

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2659

By: Beutler

AS INTRODUCED

An Act relating to waters and water rights; providing for the Secretary of State to refer a measure to a vote of the people; creating the Natural Resources Conservation and Public Works Improvement Assistance Act; specifying purpose; defining terms; creating the Natural Resources Conservation and Public Works Improvement System; amending 82 O.S. 1991, Sections 1085.32, 1085.33, 1085.35, 1085.36, 1085.37, 1085.42, 1085.47, 1085.49, 1085.34, 1085.43, 1085.45, 1085.31, 1085.40, 1085.41, 1085.44, 1085.39, 1085.51, 1085.53, 1085.54, as amended by Section 326, Chapter 145, O.S.L. 1993, 1085.55, as amended by by Section 327, Chapter 145, O.S.L. 1993, 1085.56, as amended by Section 328, Chapter 145, O.S.L. 1993, 1085.57, as amended by Section 329, Chapter 145, O.S.L. 1993, 1085.58, as amended by Section 330, Chapter 145, O.S.L. 1993, 1085.59, 1085.60, 1085.61, 1085.62, as amended by Section 331, Chapter 145, O.S.L. 1993, 1085.63, as amended by Section 332, Chapter 145, O.S.L. 1993, 1085.64, as amended by Section 333, Chapter 145, O.S.L. 1993, 1085.65, as amended by Section 334, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Sections 1085.54, 1085.55, 1085.56, 1085.57,

1085.58, 1085.62, 1085.63 and 1085.64 and 1085.65), which relate to the water and wastewater facility programs; creating the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund; providing for investment certificates; creating the Water Storage and Control Facilities Program, the Natural Resources Conservation and Public Works Improvement Assistance Grant Program, the Solid Waste Facility Construction and Improvement Program, the Wastewater Facility Construction Program, the Safe Drinking Water Development Program and the Environmental Emergency Response Program; providing for contents and purpose; providing for income tax levy; specifying purposes and use; amending 68 O.S. 1991, Section 2355, as amended by Section 1, Chapter 311, O.S.L. 1992 (68 O.S. Supp. 1993, Section 2355), which relates to income tax rates; providing increase; providing ballot title; directing filing; providing for codification; and providing an effective date.

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

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection at the next general election as and in the manner provided for by law the following proposed statute.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.1 of Title 82, unless there is created a duplication in numbering, reads as follows:

Sections 3 through 63 of this act shall be known and may be cited as the "Natural Resources Conservation and Public Works Improvement Assistance Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.2 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The purpose of the Natural Resources Conservation and Public Works Improvement Assistance Act is to provide for the beneficial utilization and protection of the natural resources within this state:

1. Through the planning, development, construction, improvement, conservation, ownership and financing of water development and sewage treatment works, soil conservation and solid waste facilities and projects;

2. By dedicating available revenues to maximize federal funds available to the state for environment or natural resource projects or responsibilities;

3. By responding, alleviating, recovering from and mitigating environmental emergencies and environmental disasters; and

4. By providing revenue for state liability and responsibilities resulting from federal mandates for rehabilitation and remediation of waste-contaminated sites.

B. Financial assistance for water resources, sewage treatment works, soil conservation and solid waste programs shall be made available to municipalities, counties and other political subdivisions of this state designated as being eligible for such assistance on a priority basis pursuant to the Natural Resources Conservation and Public Works Improvement Assistance Act.

SECTION 4. AMENDATORY 82 O.S. 1991, Section 1085.32, is amended to read as follows:

Section 1085.32 As used in ~~Sections 1085.33 through 1085.39 of~~
~~this title~~ the Natural Resources Conservation and Public Works
Improvement Assistance Act:

1. "Project" means:

- a. any engineering undertaking or work to conserve and develop surface or subsurface water resources or to control or develop sewage treatment facilities of the state for all useful and lawful purposes by the acquisition, improvement, extension or construction of dams, reservoirs and other water storage projects, including underground storage projects, filtration and water treatment plants,
- b. any system necessary to distribute water from storage to points of distribution, or to filtration and treatment plants,
- c. facilities for the distribution of water from storage or filtration and treatment plants to wholesale or retail purchasers, ~~and~~
- d. any system necessary to improve or develop ~~sewage~~ wastewater treatment, collection or distribution capabilities~~-,~~
- e. any system necessary to improve or develop safe drinking water, and
- f. any system necessary to improve or develop collection and disposal of solid waste capabilities;

2. "Wastewater project" means:

- a. any engineering undertaking or work to control or develop sewage treatment works or facilities in the state for all useful and lawful purposes,
- b. any system necessary to improve or develop sewage treatment, collection or distribution capabilities, or

- c. any implementation of nonpoint source management programs as authorized by the federal Water Quality Act of 1987 and the Natural Resources Conservation and Public Works Improvement Assistance Act;

3. "Drinking water treatment project" means:

- a. any engineering undertaking or work to control or develop drinking water treatment facilities of eligible entities for all useful and lawful purposes,
- b. any system necessary to improve or develop drinking water supply, treatment or distribution capabilities, or
- c. any implementation of water source protection programs as authorized by the federal Safe Drinking Water Act and the Natural Resources Conservation and Public Works Improvement Assistance Act;

4. "Solid waste project" means:

- a. any engineering undertaking or work to control or develop solid waste facilities of eligible entities for all useful and lawful purposes,
- b. any system necessary to improve or develop solid waste collection or disposal capabilities, or
- c. any implementation of solid waste programs as authorized by the federal Resource Conservation and Recovery Act and the Natural Resources Conservation and Public Works Improvement Assistance Act;

5. "Board" means the Oklahoma Water Resources Board;

6. "Department" means the Department of Environmental Quality;

7. "Federal Water Quality Act of 1987" means the federal Water Quality Act of 1987 as exists on the effective date of this act, as may be amended, or any successor statute;

8. "Safe Drinking Water Act" means the federal Safe Drinking Water Act as exists on the effective date of this act, as may be amended, or any successor statute;

9. "Resource Conservation and Recovery Act" means the federal Resource Conservation and Recovery Act as exists on the effective date of this act, as may be amended, or any successor statute;

10. "Emergency" means a sudden and unforeseeable occurrence or condition either as to its onset or as to its extent, of such severity or magnitude that immediate emergency response or action is necessary to preserve the health and safety of the public or environment or to preserve property;

11. "Dangerous substance" means explosives, gases, flammable liquids and solids, poisons, radioactive materials, hazardous materials, deleterious substances, oil, or other substance or material in a quantity or form capable of posing an unreasonable risk to public health and safety, property or to the environment;

12. "Release" means a leakage, seepage, discharge, emission or escaping of a dangerous substance into the environment of the state;

13. "Extreme emergency" means any emergency which requires immediate protective actions;

14. "Protective actions" are those steps deemed necessary in an extreme emergency to preserve the health and safety of the emergency responders, the public and the protection of the environment and property during an incident involving the release of a dangerous substance. Protective actions include but are not limited to area isolation, evacuation, dilution, cooling, encapsulation, chemical treatment and diking;

15. "System" means the Natural Resources Conservation and Public Works Improvement System;

~~2.~~ 16. "Investment certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued

by the Board for the purposes set forth in Sections 1085.31 through 1085.39 of this title-;

~~3.~~ 17. "Eligible entity" means any city, town, county or the State of Oklahoma, and any rural water or sewer district, irrigation district, public trust, master conservancy district or other political subdivision or any combination thereof-; and

18. "Trust Fund" means the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.4 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to the Natural Resources Conservation and Public Works Improvement Assistance Act, there is hereby created the Natural Resources Conservation and Public Works Improvement System administered by the Oklahoma Water Resources Board.

B. The System shall consist of:

1. The Water Storage and Control Facilities Program;
2. The Natural Resources Conservation and Public Works Improvement Assistance Grant Program;
3. The Solid Waste Facility Construction and Improvement Program;
4. The Wastewater Facility Construction Program;
5. The Safe Drinking Water Development Program; and
6. The Environmental Emergency Response Program.

SECTION 6. AMENDATORY 82 O.S. 1991, Section 1085.33, is amended to read as follows:

Section 1085.33 A. There is hereby created in the State Treasury ~~a Water~~ the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund, which fund shall be used by the Board for ~~these purposes stated in Sections 1085.31 through 1085.39 of this title~~ the Natural Resources Conservation and Public Works Improvement Assistance Act.

B. To provide necessary funds, the Board is hereby authorized to issue by public sale investment certificates from time to time, as may be required, to provide an adequate amount of cash in such fund which may be necessary to meet the anticipated needs for the funding of properly approved projects. The Board is authorized to provide for the payment of such investment certificates and the rights of the holders thereof, as hereinafter provided. Said investment certificates shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper in general circulation in Oklahoma County, Oklahoma, prior to the date on which bids are received and opened, except, on issues with the approval of three-fourths (3/4) of the membership of the Board, competitive bidding may be waived. No investment certificates shall be sold for less than par value, except upon approval of three-fourths (3/4) of the membership of the Board. Provided, however, in no event shall any investment certificates be sold at a discount in excess of four percent (4%), which shall include any fees, discounts and any other remuneration received directly or indirectly by the purchaser. Said investment certificates may ~~be~~:

1. Be issued in one or more series; ~~may bear~~
2. Bear such date or dates; ~~may mature~~
3. Mature at such time or times, not to exceed fifty (50) years from their date; ~~may be~~
4. Be in such denomination or denominations; ~~may be~~
5. Be in such form ~~may carry;~~
6. Carry such registration or conversion privileges; ~~may be~~
7. Be executed in such manner; ~~may be~~
8. Be payable in such medium of payments, at such place or places; ~~may be~~
9. Be subject to such term of redemption, with or without premium; and ~~may bear~~

10. Bear such rate or rates of interest not to exceed fifteen percent (15%) as may be provided by resolution or resolutions to be adopted by the Board.

