

## Senate Amendments to House Bill No. 1762

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

15           **SECTION 1.** Section 31-25-28, Mississippi Code of 1972, is  
16 amended as follows:

17           31-25-28. (1) Local governmental units may borrow money or  
18 receive grants from the bank for any of the purposes set forth in  
19 this section or Section 31-25-20(g) and pay to the bank such fees  
20 and charges for services as the bank may prescribe. Whenever any  
21 such loan is made to a local governmental unit, such local  
22 governmental unit may use available revenues for the repayment of  
23 the principal of, premium, if any, and interest on such loan, and  
24 pledge such available revenues or monies for the repayment of the  
25 principal of, premium, if any, and interest on such loan. It is  
26 the intention of the Legislature that any such pledge of revenues  
27 or other monies shall be valid and binding from the date the  
28 pledge is made; that such revenues or other monies so pledged and  
29 thereafter received by the local governmental unit shall  
30 immediately be subject to the lien of such pledge without any  
31 physical delivery thereof or further act, and that the lien of any  
32 such pledge shall be valid and binding as against all parties  
33 having claims of any kind in tort, contract or otherwise against  
34 the local governmental unit irrespective of whether such parties  
35 have notice thereof; and neither the resolutions, contracts or any  
36 other instrument by which a pledge is created need be recorded.

37           (2) Local governmental units may contract with the bank with  
38 respect to any such loan and such contract shall contain such  
39 terms and conditions as may be prescribed by the bank.

40           (3) Local governmental units may in connection with any such  
41 loan enter into any covenants and agreements with respect to such  
42 local governmental unit's operations, revenues, assets, monies,  
43 funds or property, or such loan, as may be prescribed by the bank.

44           (4) Upon the making of any such loan by the bank to any  
45 local governmental unit, such local governmental unit shall be  
46 held and be deemed to have agreed that if such governmental unit  
47 fails to pay the principal of, premium, if any, and interest on  
48 any such loan as when due and payable, such governmental unit  
49 shall have waived any and all defenses to such nonpayment, and the  
50 bank, upon such nonpayment, shall thereupon avail itself of all  
51 remedies, rights and provisions of law applicable in such  
52 circumstance, including without limitation, any remedies or rights  
53 theretofore agreed to by the local governmental unit, and that  
54 such loan shall for all of the purposes of this section, be held  
55 and be deemed to have become due and payable and to be unpaid.  
56 The bank may carry out the provisions of this section and exercise  
57 all of the rights and remedies and provisions of law provided or  
58 referred to in this section and of all other applicable laws of  
59 the state.

60           (5) Any local governmental unit that borrows from the bank  
61 under this section may agree in writing with the bank that, as  
62 provided in this subsection, the State Tax Commission or any state  
63 agency, department or commission created pursuant to state law  
64 shall (a) withhold all or any part (as agreed by the local  
65 governmental unit) of any monies that such local governmental unit  
66 is entitled to receive from time to time pursuant to any law and  
67 that is in the possession of the State Tax Commission or any state  
68 agency, department or commission created pursuant to state law and  
69 (b) pay the same over to the bank to satisfy any delinquent  
70 payments on any such loan made to such local governmental unit  
71 under the provisions of this section and any other delinquent  
72 payments due and owing the bank by such local governmental unit,  
73 all as the same shall occur. If the bank files a copy of such  
74 written agreement, together with a statement of delinquency, with

75 the State Tax Commission or any state agency, department or  
76 commission created pursuant to state law, then the State Tax  
77 Commission or any state agency, department or commission created  
78 pursuant to state law shall immediately make the withholdings  
79 provided in such agreement from the amounts due the local  
80 governmental unit and shall continue to pay the same over to the  
81 bank until all such delinquencies are satisfied.

82 (6) Before authorizing any loan for any of the purposes  
83 enumerated in Section 31-25-20(e), the governing authority of the  
84 local governmental unit shall adopt a resolution declaring its  
85 intention so to do, stating the amount of the loan proposed to be  
86 authorized and the purpose for which the loan is to be authorized,  
87 and the date upon which the loan will be authorized. Such  
88 resolution shall be published once a week for at least three (3)  
89 consecutive weeks in at least one (1) newspaper published in such  
90 local governmental unit. The first publication of such resolution  
91 shall be made not less than twenty-one (21) days before the date  
92 fixed in such resolution for the authorization of the loan and the  
93 last publication shall be made not more than seven (7) days before  
94 such date. If no newspaper is published in such local  
95 governmental unit, then such notice shall be given by publishing  
96 the resolution for the required time in some newspaper having a  
97 general circulation in such local governmental unit and, in  
98 addition, by posting a copy of such resolution for at least  
99 twenty-one (21) days next preceding the date fixed therein at  
100 three (3) public places in such local governmental unit. If  
101 fifteen percent (15%) of the qualified electors of the local  
102 governmental unit or fifteen hundred (1500), whichever is the  
103 lesser, file a written protest against the authorization of such  
104 loan on or before the date specified in such resolution, then an  
105 election on the question of the authorization of such loan shall  
106 be called and held as otherwise provided for in connection with  
107 the issuance of general obligation indebtedness of such local  
108 governmental unit. Notice of such election shall be given as  
109 otherwise required in connection with the issuance of general

