§ 1285-j. Water pollution control revolving fund. 1. (a) The corporation shall undertake and provide assistance in support of the program to make financial assistance available to municipalities to encourage and support the planning, development and construction of municipal water pollution control projects in accordance with the provisions of this section, section 17-1909 of the environmental conservation law, and to make financial assistance available to eligible borrowers through linked deposits made in accordance with article sixteen of the state finance law.

(b) There is hereby established in the custody of the corporation a special fund to be known as the water pollution control revolving fund. Moneys in the water pollution control revolving fund shall be segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section. Moneys in the water pollution control revolving fund shall only be used in accordance with the provisions of this section and section 17-1909 of the environmental conservation law. The moneys in such fund shall be applied to or paid out for authorized purposes of such fund on the direction of the chairman of the corporation in accordance with subdivision four of this section and section 17-1909 of the environmental conservation law, or such other person as the corporation shall authorize to make such direction. In consultation with the director of the division of the budget, the corporation may, subject to subparagraph (ii) of paragraph a of subdivision seven of section 17-1909 of the environmental conservation law, and shall, at the direction of the commissioner of environmental conservation pursuant to such subdivision, establish within the water pollution control revolving fund additional accounts or subaccounts and specify any conditions applicable to the transfer of moneys between such accounts or subaccounts. With respect to each eligible project, the corporation shall establish and maintain a record of the allocation provided for the benefit of such project in accordance with the terms of the applicable project financing agreement or loan agreement.

2. As used in this section, the terms "allocation", "construction", "eligible project", "fund", and "project financing agreement" shall have the meanings set forth in section 17-1909 of the environmental

conservation law.

3. Such fund shall consist of all of the following: (a) federal capitalization grants and awards or other federal assistance provided pursuant to Title II or Title VI of the Federal Water Pollution Control Act, exclusive of any such grants, awards or assistance available under Title II, except as may be necessary to avoid the loss to New York state of any unobligated Title II money which can not be made available as a grant or grant increase to a municipality, for purposes of deposit in the fund and appropriated by the state for deposit therein, (b) federal capitalization grants and awards or other federal assistance provided pursuant to, or for the purposes of, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), (c) moneys appropriated by the state legislature for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law, (d) payments of principal and interest made by municipalities pursuant to loan or other agreements entered into pursuant to subdivisions eight and nine of this section: provided, however, if such loans were financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys, (e) investment earnings on amounts in such fund, (f) any other payments received from municipalities pursuant to a loan or other agreement made pursuant to subdivisions eight and nine of this section for costs of managing and administering the program, (g) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to municipalities, (h) the balance of any fees or penalties paid pursuant to the terms and conditions of a compliance or enforcement agreement for violations of the federal Marine Protection, Research and Sanctuaries Act, as amended (33 U.S.C. §§ 1401 et seq.), occurring prior to December thirty-first, nineteen hundred ninety-four, after payment has been made to the administrator of the United States environmental protection agency, a trust account, the ocean dumping alternatives account, and (i) the balance of any amount in a trust account or, if applicable, municipal trust accounts of the clean oceans fund upon a finding by the

administrator of the United States environmental protection agency that fees or penalties were not paid into such trust account or municipal trust account as required by the Marine Protection, Research, and Sanctuaries Act, or an applicable compliance or enforcement agreement.

4. Moneys in the water pollution control revolving fund shall be applied by the corporation to provide financial assistance to municipalities for construction of eligible projects and, upon consultation with the director of the division of the budget and the commissioner, for such other purposes permitted by the Federal Water Pollution Control Act, as amended, and to provide for the administrative and management costs of the program. All moneys from federal capitalization grants and awards or other federal assistance made available pursuant to, or for the purposes of, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), which are deposited into the water pollution control fund pursuant to subdivision three of this section, and any corresponding state match moneys, may be used by the corporation for the purposes permitted by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), and for no other purposes. As used in this section "financial assistance to municipalities" means any one or more of the following:

(a) making loans to municipalities for construction of eligible projects, provided such loans (i) are made at market or below market rates, (ii) do not have a final maturity of more than twenty years following scheduled completion of the eligible project, (iii) have principal and interest payments which commence not later than one year after scheduled completion of the eligible project, and (iv) require the municipality to establish a dedicated source of revenue (which may be a general obligation of the municipality); unless otherwise determined by the corporation or directed by the commissioner of environmental conservation pursuant to subdivision eight of section 17-1909 of the environmental conservation law, the corporation shall make such loans only from the proceeds of the corporation's bonds or notes issued for

purposes of this section;

(b) buying or refinancing debt obligations of municipalities at market or below market rates, if work was commenced and debt was incurred for the eligible project after March seventh, nineteen hundred eighty-five;

(c) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(d) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund;

(e) providing interest rate subsidy allocations to subsidize loans to municipalities made from the proceeds of the corporation's bonds or notes;

(f) using investment earnings on moneys in the fund to pay, pursuant to subdivision seven of this section, the costs of the corporation and the department of environmental conservation of administering and managing the program described in this section and section 17-1909 of the environmental conservation law.