C. Such investment certificates shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state, or by any county, municipality or political subdivision therein. The Board is hereby authorized to defease, call and redeem all or any portion of any investment certificates issued hereunder, the detailed provisions for such defeasance, call and redemption to be fixed by the Board in the resolution or resolutions authorizing such defeasance, call and redemption.

D. Obligations issued under the provisions of this section are hereby made securities in which all public officers and public bodies of the state, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may legally invest funds, including capital in their control or belonging to them. The obligations are hereby made securities which may legally be deposited with and received by any public body of the state for any purpose for which the deposit of obligations of the state is now or may hereafter be authorized by law, and are hereby declared to be securities classified under Section 516.3 of Title 62 of the Oklahoma Statutes, and are authorized to be evidenced by a joint-custody receipt.

E. The investment certificates issued pursuant to the provisions of this section shall not be an indebtedness of the state or general obligations of the Board, but shall be special obligations payable solely from the revenues to be derived from the project or such other revenues as may be pledged by the applicant for such purposes, and the Board is authorized and directed to pledge all or any part of such revenues to the payment of principal and interest on the investment certificates and to create a reserve.

Such pledge shall be valid and binding from the time the pledge is made. The revenues so pledged and thereafter received by the Board shall immediately be subject to the lien of such pledge without any physical delivery, filing or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Board arising from the bond proceedings irrespective of whether these parties have notice thereof.

F. The Natural Resources Conservation and Public Works Improvement Assistance Trust Fund shall consist of:

1. The Natural Resources Conservation and Public Works Improvement Assistance Grant Account;

2. The Solid Waste Facility Construction and Improvement Revolving Loan Account;

3. The Wastewater Facility Construction Revolving Loan Account;

4. The Drinking Water Treatment Revolving Loan Account;

5. The Environmental Emergency Revolving Account; and

6. The Federal Matching Monies Revolving Account.

SECTION 7. AMENDATORY 82 O.S. 1991, Section 1085.35, is amended to read as follows:

Section 1085.35 The State Treasurer is hereby authorized,~~at~~
~~his discretion,~~ to purchase from the Board at private sale not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) in investment certificates or interim investment certificates for each project, provided that the rate of interest agreed upon by the Board and the State Treasurer shall not be less than seven percent (7%). Provided, the State Treasurer is hereby authorized,~~at his discretion,~~ to sell any investment certificates so purchased with any of said sales not to be less than par, plus interest as accrued.

SECTION 8. AMENDATORY 82 O.S. 1991, Section 1085.36, is amended to read as follows:

Section 1085.36 Whenever any municipality, public trust, rural water ~~or, sewer, gas or solid waste management~~ district or any other eligible entity proposes to acquire or construct a project and/or refinance any indebtedness originally incurred to acquire or construct a project, the Board is hereby authorized to advance to the municipality, public trust, ~~rural water~~ district or other eligible entity or combination thereof sufficient funds for such purposes. Such loans by the Board shall be made pursuant to notes, bonds, revenue bonds or other appropriate form of evidence of indebtedness to the Board by the municipality, public trust, ~~rural water~~ district or other eligible entity. The interest rate and loan term shall be determined by the Board, provided, however, that the interest rate for loans made to ~~rural water or sewer~~ districts, created and existing under the provisions of ~~Section 1324.1 et seq. of this title~~ the Rural Water, Sewer, Gas and Solid Waste Management District Act, for the purposes of acquiring or constructing a project and/or refinancing any indebtedness originally incurred to acquire or construct a project, shall not exceed fourteen percent (14%) per annum. As security, the Board may take a mortgage on the entire project, and a pledge of the revenues derived from the operation thereof or such other revenues as may be pledged by the applicant for such purposes. The Board, in its discretion, may defer the principal or an installment on such loans but the total cumulating time such payment may be deferred shall not exceed five (5) years. After a loan or other financial assistance is obtained under ~~Sections 1085.31 through 1085.65 of this title~~ the Natural Resources Conservation and Public Works Improvement Assistance Act, and during the term of such loan or other financial assistance, no person, other than the eligible entity obtaining the financial assistance, shall be authorized to provide services of the type relied on for security of the loan or other financial assistance to

customers of the portion of the system that is identified in the loan documents as collateral for the loan and either ~~(1) in:~~

1. In existence at the time of the loan or other financial assistance; or ~~(2) financed~~

2. Financed by the loan or other financial assistance.

SECTION 9. AMENDATORY 82 O.S. 1991, Section 1085.37, is amended to read as follows:

Section 1085.37 Within ten (10) days of receipt of the transcript of proceedings on said investment certificates, the Attorney General of Oklahoma shall examine and approve or disapprove all of the proceedings of the Board and all resolutions passed and actions taken by it in connection with the authorization, issuance and sale of such investment certificates and shall, if he finds such investment certificate proceedings and sale to be constitutional and lawful, execute his certificate and file the same of record in the office of the Secretary of State of Oklahoma, which said certificate shall read substantially as follows:

I have examined all proceedings had in connection with the issuance of the ~~Water~~ Natural Resources Conservation and Public Works Assistance Investment Certificates in the aggregate principal amount of \$_____, dated _____, authorized and sold pursuant to _____, and find said proceedings and sale to be constitutional, lawful and regular in all particulars and that said investment certificates will be valid obligations of the Oklahoma Water Resources Board. Unless suit thereon shall be brought in the Supreme Court of Oklahoma within thirty (30) days from the date of this certificate, said investment certificates shall be incontestable for all purposes.

Date

Attorney General of Oklahoma

Upon the filing of such certificate, investment certificates issued pursuant to proceedings so examined by the Attorney General

shall be incontestable for all purposes upon the expiration of thirty (30) days from the date of such certificate, unless suit be brought in the Supreme Court of Oklahoma prior to the expiration of said period. A facsimile of such Attorney General's certificate shall appear on each investment certificate so issued. Failure of the Attorney General to approve or otherwise act upon such proceedings as required herein shall, for all purposes, be deemed an approval of such proceedings and a waiver of the requirement for his certification. In the absence of an express certification, the thirty-day period for the filing of suit in the Supreme Court of Oklahoma shall commence upon the eleventh day following receipt of the transcript of proceedings in the office of the Attorney General. The Supreme Court of Oklahoma is hereby vested with exclusive jurisdiction over any litigation involving the validity of any investment certificates issued under the provisions of Section ~~1085.33~~ 6 of this ~~title~~ act.

SECTION 10. AMENDATORY 82 O.S. 1991, Section 1085.42, is amended to read as follows:

Section 1085.42 The Board is authorized ~~in its discretion~~ to file an application with the Supreme Court of Oklahoma for approval by the Court of any investment certificates to be issued under the provisions of Section ~~1085.33~~ 6 of ~~Title 82 of the Oklahoma Statutes~~ this act, or to file a petition for a judgment determining the validity of any proposed contract or action arising from the exercise of any of the powers, rights, privileges and functions conferred upon the Board, eligible public agencies or public trusts under the provisions of ~~Sections 1085.33 through 1085.39 of the Oklahoma Statutes and Sections 9 and 10 of this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act; and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each such application or petition. Notice of the hearing on each application and petition

shall be given by a notice published in a newspaper of general circulation in the state that on a day named the Board will ask the Court to hear its application and approve the investment certificates, or hear its petition and enter a declaratory judgment. Such notice shall inform property owners, taxpayers, ratepayers, citizens and all persons having or claiming any right, title or interest in such matter or properties or funds to be affected by the issuance of such investment certificates, or proposed contract or action, or affected in any way thereby, that they may file protests against the issuance of the investment certificates, the validity of the contracts or action, or the declaratory judgment, and be present at the hearings and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court is satisfied that the investment certificates described in the application have been properly authorized in accordance with ~~Sections 1085.33 through 1085.37 of Title 82 of the Oklahoma Statutes~~ the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act and that, when issued, they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the investment certificates, and shall, upon application of the Board, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such investment certificates, or of the rates, fees or charges authorized to be charged for the payment thereof, or the pledge of revenues, monies, securities, contract rights or other personal property to secure such payment, and shall fix the time within which a petition for rehearing may be filed. If the Court is satisfied that a proposed contract or action described in a petition filed pursuant to this section is in accordance with the provisions

~~of Sections 1085.33 through 1085.39 of Title 82 of the Oklahoma Statutes and Sections 9 and 10 of this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act, the Court shall enter a judgment approving and declaring such contract or action to be valid, and shall, upon application of the Board, also issue an order permanently enjoining all persons described in the aforesaid notice from thereafter instituting any action or proceeding contesting the validity of such contract or action, and shall fix the time within which the petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the investment certificates, shall be conclusive as to the Board, its officers and agents, and thereafter the obligations so approved and the revenues, monies, securities, contract rights or other personal property pledged to their payments shall be incontestable in any court in the State of Oklahoma, and any declaratory judgment on any contract or action of the Board, any eligible public agency or any public trust entered pursuant to this section shall have the force and effect of a final judgment or decree.