110 obligation indebtedness of such local governmental unit. If  
111 three-fifths (3/5) of the qualified electors voting in the  
112 election vote in favor of authorizing the loan, then the governing  
113 authority of the local governmental unit shall proceed with the  
114 loan; however, if less than three-fifths (3/5) of the qualified  
115 electors voting in the election vote in favor of authorizing the  
116 loan, then the loan shall not be incurred. If no protest be  
117 filed, then such loan may be entered into by the local  
118 governmental unit without an election on the question of the  
119 authorization of such loan, at any time within a period of two (2)  
120 years after the date specified in the resolution. However, the  
121 governing authority of any local governmental unit in its  
122 discretion may nevertheless call an election on such question, in  
123 which event it shall not be necessary to publish the resolution  
124 declaring its intention to authorize such loan as provided in this  
125 subsection.

126       (7) (a) The Department of Environmental Quality may borrow  
127 money from the bank for any purpose as otherwise authorized by  
128 this act or for the purpose of funding loan programs (including  
129 revolving loan programs) for such local governmental unit, or  
130 both. The Department of Environmental Quality may contract with  
131 the bank with respect to any loan from the bank to fund such loan  
132 programs and such loan from the bank may include any terms and  
133 conditions as provided for in this section. If the Department of  
134 Environmental Quality borrows funds pursuant to this subsection  
135 (7), then such local governmental unit shall certify the following  
136 to the bank prior to making the loan from the bank:

137               (i) The revolving loan program or other program to  
138 be funded through the issuance of the bonds;

139               (ii) Available revenues which such local  
140 governmental unit intends to use to repay the loan; and

141               (iii) That such local governmental unit does not  
142 intend to request an additional appropriation from the Legislature  
143 to pay debt service on the loan from the bank or for such  
144 security.

145           (b) If such local governmental unit meets the  
146 requirements of paragraph (a) of this subsection (7), then such  
147 local governmental unit shall not be required to meet the  
148 requirements of Section 31-25-27(14). Notwithstanding any other  
149 provision of law, including any limitations or restrictions under  
150 Section 49-17-81 et seq., such local governmental unit may  
151 designate or pledge any funds, revenues or any other amounts  
152 received under its loan programs designated under paragraph (a)(i)  
153 of this subsection (7) to repay a loan from the bank under this  
154 subsection (7). Funds, revenues or any other amounts received  
155 under a loan program as provided under this subsection (7)  
156 specifically include, but are not limited to, any principal and/or  
157 interest loan repayments from any participant under the program,  
158 any investment earnings, or other amounts held by the Department  
159 of Environmental Quality in connection with the applicable loan  
160 program. Any loan program of the Department of Environmental  
161 Quality otherwise authorized by law shall be deemed to be a public  
162 purpose for purposes of this act which the bank may loan funds  
163 under the provisions of this act.

164           (c) In connection with a loan under this subsection  
165 (7), the bank may administer and manage loan programs as provided  
166 in the contracts with the bank to loan funds thereunder.

167           (d) The maximum amount that the Department of  
168 Environmental Quality may borrow under this subsection (7) shall  
169 not exceed Twenty-five Million Dollars (\$25,000,000.00) in the  
170 aggregate.

171           (8) This section shall be deemed to provide an additional,  
172 alternative and complete method for the doing of the things  
173 authorized by this section and shall be deemed and construed to be  
174 supplemental to any power conferred by other laws on local  
175 governmental units and not in derogation of any such powers. Any  
176 loan made pursuant to the provisions of this section shall not  
177 constitute an indebtedness of the local governmental unit within  
178 the meaning of any constitutional or statutory limitation or  
179 restriction. In connection with a loan under this chapter, a

180 local governmental unit shall not be required to comply with the  
181 provisions of any other law except as provided in this section.

