Amendment.

Sec. 21. Constitutional Relations. The provisions of this Amendment shall prevail against any conditions of the Constitution of the State of Oklahoma which contravene, traverse or are in conflict herewith, but nothing herein contained shall be so construed as to prohibit the further exercise of any right or power now allowed by the said Constitution independent of this Amendment to a body politic, except in so far as the same may abridge or conflict with the unlimited exercise of power or rights conferred by this Amendment.

THE END

signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, postoffice address and residence correctly, and that each signer is a legal voter of the State of Oklahoma.

\_\_\_\_\_  
(Post Office Address) Street  
\_\_\_\_\_, Oklahoma

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ A. D.  
193\_\_\_\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public.

(SEAL)

(Post Office Address) \_\_\_\_\_ Street  
\_\_\_\_\_  
Oklahoma

MAC Q. WILLIAMSON  
ATTORNEY GENERAL



8077 26

STATE OF OKLAHOMA  
OFFICE OF THE ATTORNEY GENERAL  
OKLAHOMA CITY

September 22, 1938

Honorable Frank Carter  
Secretary of State  
B u i l d i n g

Dear Sir:

You are hereby notified that pursuant to the discretion and duty lodged in and imposed upon the Attorney General by Section 5875, Oklahoma Statutes 1931, he has examined the proposed Ballot Title of State Question No. 205, Initiative Petition No. 142, which, together with a copy of said petition, was delivered to him at 11:30 o'clock a.m., September 21, 1938, by Henry D. Snyder, one of the proponents of said petition, and from said examination the Attorney General finds that said Ballot Title is not in legal form and in harmony with the law.

Therefore, pursuant to the provisions of said Section 5875, the Attorney General has prepared and is submitting herewith, same to be filed in your office, a Ballot Title for said petition which in his opinion does conform to the law. Said Ballot Title is as follows:

"BALLOT TITLE

"State Question No. 205

Initiative Petition No. 142

THE GIST OF THE PROPOSITION IS

"Proposed constitutional Amendment empowering bodies politic, including rural utility districts, organized thereunder, to assume revenue indebtedness, if authorized by election, to acquire, construct and extend public utilities, and, without election, to maintain, repair, replace, enlarge and improve public utilities, and to issue authorized certificates of revenue indebtedness payable from utility revenues, without taxation; empowering school districts and State institutions to issue such certificates to construct, purchase and operate public buildings and parks, for hire; authorizing mortgaging of utility property and refunding of certificates; requiring governing body to fix utility rates sufficient to pay certificates; conferring additional powers; and providing procedure.

2

Honorable Frank Carter

9-22-38

"Shall it be approved?"

YES

NO

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Yours very truly,

FOR THE ATTORNEY GENERAL

*Fred Hansen*  
Fred Hansen  
Assistant Attorney General

FH:BM

APPROVED IN CONFERENCE

9 MO. 22 DAY, 1938