SECTION 11. AMENDATORY 82 O.S. 1991, Section 1085.47, is amended to read as follows:

Section 1085.47 In the issuance of investment certificates, it shall be the duty and responsibility of the Board to consider the relative needs of all eligible entities in the state and to ensure that sufficient monies are made available from each issuance to satisfy such proportionate share of the overall needs as are attributable to small cities, towns ~~and rural water~~, districts and other eligible entities.

SECTION 12. AMENDATORY 82 O.S. 1991, Section 1085.49, is amended to read as follows:

Section 1085.49 Except as provided in the rules ~~and regulations~~ of the Municipal Securities Rulemaking Board no broker, dealer, or

investment certificates dealer that has a financial advisory relationship with respect to a new issue of investment certificates shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of such issue, or arrange for such acquisition or participation by a person controlling, controlled by, or under common control with such broker, dealer, or investment certificates dealer.

SECTION 13. AMENDATORY 82 O.S. 1991, Section 1085.34, is amended to read as follows:

Section 1085.34 It shall be unlawful to buy, sell, rent or lease from any officer, board member or employee from funds authorized by ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act.

SECTION 14. AMENDATORY 82 O.S. 1991, Section 1085.43, is amended to read as follows:

Section 1085.43 In no event shall the provisions of ~~Sections 1085.33 through 1085.39 of Title 82 of the Oklahoma Statutes and Sections 9, 10 and 11 of this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act supercede or interfere with the statutory responsibilities or jurisdiction of any other state agency, board or commission.

SECTION 15. AMENDATORY 82 O.S. 1991, Section 1085.45, is amended to read as follows:

Section 1085.45 In the administration of the program of financial assistance authorized under the provisions of ~~Section 1085.32 et seq. of Title 82 of the Oklahoma Statutes~~ the Natural Resources Conservation and Public Works Improvement Assistance Act, the Board shall comply with all applicable provisions of the Oklahoma Central Purchasing Act, including but not limited to those

provisions requiring competitive bidding on Board purchases and acquisitions.

WATER STORAGE AND CONTROL FACILITIES PROGRAM

SECTION 16. AMENDATORY 82 O.S. 1991, Section 1085.31, is amended to read as follows:

Section 1085.31 A. It is hereby declared to be the policy of the state to encourage and promote the optimum development and utilization of all feasible reservoir sites or areas within this state which may be suitable and usable for the conservation storage of the waters of this state by the construction or enlargement of dams, reservoirs or other structures ~~and for the development of sewage treatment facilities.~~

B. It is the purpose of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act to provide or assist in providing for the acquisition, development and utilization of storage and control facilities of the waters ~~and sewage~~ of this state for the use and benefit of the public and for the conservation and distribution of water for beneficial purposes in or from reservoirs or other storage facilities constructed, or hereafter constructed, modified or enlarged, within Oklahoma by the United States of America or Oklahoma or any agency, department, subdivision or instrumentality thereof, for the following and specific reasons and benefits for the general welfare and the future economic growth of the state:

1. Multiple-purpose dam and reservoir sites are very limited in number and not replaceable-i

2. Water management in Oklahoma requires the storage of water during periods of surplus supply for use during periods of short supply-i

3. Most reservoir sites in Oklahoma will have a useful life of seventy-five to several hundred years. Therefore, it is imperative that the reservoir sites be developed to the full potential of the

site and the net water yield of the drainage area after all present and future needs and beneficial uses of water are satisfied above said site-; and

4. The conservation of soil and water in Oklahoma requires the continuation of watershed protection and flood prevention programs on an accelerated priority basis with consideration given to future water needs of the area of origin.

~~5. Sewage treatment and control in Oklahoma creates certain health problems in certain communities due to lack of adequate treatment facilities.~~

SECTION 17. AMENDATORY 82 O.S. 1991, Section 1085.40, is amended to read as follows:

Section 1085.40 A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Water Resources Board to be designated the "Statewide Water Development Revolving Fund". The revolving fund shall be a continuing fund, not subject to fiscal year limitations.

B. All monies placed in the Statewide Water Development Revolving Fund, exclusive of such amounts of interest derived from investment deposits necessary to maintain the grant account at its maximum amount as provided in subsection C of this section, may be used by the Board for any and all of the following uses and purposes:

1. For the planning and, upon legislative authorization, acquisition of land, construction, operation and maintenance of multipurpose reservoirs and desalination facilities within the State of Oklahoma;

2. To provide for and pay the share, contribution or portion of the cost the state shall pay for any legislative-approved, federally funded water project in the state including, but not limited to, projects for bank stabilization, flood control, weather

modification, hydroelectric power, water supply, irrigation, recreation and other beneficial uses; ~~and~~

3. To fulfill state contractual obligations upon legislative authorization and pursuant to approved repayment agreements with the federal government and incidental to federally funded water supply storage projects;

4. Security and collateral for investment certificates issued pursuant to Section 6 of this act;

5. By dedicating available revenues that will earn the maximum federal funds available to the state for environment or natural resource projects or responsibilities; and

6. Providing revenue for state liability and responsibilities resulting from federal mandates for rehabilitation and remediation of waste contaminated sites.

The Board shall submit annually to the Legislature a list of those projects under consideration for funding under the provisions of this section.

C. The principal amount of all monies placed in the Statewide Water Development Revolving Fund and in the ~~Water Resources Fund~~ Natural Resources Conservation and Public Works Improvement Assistance Grant Account as provided for in Section ~~1085.39~~ 20 of ~~this title~~ the Natural Resources Conservation and Public Works Improvement Assistance Act shall be invested by the State Treasurer in the manner prescribed by Sections 89.1 et seq. of Title 62 of the Oklahoma Statutes. Interest income derived from the investment of monies placed in the Statewide Water Development Revolving Fund shall be credited to and placed in the grant account established by Section ~~1085.39~~ 20 of ~~Title 82 of the Oklahoma Statutes~~ this act, provided, the total of all monies held in the grant account shall not exceed Five Million Dollars (\$5,000,000.00). Whenever the aggregate total of all monies placed in the grant account equals Five Million Dollars (\$5,000,000.00), then the principal amount in

the grant account shall be kept and maintained at that amount and all additional interest income not required to maintain the balance of the grant account at Five Million Dollars (\$5,000,000.00) shall be retained in the Statewide Water Development Revolving Fund. The additional interest income not needed to maintain the grant account as herein provided may be utilized by the Board for the purposes and uses enumerated in subsection B of this section.

SECTION 18. AMENDATORY 82 O.S. 1991, Section 1085.41, is amended to read as follows:

Section 1085.41 In addition to the purposes outlined in Section ~~9~~ 17 of this act, all monies placed in the Statewide Water Development Revolving Fund may be used by the Board for security and collateral for investment certificates issued by the Board pursuant to Section ~~1085.33~~ 6 of ~~Title 82 of the Oklahoma Statutes~~ this act. Furthermore, the Board is hereby directed to manage and administer the Statewide Water Development Revolving Fund so as to maintain a revolving fund balance adequate to sufficiently back any and all outstanding investment certificates.

SECTION 19. AMENDATORY 82 O.S. 1991, Section 1085.44, is amended to read as follows:

Section 1085.44 In addition to the purposes outlined in Section ~~1085.40 of Title 82 of the Oklahoma Statutes~~ 17 of this act, all monies appropriated by the Legislature to the Statewide Water Development Revolving Fund may be used by the Board for security and collateral for investment certificates issued by the Board pursuant to Section ~~1085.33~~ 6 of ~~Title 82 of the Oklahoma Statutes~~ this act. Furthermore, the Board is hereby directed to manage and administer the Statewide Water Development Revolving Fund so as to maintain a revolving fund balance adequate to sufficiently back any and all outstanding investment certificates. Any state liability arising from the implementation of this section shall be limited to those monies in the Statewide Water Development Revolving Fund which have

been reserved as backing for the outstanding investment certificates.

NATURAL RESOURCES CONSERVATION AND PUBLIC WORKS

IMPROVEMENT ASSISTANCE GRANT PROGRAM

SECTION 20. AMENDATORY 82 O.S. 1991, Section 1085.39, is amended to read as follows:

Section 1085.39 A. In furtherance of the purposes of ~~Sections 1085.31 through 1085.49 of this title~~ the Natural Resources Conservation and Public Works Improvement Assistance Act:

1. The Oklahoma Water Resources Board shall administer grants from any monies which may be available to the ~~Water~~ Natural Resources Conservation and Public Works Improvement Assistance Trust Fund for furtherance of the purposes of ~~Sections 1085.31 through 1085.49 of this title~~ the Natural Resources Conservation and Public Works Improvement Assistance Act to eligible entities of the state with such conditions as shall in its discretion effectuate these purposes. For purposes of carrying out and implementing the provisions of this section, there is hereby created and established within the ~~Water Resources~~ Natural Resources Conservation and Public Works Improvement Assistance Trust Fund a grant account which shall contain such monies as may be available for purposes of carrying out the provisions of this section. No more than ten percent (10%) of such grants shall be used for planning purposes. All such eligible entities are hereby authorized to accept grants from the Board. No grant shall be made to any single eligible entity during any fiscal year in an amount exceeding twenty percent (20%) of the funds available for grants to eligible entities during that fiscal year nor shall such grant exceed One Hundred Thousand Dollars (\$100,000.00). In the case of projects to which more than one eligible entity is a party, no such grant shall be made exceeding in amount twenty percent (20%) of funds available for such purposes per participating eligible entity nor shall such grant exceed One

Hundred Thousand Dollars (\$100,000.00) per participating entity. In making such grants, the Board shall consider: ~~The~~

- a. the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance~~;~~;
 - b. the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest~~;~~;
 - c. whether the political subdivision can reasonably finance the project without assistance from the state~~;~~; ~~and~~
 - d. the relationship of the project to the overall statewide water ~~and~~ sewage treatment and solid waste needs~~;~~; and
 - e. whether or not the applicant has taken all reasonable measures to limit waste and conserve ~~water~~ natural resources;
2. a. The Board shall prescribe such rules ~~and regulations~~ as may be necessary for determining the eligibility and priority of applicants for loans and grants and devise rules ~~and regulations~~ to ~~insure~~ ensure fair and equitable distribution of said loans and grants; and promulgate ~~and adopt~~ such rules ~~and regulations~~ as may be necessary for purposes of expenditures and payments. ~~Provided,~~
- b. The rules shall provide that:
- (1) no grant of funds shall be made unless such grant is necessary to assist public bodies in emergency situations. ~~Provided also,~~ and
 - (2) priorities for use of loan and grant money for a particular project shall be established by the

state agency with primary responsibility.