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to municipalities that meet the financial hardship criteria regulations established pursuant to section 17-1909 of the environmental conservation law, may have a final maturity up to forty years following scheduled completion of the eligible project.

5. The corporation may make payments to the sewage treatment program management and administration fund in accordance with subdivision seven of this section to reimburse such fund for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of environmental conservation for administering and managing the water pollution control revolving fund program established in section ninety-seven-l of the state finance law, for such costs. Such reimbursement shall be made from (a) available investment earnings on all amounts in the water pollution control revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a municipality; and (b) payments received from a

municipality for such purpose pursuant to a project financing agreement or loan agreement; and (c) if the sources of revenue described in this paragraph and paragraphs (a) and (b) of this subdivision are or are anticipated to be insufficient, then from the proceeds of federal capitalization grants, awards or assistance appropriated to the fund for administration and management of such program.

Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and (c) of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation shall make such reimbursement from any other available amounts in the water pollution control revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

* 6. Moneys in the water pollution control revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested (a) in investment agreements continuously secured by obligations with any insurance or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if, (i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law, (ii) such obligations are delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust relating to bonds or notes of the corporation, to the trustee under such indenture, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the

underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder, (iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of adverse third party claims, or (b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective until September 30, 2029

* 6. Moneys in the water pollution control revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested (a) in investment agreements continuously secured by obligations with any insurance or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if, (i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law, (ii) such obligations are delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust relating to bonds or notes of the corporation, to the trustee under such indenture, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder, (iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of adverse third party claims, or (b) in obligations the interest on which is excludable from gross income under section one hundred three of the internal revenue code, provided that such obligations are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective September 30, 2029

7. The corporation may transfer to the sewage treatment program management and administration fund established pursuant to section ninety-seven-l of the state finance law no less frequently than semi-monthly amounts from the fund sufficient to reimburse the sewage treatment program management and administration fund in accordance with the provisions of subdivision five of this section.

8. In addition to the powers of the corporation granted elsewhere in this chapter, the corporation shall have the power to enter into project financing agreements authorized by section 17-1909 of the environmental conservation law. Notwithstanding the powers granted to the corporation elsewhere in this title, the corporation's power to finance eligible projects from the fund is limited to eligible projects for which project financing agreements have been executed pursuant to section 17-1909 of the environmental conservation law.

9. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation may make loans to municipalities for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision eight of this section, may accept the obligations of any municipality as security for the repayment of a loan to such municipality, and may assign and pledge such municipal obligations and loan agreements for the benefit of the holder of obligations of the corporation from the proceeds of which such loans are made. Loan proceeds may be disbursed to a municipality in accordance with such restrictions as may be imposed by the corporation in connection with such loan or obligations of the corporation from the proceeds of which such loan is made.

10. The corporation is authorized to arrange for any audits required by law for the purpose of issuing its bonds or notes to provide financial assistance to municipalities, and provide for the implementation of any independently conducted reviews or audits arranged pursuant to subdivision seven of section 17-1909 of the environmental conservation law.

11. In the event a municipality shall fail to make any payment due the corporation pursuant to any loan agreement, financing agreement, or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation shall certify to the comptroller, and notify the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation provided such certificate shall specify the exact amount of debt service and surcharge, if applicable, required to satisfy such municipality's unpaid obligation. The comptroller, upon receipt of such certificate from the corporation, is authorized to and shall, to the extent not otherwise prohibited by law and subject to any other provision of law providing for withholding of payments to the municipality which take precedence over this subdivision, withhold from such municipality the next succeeding payments of state aid or local assistance otherwise payable to it to the extent necessary to meet the certified amount of debt service and surcharge, if applicable, due the corporation and shall immediately pay over to the corporation as a debt service payment on behalf of such municipality the amount so withheld.

12. (a) Notwithstanding the provisions of any general or special law to the contrary, the commissioner of environmental conservation on behalf of the state and the corporation, subject to the approval of the director of the budget, are each hereby authorized to enter into a state revolving fund service contract or contracts providing for the administration of the water pollution control revolving fund and the financing by the corporation of the contributions made by the state to the water pollution control revolving fund. Any such contract or contracts shall be upon such terms and conditions as the corporation and the commissioner of environmental conservation shall determine to be reasonable, including, but not limited to, provisions relating to the respective obligations of the state and the corporation with respect to the administration of the water pollution control revolving fund and provisions providing for the payment of (i) all fees and other charges

of, and expenses incurred by, the corporation in connection with the issuance and administration of special obligation bonds to provide funds to the state or reimburse the state for contributions to the water pollution control revolving fund and (ii) all debt service payments on such bonds.

(b) Any such contract entered into pursuant to paragraph (a) of this subdivision shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefore and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(c) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing the state contribution to the water pollution control revolving fund.

(d) The comptroller is hereby authorized to receive from the corporation any portion of special obligation bond proceeds paid to provide funds to or reimburse the state for its contribution to the water pollution control revolving fund and to credit such amounts to the capital projects fund or any other appropriate fund.

13. In addition to the powers granted to the corporation in this section, the corporation is authorized to exercise the powers, perform the responsibilities and take the actions assigned to it under section 17-1909 of the environmental conservation law.