182 **SECTION 2.** Section 31-25-27, Mississippi Code of 1972, is  
183 amended as follows:

184 31-25-27. (1) Each local governmental unit is hereby  
185 authorized and empowered to contract with the bank with respect to  
186 the bank's purchase of such local governmental unit's securities  
187 and such contract shall contain such terms and conditions as may  
188 be prescribed by the bank. Each local governmental unit is  
189 authorized and empowered to pay to the bank such fees and charges  
190 for services as the bank may prescribe.

191 (2) Each local governmental unit is hereby authorized to  
192 issue securities under the provisions of this act and to sell such  
193 securities to the bank to raise money for any purpose or purposes  
194 set forth in Sections 21-27-23, 21-33-301, 21-33-325, 21-33-326,  
195 31-27-5, 17-17-301 et seq. and any other state law authorizing the  
196 issuance of local governmental unit debt, and for the purpose of  
197 refunding any securities issued under the provisions of this act  
198 or under the provisions of Section 21-27-11 et seq., or Section  
199 21-33-301 et seq., or Section 31-27-1 et seq. Such securities may  
200 be issued in accordance with Sections 21-33-301, 21-33-303,  
201 21-33-307, 21-33-309, 21-33-311, 21-33-313, 21-33-325 and  
202 21-33-326, or Sections 21-27-23 through 21-27-43 and Sections  
203 21-27-47 through 21-27-71, or Sections 31-27-1 through 31-27-25,  
204 or Sections 17-5-3 through 17-5-11, or Sections 49-17-101 through  
205 49-17-123, or Sections 17-17-301 through 17-17-349 or any other  
206 state law authorizing issuance of local governmental unit debt, as  
207 the case may be, unless otherwise specifically provided in this  
208 act; provided, however, the securities of any local governmental  
209 unit may be issued with such terms and provisions as may be  
210 necessary and appropriate in order to comply with the provisions  
211 of any loan agreement described in Section 49-17-87. Whenever  
212 securities shall be issued under this subsection, the governing  
213 authority may also pledge to the payment of principal of, premium,  
214 if any, and interest on such securities the revenues of any

215 project to be constructed, improved or purchased with the proceeds  
216 thereof. Whenever any project is a part of a system or combined  
217 system, then all or any portion of the revenues of such system or  
218 combined system may be pledged to secure repayment of such  
219 securities as determined by the bank.

220 (3) Each local governmental unit is hereby authorized to  
221 issue securities to the bank to raise money for any purpose or  
222 purposes set forth in Sections 19-9-1, 19-9-27 or 19-9-28 and for  
223 the purpose of refunding any securities issued under the  
224 provisions of this act or under the provisions of Section 19-9-1  
225 et seq. Such securities may be issued in accordance with Sections  
226 19-9-1, 19-9-3, 19-9-5, 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15,  
227 19-9-17, 19-9-27 and 19-9-28, or Sections 17-5-3 through 17-5-11,  
228 or Sections 49-17-101 through 49-17-123, as the case may be,  
229 unless otherwise specifically provided in this act; provided,  
230 however, the securities of any local governmental unit may be  
231 issued with such terms and provisions as may be necessary and  
232 appropriate in order to comply with the provisions of any loan  
233 agreement described in Section 49-17-87. Whenever securities  
234 shall be issued under this subsection, the board of supervisors of  
235 the county may also pledge to the payment of principal of,  
236 premium, if any, and interest on such securities the revenues of  
237 any project to be constructed, improved, repaired or purchased  
238 with the proceeds thereof. Whenever any project is a part of a  
239 system or combined system, then all or any portion of the revenues  
240 of such system or combined system may be pledged to secure  
241 repayment of such securities as determined by the bank.

242 (4) In addition, any local governmental unit is hereby  
243 authorized to issue securities to the bank to raise money for any  
244 purpose or purposes otherwise authorized by state law and for the  
245 purpose of refunding any securities issued under the provisions of  
246 this act or as otherwise authorized by state law including Section  
247 49-17-83 et seq. Such securities may be issued in accordance with  
248 any other applicable provision of state law related to the  
249 issuance of securities including Section 49-17-83 et seq.

250 Whenever securities shall be issued under this subsection, the  
251 governing body of such local governmental unit may also pledge to  
252 the payment of principal of, premium, if any, and interest on such  
253 securities the revenues of any project to be constructed, improved  
254 or purchased with the proceeds thereof. Whenever any project is a  
255 part of a system or combined system, then all or any portion of  
256 the revenues of such system or combined system may be pledged to  
257 secure repayment of such securities as determined by the bank.