~~Provided further, that the~~

c. The Board shall not ~~adopt~~ promulgate any rule,
~~regulation~~ or condition requiring that a particular
attorney or law firm be employed by any eligible
entity in connection with such entity's grants or
loans from the Board; and

3. The Board is hereby authorized to direct that up to fifty
percent (50%) of the interest income from the investment of monies
in the Statewide Water Development Revolving Fund and the ~~Water
Resources Fund~~ Natural Resources Conservation and Public Works
Improvement Assistance Grant Account accruing from and after the
date of this act be deposited in the Statewide Water Development
Revolving Fund created under Section ~~1085.40~~ 17 of this ~~title~~ act.

B. The Board may adopt reasonable nondiscriminatory standards
for selection of legal counsel.

SOLID WASTE FACILITY CONSTRUCTION AND IMPROVEMENT PROGRAM

SECTION 21. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1088.20 of Title 82, unless
there is created a duplication in numbering, reads as follows:

Pursuant to Section 39 of Article X of the Oklahoma
Constitution, it is the intention of the Legislature to establish a
Solid Waste Facility Construction and Improvement Revolving Loan
Account and grant program to assist municipalities, counties and
other political subdivisions of this state to acquire, develop,
construct, enlarge, modify and utilize solid waste storage,
transfer, distribution and disposal facilities for the benefit of
the general public and the future economic growth of the state.

SECTION 22. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1088.21 of Title 82, unless
there is created a duplication in numbering, reads as follows:

A. Within the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund, there is hereby created the "Solid Waste Facility Construction and Improvement Revolving Loan Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies received from the federal government which are eligible for use in state revolving loan funds established to meet the requirements;

2. Monies appropriated to the account;

3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;

4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;

5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by state or federal law;

6. Proceeds from the sale of investment certificates issued to provide solid waste construction and improvement loans pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and

7. Any other sums designated for deposit to the account from any source, public or private.

B. The Solid Waste Facility Construction and Improvement Revolving Loan Account shall remain available in perpetuity for providing financial assistance in accordance with the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act.

C. The monies in the Solid Waste Facility Construction and Improvement Revolving Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act or for such other purposes authorized by state or federal law.

D. The monies placed in the Solid Waste Facility Construction and Improvement Revolving Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of state and federal law. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Board.

E. The Board shall not use funds in the Solid Waste Facility Construction and Improvement Revolving Loan Account established in the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund to make grants.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.22 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. All funds available in the Solid Waste Facility Construction and Improvement Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals, and requirements of the Oklahoma Environmental Quality Code, Oklahoma's Water Quality Standards, the federal Clean Water Act and the federal Resource Conservation and Recovery Act.

B. The Board shall use the Solid Waste Facility Construction and Improvement Revolving Loan Account for the following purposes:

1. To make a loan to an eligible entity if:

- a. the loan application, project and planning documents have been approved by the Department and Board pursuant to the Solid Waste Facility Construction and Improvement Program,
- b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with federal or state law,
- c. principal and interest payments will begin not later than one year after completion of any solid waste project and all loans will be fully amortized consistent with federal or state law,
- d. the Solid Waste Facility Construction and Improvement Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
- e. the applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service,
- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;

2. To buy or refinance eligible entity obligations at or below market rates;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by

the Board. The proceeds of the sale of such investment certificates shall be deposited in the Solid Waste Facility Construction and Improvement Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. To provide loan guarantees to similar revolving loan accounts or funds established by eligible entities;

6. To earn interest on accounts established under the Solid Waste Facility Construction and Improvement Revolving Loan Account;

7. To administer the Solid Waste Facility Construction and Improvement Revolving Loan Account pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act. All funds to be utilized for administrative costs from the Solid Waste Facility Construction and Improvement Revolving Loan Account shall be subject to annual designation by the State Legislature; and

8. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Solid Waste Revolving Loan Account.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.23 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties provided by law, the Department shall have the power and duty to:

1. Prepare and maintain the priority list for publicly owned solid waste facilities;

2. Review and assess the planning and preliminary financial documents for and cost effectiveness of solid waste projects on the priority list;

3. Determine solid waste project feasibility and the entities' eligibility to receive funding from the Solid Waste Facility Construction and Improvement Revolving Loan Account;

4. Determine which application should be referred to the Board for loans from the Solid Waste Facility Construction and Improvement Revolving Loan Account;

5. Perform any required environmental review and make any required environmental determinations in accordance with any necessary environmental review process approved by the Environmental Protection Agency;

6. Provide oversight and technical assistance during the planning, design, and construction phase of the solid waste project for which the entity is applying for such loan; and

7. Be the instrumentality to make application to the Environmental Protection Agency for any capitalization grants which are to be placed in the Solid Waste Facility Construction and Improvement Revolving Loan Account.

B. In determining the cost effectiveness of any solid waste project, the Department shall require the preparation of a cost effective analysis of feasible conveyance and disposal alternatives capable of meeting state, federal and public health requirements. The cost effective analysis shall detail all monetary costs including but not limited to the present worth or equivalent annual value of all capital costs and operation, maintenance and replacement costs. The alternative selected shall be the most economical means of meeting applicable state and federal or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations determined to be relevant by the Department.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.24 of Title 82, unless there is created a duplication in numbering, reads as follows:

The Environmental Quality Board shall promulgate such rules as may be necessary for determining the eligibility and priority of entities for solid waste projects in order to receive loans made

from the Solid Waste Facility Construction and Improvement Revolving Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act;
2. Be in conformance with applicable provisions of the Oklahoma Environmental Quality Code, and any state and federal law;
3. Require that to be approved, an applicant needs or will need the solid waste project loan to comply with rules promulgated by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code; and
4. Require the solid waste project to:
 - a. be designed to halt or prevent the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards,
 - b. meet the Board's established environmental review criteria,
 - c. comply with minimum standards of the federal Resource Conservation and Recovery Act, or any similar or successor statute, and
 - d. meet any other consideration deemed necessary by the Board.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.25 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties provided by law, the Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund and any accounts or subaccounts therein, except as otherwise provided by paragraph 2 of this subsection,

pursuant to the provisions of the Solid Waste Facility Construction and Improvement Program;

2. Manage, maintain, expend and otherwise administer monies in the Solid Waste Revolving Loan Account pursuant to the statutory authority of the Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Solid Waste Facility Construction and Improvement Revolving Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Solid Waste Facility Construction and Improvement Revolving Loan Account to the Statewide Water Development Fund to be used for security or collateral for investment certificates issued for the Solid Waste Revolving Loan Account. The monies so transferred and the interest income from such monies shall be restricted for use to those programs authorized by the Natural Resources Conservation and Public Works Improvement Assistance Act. The Board shall establish such accounts and subaccounts within the Trust Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Solid Waste Facility Construction and Improvement Revolving Loan Account. Said issuance shall be governed by the provisions of the Natural Resources Conservation and Public

Works Improvement Assistance Act. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan funds to meet the demand for funding and is beneficial for the long term stability of the fund. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.26 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Within one hundred eighty (180) days after the effective date of this act, the Board shall provide financial review guidelines to the Department for use by the Department in preliminary evaluations of solid waste projects. The evaluation shall include such information as required by the Board, including but not limited to the:

1. Cost of the proposed construction;
2. Amount of the loan requested;
3. Repayment schedule; and
4. Existing and anticipated assets and liabilities of the applicant.

B. Upon a determination by the Department that an entity meets the criteria to receive funding pursuant to the provisions of this act, the Department shall forward to the Board a request for an initial financial review.

C. Upon receipt of the request, the Board shall prepare its initial financial review of the entity based upon:

1. The documents submitted by the entity and the Department and any additional information requested by the Board through the Department necessary to make a financial review of such entity; and

2. The proposed loan amount and interest rate for which the entity qualifies.

D. The initial financial review may either recommend approval or rejection of the proposed loan.

E. The Board shall return the initial financial evaluation to the Department with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendations shall include reasons for said rejection. The Board shall forward a written copy of the rejection notice to the entity. The entity may then be allowed to modify any such documents in order to comply with the requirements of the Board and may resubmit the necessary financial documents through the Department to the Board.

F. If the Board recommends approval, the Board shall notify the Department of such acceptance. Upon receipt of such notice and upon approval of the planning documents by the Department, the Department shall notify the entity.

G. Upon a determination of compliance with applicable state and federal laws, the Department is authorized to approve and forward the application and necessary documents to the Board with the recommendation that a loan be made to the entity from the Solid Waste Facility Construction and Improvement Revolving Loan Account.

H. Upon review of the application and applicable documents, the Board shall either approve or reject the loan application. The Board may request additional information from the applicant or the Department in order to complete the financial review of the application for the loan. The Board shall notify the applicant of any rejection of an application. Notification of approval of an application for a loan shall be sent to the Department, which shall notify the applicant.

The Department shall have authority to grant final approval for loan closing.

I. Upon the closing of the loan, the Board shall authorize disbursement of funds from the account pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act, the loan documents and rules of the Board that provide for the release of the loan proceeds.

J. Payment on loans shall be made to the Board as provided in the loan documents.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.27 of Title 82, unless there is created a duplication in numbering, reads as follows:

An investment certificate shall not be issued pursuant to the Solid Waste Facility Construction and Improvement Program or pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.28 of Title 82, unless there is created a duplication in numbering, reads as follows:

The Office of the State Auditor and Inspector shall perform an annual audit of any expenditures from the Solid Waste Revolving Loan Account.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.29 of Title 82, unless there is created a duplication in numbering, reads as follows:

In the event of a default in payment of the principal or interest on loans made from the Solid Waste Facility Construction and Improvement Revolving Loan Account pursuant to the Natural Resources Conservation and Public Works Improvement Assistance Act, the Attorney General is empowered and it shall be his duty to take

action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents, and employees to cure the default by performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.30 of Title 82, unless there is created a duplication in numbering, reads as follows:

In order to comply with the requirements of federal and state laws, the Department and the Board shall enter into a written joint operating agreement to carry out with efficiency their respective duties pursuant to the Solid Waste Facility Construction and Improvement Program. At a minimum, the agreement shall provide for the following:

1. Joint procedures consistent with the Solid Waste Facility Construction and Improvement Program to establish criteria for determining the interest rates on loans to be made from the Solid Waste Facility Construction and Improvement Revolving Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Farmers Home Administration guidelines for financial assistance; and

2. Submission of an annual joint report by the Department and the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days of the end of each fiscal year concerning the implementation of the Solid Waste Facility Construction and Improvement Revolving Loan Account and implementation of the Solid Waste Facility Construction and Improvement Program. The report shall contain information to show the actual use and the recipients of loans made from the Solid Waste Facility Construction and Improvement Revolving Loan Account. In

addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for solid waste projects which may be eligible for financial assistance pursuant to the Solid Waste Facility Construction and Improvement Program.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.32 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the Solid Waste Facility Construction and Improvement Program, the following sources of revenues may be utilized:

1. Monies from the Solid Waste Facility Construction and Improvement Revolving Loan Account;
2. Loan processing and administrative fees; and
3. Appropriations from the state's General Revenue Fund or other funds as may be provided for this purpose.

B. All funds to be utilized for administration by each agency shall be subject to annual designation by the State Legislature.

WASTEWATER FACILITY CONSTRUCTION PROGRAM

SECTION 33. AMENDATORY 82 O.S. 1991, Section 1085.51, is amended to read as follows:

Section 1085.51 In addition to ~~the~~ any financial assistance program established ~~under Sections 1085.31 through 1085.49 of this title by the Natural Resources Conservation and Public Works Improvement Assistance Act~~ pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Wastewater Facility Construction Revolving Loan Account to implement Title VI of the federal Water Quality Act of 1987.

SECTION 34. AMENDATORY 82 O.S. 1991, Section 1085.53, is amended to read as follows:

Section 1085.53 A. Within the ~~Water Resources~~ Natural Resources Conservation and Public Works Improvement Assistance Trust

~~Fund created pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes,~~ there is hereby created the "Wastewater Facility Construction Revolving Loan Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies received pursuant and subject to the restrictions of the federal Water Quality Act of 1987 which are eligible for use in state revolving loan funds established to meet the requirements of that act;
2. Monies appropriated to the account;
3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;
4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;
5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Water Quality Act of 1987;
6. Proceeds from the sale of investment certificates issued to provide wastewater construction loans pursuant to the provisions of this act except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and
7. Any other sums designated for deposit to the account from any source, public or private.

B. The Wastewater Facility Construction Revolving Loan Account shall remain available in perpetuity for providing financial assistance in accordance with the federal Water Quality Act of 1987.

C. The monies in the Wastewater Facility Construction Revolving Loan Account shall be used for the purpose of making loans to

eligible entities pursuant to the provisions of this act or for such other purposes authorized by the federal Water Quality Act of 1987.

D. The monies placed in the Wastewater Facility Construction Revolving Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Water Quality Act of 1987. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Department.

E. Notwithstanding the provisions of Section 1085.39 of Title 82 of the Oklahoma Statutes, the Board shall not use funds in the Wastewater ~~Facilities~~ Facility Construction Revolving Loan Account established in the Water Resources Fund to make grants.

SECTION 35. AMENDATORY 82 O.S. 1991, Section 1085.54, as amended by Section 326, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.54), is amended to read as follows:

Section 1085.54 A. All funds available in the Wastewater Facility Construction Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals, and requirements of the Oklahoma Environmental Quality Code, Oklahoma's Water Quality Standards, and Federal Clean Water Act. Upon the determination by the Board that all enforceable requirements have been met by Oklahoma communities and all other eligible wastewater projects have been funded, funds in the account may be used for the implementation of the nonpoint source management program pursuant to Section ~~1085.65~~ 46 of this ~~title~~ act.

B. The Board shall use the Wastewater Facility Construction Revolving Loan Account only as provided by the federal Water Quality Act of 1987 for the following purposes:

1. To make a loan to an eligible entity if:

- a. the loan application, project and planning documents have been approved by the Board pursuant to ~~Section 1085.58 of this title~~ the Wastewater Facility Construction Program or the Oklahoma Conservation Commission pursuant to Section ~~1085.65~~ 46 of this ~~title~~ act,
- b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Water Quality Act of 1987,
- c. principal and interest payments will begin not later than one year after completion of any wastewater project and all loans will be fully amortized consistent with the federal Water Quality Act of 1987,
- d. the Wastewater Facility Construction Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
- e. the applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service,
- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;

2. To buy or refinance eligible entity obligations at or below market rates if the eligible entity obligations were incurred in construction which began after March 7, 1985;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Wastewater Facility Construction Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. To provide loan guarantees to similar revolving loan accounts or funds established by eligible entities;

6. To earn interest on accounts established under the Wastewater Facility Construction Revolving Loan Account;

7. To administer the Wastewater Facility Construction Revolving Loan Account pursuant to the provisions of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act. All funds to be utilized for administrative costs from the Wastewater Facility Construction Revolving Loan Account shall be subject to annual designation by the State Legislature; and

8. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Wastewater Facility Construction Revolving Loan Account and which has been specifically approved by the Environmental Protection Agency pursuant to the federal Water Quality Act of 1987.

SECTION 36. AMENDATORY 82 O.S. 1991, Section 1085.55, as amended by Section 327, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.55), is amended to read as follows:

Section 1085.55 A. In addition to other powers and duties provided by law, the Board shall have the power and duty to:

1. Prepare and maintain the priority list for publicly owned treatment works;

2. Review and assess the planning and preliminary financial documents for and cost effectiveness of wastewater projects on the priority list;

3. Determine wastewater project feasibility and the entities' eligibility to receive funding from the Wastewater Facility Construction Revolving Loan Account;

4. Perform the environmental review and make the appropriate environmental determinations in accordance with the environmental review process approved by the Environmental Protection Agency;

5. Provide oversight and technical assistance during the planning, design, and construction phase of the wastewater project for which the entity is applying for such loan; and

6. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant which is to be placed in the Wastewater Facility Construction Revolving Loan Account.

B. In determining the cost effectiveness of any wastewater project, the Board shall require the preparation of a cost effective analysis of feasible wastewater treatment or conveyance alternatives capable of meeting state and federal water quality and public health requirements. The cost effective analysis shall detail all monetary costs including but not limited to the present worth or equivalent annual value of all capital costs and operation, maintenance and replacement costs. The alternative selected shall be the most economical means of meeting applicable state and federal effluent and water quality or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations determined to be relevant by the Board pursuant to the Natural Resources Conservation and Public Works Improvement Assistance Act.

SECTION 37. AMENDATORY 82 O.S. 1991, Section 1085.56, as amended by Section 328, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.56), is amended to read as follows:

Section 1085.56 The Oklahoma Water Resources Board shall prescribe such rules as may be necessary for determining the eligibility and priority of entities for wastewater projects in order to receive loans made pursuant to the federal Water Quality Act of 1987 and from the Wastewater Facility Construction Revolving Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act;

2. Be in conformance with applicable provisions of Oklahoma's Water Quality Standards, the Oklahoma Environmental Quality Code, and the federal Water Quality Act of 1987;

3. Require that to be approved, an applicant needs or will need the wastewater project loan to comply with rules adopted by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code; and

4. Require the wastewater project to:

- a. be designed to halt or prevent the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards,
- b. meet the Board's established environmental review criteria as provided for by the federal Water Quality Act of 1987,
- c. comply with minimum standards of the Federal Water Pollution Control Act, Chapter 26, Title 33, United States Code, or any similar or successor statute, and
- d. meet any other consideration deemed necessary by the Board.