258 (5) Securities issued by a local governmental unit under the  
259 provisions of this act:

260 (a) May be sold only to the bank at private sale and  
261 may be sold at such price or prices, in such manner and at such  
262 times as may be agreed to by the bank and the local governmental  
263 unit, and the governing body of the local governmental unit may  
264 pay all expenses, premiums, fees and commissions which it may deem  
265 necessary and advantageous in connection with the issuance and  
266 sale thereof;

267 (b) Shall be secured as provided by Chapter 27, Title  
268 21, Mississippi Code of 1972; Chapter 33, Title 21, Mississippi  
269 Code of 1972; or Chapter 9, Title 19, Mississippi Code of 1972, or  
270 other provisions of state law, and as provided in this act; and it  
271 is the intention of the Legislature that any pledge of earnings,  
272 revenues or other monies made by the local governmental unit shall  
273 be valid and binding from the time the pledge is made; that the  
274 earnings, revenues or other monies so pledged and thereafter  
275 received by the local governmental unit shall immediately be  
276 subject to the lien of such pledge without any physical delivery  
277 thereof or further act, and that the lien of any such pledge shall  
278 be valid and binding as against all parties having claims of any  
279 kind in tort, contract or otherwise against the local governmental  
280 unit irrespective of whether such parties have notice thereof; and  
281 neither the resolution nor any other instrument by which a pledge  
282 is created need be recorded;

283 (c) Neither the officers or members of the governing  
284 body of the local governmental unit nor any person executing the

285 bonds shall be personally liable on the bonds or be subject to any  
286 personal liability or accountability by reason of the issuance  
287 thereof;

288 (d) Shall be issued for the purposes set forth in this  
289 act and shall include terms and conditions which meet the state  
290 law authorizing the issuance of such local governmental unit debt  
291 and/or such terms and conditions consistent with the requirements  
292 for issuance of Mississippi Development Bank Bonds under Section  
293 31-25-37.

294 (6) Each local governmental unit issuing securities under  
295 the provisions of this act is hereby authorized and empowered in  
296 connection with the issuance of such securities to enter into any  
297 covenants, agreements as to defaults and agreements as to remedies  
298 of the bank for defaults with respect to such local governmental  
299 unit's operation, revenues, assets, monies, funds or property as  
300 may be prescribed by the bank.

301 (7) The proceeds of securities shall be deposited in one or  
302 more special funds established by resolution of the local  
303 governmental unit issuing the same and shall be applied to the  
304 following: (a) the purpose for which the securities were issued;  
305 (b) the payment of all costs of issuance of the securities; (c)  
306 the payments of any fees and charges established by the bank; (d)  
307 the payment of interest on the securities for a period of time not  
308 greater than the period of time estimated to be required to  
309 complete the purpose for which the securities were issued; all to  
310 the extent provided by resolution of the governing body of the  
311 local governmental unit and approved by the bank. Such special  
312 fund shall be held by commercial banks qualified to act as  
313 depositories therefor.

314 (8) In the event the bank determines to issue bonds and in  
315 connection therewith to exercise the powers provided in subsection  
316 (7) of Section 31-25-37, and if the requirements of subsection  
317 (2), (3) or (4) as the case may be, of this section have been  
318 satisfied, a local governmental unit is authorized to issue its  
319 securities as provided in this section.

320 (9) Securities issued under this act may be validated in the  
321 manner and with the force and effect provided in Section 31-13-1  
322 et seq.

323 (10) This act shall be deemed to provide an additional,  
324 alternative and complete method for the doing of the things  
325 authorized hereby and shall be deemed and construed to be  
326 supplemental to any power conferred by other laws on local  
327 governmental units and not in derogation of any such powers.

328 (11) Any person who attempts to or obtains financial aid for  
329 a local governmental unit hereunder or who attempts to or sells  
330 securities of a governmental unit to the bank by false or  
331 misleading information or who shall by fraud attempt to obtain  
332 monies from the bank or its approval for the payment of monies or  
333 shall fraudulently attempt to or does prevent the collection of  
334 any monies due to the bank shall, upon conviction, be guilty of a  
335 felony for each offense.