SECTION 38. AMENDATORY 82 O.S. 1991, Section 1085.57, as amended by Section 329, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.57), is amended to read as follows:

Section 1085.57 A. In addition to other powers and duties provided by law, the Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the ~~Water Resources~~ Natural Resources Conservation and Public Works Improvement Assistance Trust Fund and any accounts or subaccounts therein, except as otherwise provided by paragraph 2 of this subsection, pursuant to the provisions ~~of Sections 1085.31 through 1085.39 of this title~~ the Wastewater Facility Construction Program;

2. Manage, maintain, expend and otherwise administer monies in the Wastewater Facility Construction Revolving Loan Account pursuant to the statutory authority of the Oklahoma Water Resources Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the ~~Water Resources~~ Natural Resources Conservation and Public Works Improvement Assistance Trust Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Wastewater Facility Construction Revolving Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Wastewater Facility Construction Revolving Loan Account to the Statewide Water Development Revolving Fund to be used for security or collateral for investment certificates issued for the Wastewater Facility Construction Revolving Loan Account. The monies so transferred and

the interest income from such monies shall be restricted for use to those programs authorized by the federal Water Quality Act of 1987. The Board shall establish such accounts and subaccounts within the Statewide Water Development Revolving Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Wastewater Facility Construction ~~Facility~~ Revolving Loan Account; provided that said issuance shall be governed by the provisions of ~~Section 1085.33 and Section 1085.37 of this title~~ the Natural Resources Conservation and Public Works Improvement Assistance Act. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan funds to meet the demand for funding and is beneficial for the long term stability of the fund. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

SECTION 39. AMENDATORY 82 O.S. 1991, Section 1085.58, as amended by Section 330, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.58), is amended to read as follows:

Section 1085.58 A. The Board shall provide financial review guidelines for use in preliminary evaluations of wastewater projects. The evaluation shall include such information as required by the Board, including but not limited to the:

1. Cost of the proposed construction;
2. Amount of the loan requested;
3. Repayment schedule; and
4. Existing and anticipated assets and liabilities of the applicant.

B. Upon a determination of the Board that an entity meets the criteria to receive funding pursuant to the provisions of this act, the Board shall make an initial financial review.

C. The Board shall prepare its initial financial review of the entity based upon:

1. The documents submitted by the entity and any additional information requested by the Board necessary to make a financial review of such entity; and

2. The proposed loan amount and interest rate for which the entity qualifies.

D. The initial financial review may either recommend approval or rejection of the proposed loan.

E. If the Board recommends rejection, the written recommendations shall include reasons for said rejection. The Board shall forward a written copy of the rejection notice to the entity. The entity may then be allowed to modify any such documents in order to comply with the requirements of the Board and may resubmit the necessary financial documents to the Board.

F. If the Board recommends approval, the Board shall notify the entity of such acceptance.

G. Upon review of the application and applicable documents, the Board shall either approve or reject the loan application. The Board may request additional information from the applicant or the Department of Environmental Quality in order to complete the financial review of the application for the loan. The Board shall notify the applicant of any rejection of an application.

H. Upon the closing of the loan, the Board shall authorize disbursement of funds from the account pursuant to the provisions of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act, the loan documents and rules of the Board that provide for the release of the loan proceeds.

I. Payment on loans shall be made to the Board as provided in the loan documents.

SECTION 40. AMENDATORY 82 O.S. 1991, Section 1085.59, is amended to read as follows:

Section 1085.59 ~~An~~ Any investment certificate shall not be issued ~~under Sections 1085.31 through 1085.39 of Title 82 of the Oklahoma Statutes~~ pursuant to the Wastewater Facility Construction Program or pursuant to the provisions of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

SECTION 41. AMENDATORY 82 O.S. 1991, Section 1085.60, is amended to read as follows:

Section 1085.60 The Office of the State Auditor and Inspector shall perform an annual audit of any and all deposits to expenditures from the Wastewater Facility Construction Revolving Loan Account.

SECTION 42. AMENDATORY 82 O.S. 1991, Section 1085.61, is amended to read as follows:

Section 1085.61 In the event of a default in payment of the principal or interest on loans made from the Wastewater Facility Construction Revolving Loan Account pursuant to ~~this act~~ the Wastewater Facility Construction Program, the Attorney General⁷ is empowered and it shall be his duty to take action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents, and employees to cure the default by performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

SECTION 43. AMENDATORY 82 O.S. 1991, Section 1085.62, as amended by Section 331, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.62), is amended to read as follows:

Section 1085.62 In order to comply with the requirements of federal and state laws, the Board shall complete the following:

1. Establish criteria for determining the interest rates on loans to be made from the Wastewater Facility Construction Revolving Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Farmers Home Administration guidelines for financial assistance.

a. In determining interest rates on loans made from the fund, in addition to other information, due consideration shall be given to:

- (1) providing for the maintenance of the account in perpetuity,
- (2) statewide needs for the assistance available pursuant to the provisions of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act,
- (3) five-year demand projections of the Board for assistance available pursuant to the provisions of ~~this act~~ the Natural Resources Conservation and Public Works Improvement Assistance Act,
- (4) prevailing market interest rates, and
- (5) debt service requirements of investment certificates issued by the Board to provide funds for the Wastewater Facility Construction Revolving Loan Account.

b. In developing criteria for the determination of interest rates available to individual entities, in addition to other information, due consideration shall be given to:

- (1) financial resources of the entity,
- (2) the ability of the entity to repay the loan,
- (3) those entities that discharge into those streams and rivers designated as scenic river areas pursuant to the provisions of Section 1452 of this title or outstanding resource waters under Oklahoma's Water Quality Standards, and
- (4) prevailing market interest rates; and

2. Submission of an annual report by the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days of the end of each fiscal year concerning the Wastewater Facility Construction Revolving Loan Account and implementation of the provisions of ~~Sections 1085.51 through 1085.65 of this title~~ the Wastewater Facility Construction Program. The report shall contain information to show the actual use and the recipients of loans made from the Wastewater Facility Construction Revolving Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for wastewater projects which may be eligible for financial assistance under ~~Sections 1085.51 through 1085.65 of this title~~ the Wastewater Facility Construction Program.

SECTION 44. AMENDATORY 82 O.S. 1991, Section 1085.63, as amended by Section 332, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.63), is amended to read as follows:

Section 1085.63 A. The Board shall prepare an annual intended use plan and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by Section 606(c) of the federal Water Quality Act of 1987 and may contain such other information as the Board may

determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Board shall prepare an annual report and shall submit such report to the United States Environmental Protection Agency. The annual report shall contain all information required by Section 606(d) of the federal Water Quality Act of 1987 ~~and~~. The annual report may contain such other information as required by the Capitalization Grant Agreement.

SECTION 45. AMENDATORY 82 O.S. 1991, Section 1085.64, as amended by Section 333, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.64), is amended to read as follows:

Section 1085.64 A. In order to administer the Wastewater Facility Construction Program, the following sources of revenues may be utilized:

1. Monies from the Wastewater Facility Construction Revolving Loan Account pursuant to the federal Water Quality Act of 1987;
2. Loan processing fees; and
3. Appropriations from the state's General Revenue Fund or any other funds as may be provided for this purpose.

B. All funds to be utilized for administration by the Board shall be subject to annual designation by the State Legislature.

SECTION 46. AMENDATORY 82 O.S. 1991, Section 1085.65, as amended by Section 334, Chapter 145, O.S.L. 1993 (82 O.S. Supp. 1993, Section 1085.65), is amended to read as follows:

Section 1085.65 A. The Oklahoma Conservation Commission shall ~~adopt~~ promulgate rules to receive, process, and review loan applications for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act.

B. The rules shall require that to be eligible for financial assistance, the proposed project:

1. Meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report;

2. Is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report;

3. Is designed to prevent, reduce or halt the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards; and

4. Is cost-effective.

C. The Commission shall consult with and obtain comments of the Executive Director of the Department of Environmental Quality prior to making a recommendation on all loan applications and programs which may involve nonpoint sources subject to the jurisdiction of the Department of Environmental Quality. The Department of Environmental Quality's comments shall be addressed in the recommendation or attached thereto.

D. Upon determination that the proposed project meets the minimum criteria, the Commission shall forward the application, plans and specifications and other documents to the Board, with a recommendation that a loan be made for the project.

SAFE DRINKING WATER DEVELOPMENT PROGRAM

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.71 of Title 82, unless there is created a duplication in numbering, reads as follows:

In addition to any financial assistance programs established under the Natural Resources Conservation and Public Works Improvement Assistance Act pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Safe Drinking Water Development Program and a Drinking Water Treatment Revolving Loan Account to implement the federal Safe Drinking Water Act.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.48 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Within the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund, there is hereby created the "Drinking Water Treatment Revolving Loan Account". For purposes of implementing the federal Safe Drinking Water Act, said account shall be the Drinking Water Treatment State Revolving Loan Fund required to be established by the federal Safe Drinking Water Act. The Drinking Water Treatment Revolving Loan Account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies received pursuant and subject to the restrictions of the federal Safe Drinking Water Act which are eligible for use in state revolving loan funds established to meet the requirements of that act;

2. Monies appropriated to the account;

3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;

4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;

5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Safe Drinking Water Act;

6. Proceeds from the sale of investment certificates issued to provide water treatment loans pursuant to the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and

7. Any other sums designated for deposit to the account from any source, public or private.

B. The principal amounts of the federal capitalization grants and state matching funds in the Drinking Water Treatment Revolving Loan Account shall be maintained for providing financial assistance in accordance with the federal Safe Drinking Water Act.

C. The monies in the Drinking Water Treatment Revolving Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of the Safe Drinking Water Development Program or for such other purposes authorized by the federal Safe Drinking Water Act.

D. The monies placed in the Drinking Water Treatment Revolving Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Safe Drinking Water Act. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Department.

E. The Board shall not use funds in the Drinking Water Treatment Revolving Loan Account established in the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund to make grants.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.73 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. All funds available in the Drinking Water Treatment Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals and

requirements of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act.

B. The Board shall use the Drinking Water Treatment Revolving Loan Account only as provided by the federal Safe Drinking Water Act for the following purposes:

1. To make a loan to an eligible entity if:

- a. the loan application, project and planning documents have been approved by the Department and Board,
- b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Safe Drinking Water Act,
- c. principal and interest payments will begin not later than one (1) year after completion of any wastewater project and all loans will be fully amortized consistent with the federal Safe Drinking Water Act,
- d. the Drinking Water Treatment Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
- e. the applicant demonstrates to the satisfaction of the Board the financial capability to assure sufficient revenues to pay debt service,
- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;

2. To buy or refinance eligible entity obligations at or below market rates;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Drinking Water Treatment Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. As a source of revenue or security for the payment of interest on a local obligation, if the payment from the Drinking Water Treatment Revolving Loan Account does not reduce the effective interest rate of the obligation by more than two and five-tenths (2.5) percentage points;

6. To earn interest on accounts established under the Drinking Water Treatment Revolving Loan Account;

7. To administer the Drinking Water Treatment Revolving Loan Account pursuant to the provisions of the Safe Drinking Water Development Program. All funds to be utilized for administrative costs from the Drinking Water Treatment Revolving Loan Account shall be subject to annual designation by the State Legislature; and

8. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Drinking Water Treatment Revolving Loan Account and which has been specifically approved by the Environmental Protection Agency pursuant to the federal Safe Drinking Water Act.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.74 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties provided by law, the Department shall have the power and duty to:

1. Prepare and maintain the priority list for treatment works;

2. Review and assess the planning and preliminary financial documents for and cost-effectiveness of drinking water treatment projects on the priority list;

3. Determine drinking water treatment project feasibility and the entities' eligibility to receive funding from the Drinking Water Treatment Revolving Loan Account;

4. Determine which applications should be referred to the Board for loans from the Drinking Water Treatment Revolving Loan Account;

5. Perform any required environmental review and make any required environmental determinations in accordance with any necessary environmental review process approved by the Environmental Protection Agency;

6. Provide oversight and technical assistance during the planning, design and construction phase of the drinking water treatment project for which the entity is applying for such loan; and

7. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant which is to be placed in the Drinking Water Treatment Revolving Loan Account, enter into the capitalization grant agreement, and be the recipient of the capitalization grant.

B. In determining the cost-effectiveness of any drinking water treatment project, the Department shall require the preparation of a cost-effective analysis of feasible drinking water treatment or conveyance alternatives capable of meeting state and federal drinking water standards and public health requirements. The cost-effective analysis shall detail all monetary costs including but not limited to the present worth or equivalent annual value of all capital costs and operation, maintenance and replacement costs. The alternative selected shall be the most economical means of meeting applicable state and federal drinking water standards or public health requirements over the useful life of the facility while

recognizing environmental and other nonmonetary considerations determined to be relevant by the Department.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.50 of Title 82, unless there is created a duplication in numbering, reads as follows:

The Environmental Quality Board shall prescribe such rules as may be necessary for determining the eligibility and priority of entities for drinking water treatment projects in order to receive loans made pursuant to the federal Safe Drinking Water Act and from the Drinking Water Treatment Revolving Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of the Safe Drinking Water Development Program;

2. Be in conformance with applicable provisions of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act;

3. Require that to be approved, an applicant needs or will need the drinking water treatment project loan to comply with rules adopted by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code; and

4. Require the drinking water treatment project to:

- a. comply with minimum standards and requirements of the federal Safe Drinking Water Act or any similar or successor statute,
- b. meet the Department's rules for drinking water and established environmental review criteria as provided for by applicable federal law, and
- c. meet any other consideration deemed necessary by the Department.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.51 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties provided by law, the Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund and any accounts or subaccounts therein, except as otherwise provided by paragraph 2 of this subsection, pursuant to the provisions of the Safe Drinking Water Development Program;

2. Manage, maintain, expend and otherwise administer monies in the Drinking Water Treatment Revolving Loan Account pursuant to the statutory authority of the Oklahoma Water Resources Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the Natural Resources Conservation and Public Works Improvement Assistance Trust Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Drinking Water Treatment Revolving Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Drinking Water Treatment Revolving Loan Account to the Statewide Water Development Revolving Fund to be used for security or collateral for investment certificates issued for the Drinking Water Treatment Revolving Loan Account. The monies so transferred and the interest income from such monies shall be restricted for use to those programs authorized by the federal Safe Drinking Water Act. The Board shall establish such accounts and subaccounts within the Statewide Water Development

Revolving Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Drinking Water Treatment Revolving Loan Account; provided that said issuance shall be governed by the provisions of the Natural Resources Conservation and Public Works Improvement Assistance Act. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan funds to meet the demand for funding and is beneficial for the long-term stability of the Drinking Water Treatment Revolving Loan Account. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.52 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. Within one hundred eighty (180) days after the effective date of this act, the Board shall provide financial review guidelines to the Department for use by the Department in preliminary evaluations of drinking water treatment projects. The evaluation shall include such information as required by the Board, including but not limited to the:

1. Cost of the proposed construction;
2. Amount of the loan requested;
3. Repayment schedule; and
4. Existing and anticipated assets and liabilities of the applicant.

B. Upon a determination by the Department that an entity meets the criteria to receive funding pursuant to the provisions of this act, the Department shall forward to the Board a request for an initial financial review.

C. Upon receipt of the request, the Board shall prepare its initial financial review of the entity based upon:

1. The documents submitted by the entity and the Department and any additional information requested by the Board through the Department necessary to make a financial review of such entity; and

2. The proposed loan amount and interest rate for which the entity qualifies.

D. The initial financial review may either recommend approval or rejection of the proposed loan.

E. The Board shall return the initial financial evaluation to the Department with a written recommendation of approval or rejection. If the Board recommends rejection, the written recommendations shall include reasons for said rejection. The Board shall forward a written copy of the rejection notice to the entity. The entity may then be allowed to modify any such documents in order to comply with the requirements of the Board and may resubmit the necessary financial documents through the Department to the Board.

F. If the Board recommends approval, the Board shall notify the Department of such acceptance. Upon receipt of such notice and upon approval of the planning documents by the Department, the Department shall notify the entity.

G. Upon a determination of compliance with applicable state and federal laws, the Department is authorized to approve and forward the application and necessary documents to the Board with the recommendation that a loan be made to the entity pursuant to the federal Safe Drinking Water Act from the Drinking Water Treatment Revolving Loan Account.

H. Upon review of the application and applicable documents, the Board shall either approve or reject the loan application. The Board may request additional information from the applicant or the Department in order to complete the financial review of the application for the loan. The Board shall notify the applicant of any rejection of an application. Notification of approval of an application for a loan shall be sent to the Department, who shall notify the applicant. The Department shall have authority to grant final approval for loan closing.

I. Upon the closing of the loan, the Board shall authorize disbursement of funds from the account pursuant to the provisions of this act, the loan documents, and rules of the Board that provide for the release of the loan proceeds.

J. Payment on loans shall be made to the Board as provided in the loan documents.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.53 of Title 82, unless there is created a duplication in numbering, reads as follows:

An investment certificate shall not be issued pursuant to the Natural Resources Conservation and Public Works Improvement Assistance Act or the Safe Drinking Water Development Program unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.54 of Title 82, unless there is created a duplication in numbering, reads as follows:

The Department, with the cooperation of the Board, shall cause to be completed an annual audit of any expenditures from the Drinking Water Treatment Revolving Loan Account.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.55 of Title 82, unless there is created a duplication in numbering, reads as follows:

In the event of a default in payment of the principal or interest on loans made from the Drinking Water Treatment Revolving Loan Account pursuant to the Safe Drinking Water Development Program, the Attorney General is empowered and it shall be his duty to take action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents and employees to cure the default by appropriate means, including performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.56 of Title 82, unless there is created a duplication in numbering, reads as follows:

In order to comply with the requirements of federal and state laws, the Department and the Board shall enter into a written joint operating agreement to carry out with efficiency their respective duties under this act. At a minimum, the agreement shall provide for the following:

1. Joint procedures consistent with this act to establish criteria for determining the interest rates on loans to be made from the Drinking Water Treatment Revolving Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Farmers Home Administration guidelines for financial assistance; and

2. Submission of an annual joint report by the Department and the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days at the end of each fiscal year concerning the Drinking Water Treatment Revolving Loan Account and implementation of the provisions of the Safe Drinking Water Program. The report shall contain information to show the actual use and the

recipients of loans made from the Drinking Water Treatment Revolving Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for drinking water treatment projects which may be eligible for financial assistance under the Safe Drinking Water Development Program.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.57 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. The Department shall prepare an annual intended use plan with the cooperation of the Board and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as the Department may determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Department shall prepare an annual report with the cooperation of the Board and shall submit such report to the United States Environmental Protection Agency. The annual report shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as required by the Capitalization Grant Agreement.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.58 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the Safe Drinking Water Development Program contemplated by the Natural Resources Conservation and Public Works Improvement Assistance Act, the following sources of revenues may be utilized:

1. Monies from the Drinking Water Treatment Revolving Loan Account pursuant to the federal Safe Drinking Water Act;

2. Loan processing and administrative fees; and

3. Appropriations from the state's General Revenue Fund or other funds as may be provided for this purpose.

B. All funds to be utilized for administration by each agency shall be subject to annual designation by the State Legislature.

ENVIRONMENTAL EMERGENCY RESPONSE PROGRAM

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.59 of Title 82, unless there is created a duplication in numbering, reads as follows:

The purposes of the Environmental Emergency Response Program are to:

1. Protect public health and safety and the natural resources of the State of Oklahoma;

2. Provide for response to environmental emergencies and incidents; and

3. Establish a fund administered by the Board which will be available for the state or any state environmental agency to be able to respond to any environmental emergency situation.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.60 of Title 82, unless there is created a duplication in numbering, reads as follows:

As used in the Environmental Emergency Response Program:

1. "Discharge" means any releasing, spilling, leaking, leaching, seeping, pouring, draining, emptying, dumping, expelling or any other emitting of dangerous substances into the environment; and

2. "Incident" means any occurrence or series of occurrences which result in the discharge of dangerous substances which create an injury to any person, wildlife or property.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.61 of Title 82, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Environmental Emergency Revolving Account" for the purpose of immediately responding to emergency situations created by discharges or incidents having potentially critical environmental or public health or safety impact.

B. At the request of the Secretary of the Environment or the Governor, the Board shall provide funds necessary to promptly respond to the emergency.

C. The state or any state environmental agency shall provide for reimbursement from any responsible person, firm or corporation for all expenditures made pursuant to this section. All monies received by the state or any state environmental agency pursuant to this section as reimbursement or penalties shall be deposited in the Environmental Emergency Revolving Account.

D. The responsible party is liable for the cost of the corrective action taken by the state or any state environmental agency pursuant to this section, including the cost of investigating the release and administrative and legal expenses, if:

1. The owner or operator has failed to take a corrective action ordered by the state or any state environmental agency and the state or state environmental agency has taken the corrective action; or

2. The state or any state environmental agency has taken corrective action in an emergency.

E. Reasonable and necessary expenses incurred by the state or any state environmental agency in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered in a civil action. Certification of expenses is prima facie evidence that the expenses are reasonable and necessary.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1088.62 of Title 82, unless there is created a duplication in numbering, reads as follows:

To further benefit the citizens of the State of Oklahoma, the Board may, if funds are available from the Environmental Emergency Revolving Account, render financial assistance, by form of a matching grant not to exceed Fifty Thousand Dollars (\$50,000.00), to any municipality or county of the state, which has prepared an emergency response plan which has been approved by the Board, for the purpose of providing basic emergency response training and protective equipment to be used by such municipality or county in responding to incidents involving dangerous substances. Such financial assistance shall be available only to those applicants which have a significant potential for initiating emergency response to an incident involving dangerous substances.

SECTION 64. The reforms provided for in Sections 2 through 63 of this act shall be funded by the income tax change pursuant to Section 66 of this act.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41.29b of Title 62, unless there is created a duplication in numbering, reads as follows:

A. In order that the Legislature may guarantee that the increased revenue generated as a result of the tax changes contained in the Natural Resources Conservation and Public Works Improvement Assistance Act shall be appropriated to fund the Natural Resources Conservation and Public Works Improvement Program provided for in the Natural Resources Conservation and Public Works Improvement Assistance Act, the Office of State Finance shall present as part of the official certification process for each fiscal year an estimate of all revenues which will accrue to the General Revenue Fund as a result of the tax change contained in the Natural Resources Conservation and Public Works Improvement Assistance Act. The

estimate shall show the increased revenue from personal income taxes as a result of the provisions of this act separately. The estimate shall further account for changes to such revenue which result from growth or decline in said tax sources due to economic circumstances.

B. The Office of State Finance shall separately account for and report monthly revenues which it determines accrued to the General Revenue Fund which were attributable to the tax increase contained in the Natural Resources Conservation and Public Works Improvement Assistance Act.

C. Funds separately accounted for herein shall be used only to fund the reforms provided for in the Natural Resources Conservation and Public Works Improvement Assistance Act and for no other purpose. Any appropriation or expenditure of any of such funds for any other purpose shall be null and void and of no effect.

D. Increased certification for fiscal year 1995, as a result of the tax changes contained in the Natural Resources Conservation and Public Works Improvement Assistance Act, shall not be available for appropriation prior to July 1, 1995.

E. The Office of State Finance shall track appropriations of revenues which are deposited to the credit of the General Revenue Fund of the State Treasury which are attributable to the changes contained in the Natural Resources Conservation and Public Works Improvement Assistance Act on a fiscal year basis and shall provide an accounting to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate, within thirty (30) days after the end of the fiscal year.

SECTION 66. AMENDATORY 68 O.S. 1991, Section 2355, as amended by Section 1, Chapter 311, O.S.L. 1992 (68 O.S. Supp. 1993, Section 2355), is amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning after December 31, ~~1989~~ 1994, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual,

which tax shall be computed at the option of the taxpayer under one of the two following methods:

METHOD 1. Single individuals and married individuals filing separately not deducting federal income tax:

1/2% tax on first \$1,000.00 or part thereof

1% tax on next \$1,500.00 or part thereof

2% tax on next \$1,250.00 or part thereof

3% tax on next \$1,150.00 or part thereof

4% tax on next \$1,300.00 or part thereof

5% tax on next \$1,500.00 or part thereof

6% tax on next \$2,300.00 or part thereof

7% tax on next \$5,000.00 or part thereof

7.5% tax on the remainder.

Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

1/2% tax on first \$2,000.00 or part thereof

1% tax on next \$3,000.00 or part thereof

2% tax on next \$2,500.00 or part thereof

3% tax on next \$2,300.00 or part thereof

4% tax on next \$2,400.00 or part thereof

5% tax on next \$2,800.00 or part thereof

6% tax on next ~~\$6,000.00~~ \$4,000.00 or part thereof

7% tax on next \$7,000.00 or part thereof

7.5% tax on the remainder.

METHOD 2. Single individuals and married individuals filing separately deducting federal income tax:

1/2% tax on first \$1,000.00 or part thereof

1% tax on next \$1,500.00 or part thereof

2% tax on next \$1,250.00 or part thereof

3% tax on next \$1,150.00 or part thereof
4% tax on next \$1,200.00 or part thereof
5% tax on next \$1,400.00 or part thereof
6% tax on next \$1,500.00 or part thereof
7% tax on next \$1,500.00 or part thereof
8% tax on next \$2,000.00 or part thereof
9% tax on next \$3,500.00 or part thereof
10% tax on next \$4,000.00 or part thereof
10.5% tax on the remainder.

Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

1/2% tax on ~~the~~ first \$2,000.00 or part thereof
1% tax on ~~the~~ next \$3,000.00 or part thereof
2% tax on ~~the~~ next \$2,500.00 or part thereof
3% tax on ~~the~~ next \$1,400.00 or part thereof
4% tax on ~~the~~ next \$1,500.00 or part thereof
5% tax on ~~the~~ next \$1,600.00 or part thereof
6% tax on ~~the~~ next \$1,250.00 or part thereof
7% tax on ~~the~~ next \$1,750.00 or part thereof
8% tax on ~~the~~ next \$3,000.00 or part thereof
9% tax on ~~the~~ next \$6,000.00 or part thereof
10% tax on next \$6,000.00 or part thereof
10.5% tax on the remainder.

B. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such

nonresident aliens as determined under the provision of the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection ~~B~~ shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and his social security account number, if any, the total amount paid subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

C. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or deriving income from sources within this state in an amount equal to six percent (6%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

D. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection C, for all taxable years beginning

after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection ~~D~~ shall deduct and withhold from such amounts paid each payee an amount equal to six percent (6%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and his social security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

E. Fiduciaries. A tax is hereby imposed upon the Oklahoma taxable income of every trust and estate at the same rates as are provided in subsection A of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

F. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A of

this section, there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A of this section. For purposes of this subsection, the term ceiling amount means with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 67. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure creates the Natural Resources Conservation and Public Works Improvement Assistance Act. The purpose of the act is to provide financial assistance for drinking water sewage treatment and solid waste projects. It would also provide funds for environmental emergencies, state matching funds and waste contamination sites. The funding would be through income tax changes. The monies would be placed in a constitutionally created fund.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

_____/ YES, FOR THE ACT

_____/ NO, AGAINST THE ACT

SECTION 68. The Chief Clerk of the House of Representatives, immediately after the passage of this act, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 67 hereof, with the Secretary of State and one copy with the Attorney General.

SECTION 69. This act shall become effective contingent upon the approval by the people at the next general election.

44-2-8590

KSM