336 (12) Upon the sale and issuance of any securities to the  
337 bank by any governmental unit, such governmental unit shall be  
338 held and be deemed to have agreed that in the event of the failure  
339 of such governmental unit to pay the interest on or the principal  
340 of any of such securities owned or held by the bank as and when  
341 due and payable, such governmental unit shall have waived any and  
342 all defenses to such nonpayment, and the bank upon such nonpayment  
343 shall thereupon constitute a holder or owner of such securities as  
344 being in default, and the bank may then and thereupon avail itself  
345 of all remedies, rights and provisions of law applicable in such  
346 circumstance, including without limitation any remedies or rights  
347 theretofore agreed to by the local governmental unit, and that all  
348 of the securities of the issue of securities of such governmental  
349 unit as to which there has been such nonpayment, shall for all of  
350 the purposes of this section be held and be deemed to have become  
351 due and payable and to be unpaid. The bank is hereby authorized  
352 and empowered to carry out the provisions of this section and to  
353 exercise all of the rights and remedies and provisions of law  
354 herein provided or referred to.

355           (13) Any local governmental unit which borrows from the bank  
356 is hereby authorized and empowered to agree in writing with the  
357 bank that, as provided in this subsection, the State Tax  
358 Commission or any state agency, department or commission created  
359 pursuant to state law shall (a) withhold all or any part (as  
360 agreed by the local governmental unit) of any monies which such  
361 local governmental unit is entitled to receive from time to time  
362 pursuant to any law and which is in the possession of the State  
363 Tax Commission, or any state agency, department or commission  
364 created pursuant to state law and (b) pay the same over to the  
365 bank to satisfy any delinquent payments on any securities issued  
366 by such local governmental unit under the provisions of this act  
367 and any other delinquent payments due and owing the bank by such  
368 local governmental unit, all as the same shall occur. In the  
369 event the bank shall file a copy of such written agreement,  
370 together with a statement of delinquency, with the State Tax  
371 Commission, or any state agency, department or commission created  
372 pursuant to state law then the State Tax Commission or any state  
373 agency, department or commission created pursuant to state law  
374 shall immediately make the withholdings provided in such agreement  
375 from the amounts due the local governmental unit and shall  
376 continue to pay the same over to the bank until all such  
377 delinquencies are satisfied.

378           (14) (a) Except as otherwise provided in Section  
379 31-25-28(7), if the state or any agency thereof, the institutions  
380 of higher learning of the state or any education building  
381 corporation established for institutions of higher learning,  
382 borrows funds from the bank under Section 31-25-28 or sells its  
383 securities to the bank pursuant to this act, then such local  
384 governmental unit shall certify the following to the bank prior to  
385 the issuance of bonds:

386                           (i) The legal authority for such local  
387 governmental unit to borrow funds; and

388                   (ii) That such local governmental unit does not  
389 intend to request an additional appropriation from the Legislature  
390 to pay debt service on the loan or for such security.

391                   (b) If the state or any agency thereof, the  
392 institutions of higher learning of the state or any education  
393 building corporation established for institutions of higher  
394 learning, does not make the certification required under paragraph  
395 (a)(ii) of this subsection, then such local governmental unit  
396 shall not borrow funds from the bank under Section 31-25-28 or  
397 sell its securities to the bank pursuant to this act unless an  
398 appropriation by the Legislature authorizes the payment of debt  
399 service for the first year of the loan or for such security.

400                   (15) Any local governmental unit may borrow money from the  
401 bank loaned under any loan guaranty program of any department or  
402 agency of the United States, including the United States  
403 Department of Agriculture Rural Utility Services Water and Waste  
404 Disposal Guaranteed Loan Program and Community Programs Guaranteed  
405 Loan Program or any such successor guaranty programs.

406                   (16) Notwithstanding any law to the contrary, each local  
407 governmental unit is authorized and empowered to contract with the  
408 bank for the exercise by the bank of any and all of the bank's  
409 powers as set out in this act with respect to the proceeds of such  
410 local governmental unit's securities or certificates of  
411 participation issued by such local governmental unit pursuant to  
412 any state law authorizing the issuance of local governmental unit  
413 debt.

414                   (17) Subsections (15) and (16) of this section shall be  
415 deemed to provide all necessary authority for the doing of the  
416 things authorized thereby and shall be liberally construed to  
417 accomplish the purposes and authorizations therein stated.

418                   **SECTION 3.** Section 49-17-85, Mississippi Code of 1972, is  
419 amended as follows:

420                   49-17-85. (1) There is established in the State Treasury a  
421 fund to be known as the "Water Pollution Control Revolving Fund"  
422 which shall be administered by the commission acting through the

423 department. The revolving fund may receive bond proceeds and  
424 funds appropriated or otherwise made available by the Legislature  
425 in any manner and funds from any other source, public or private.  
426 The revolving fund shall be maintained in perpetuity for the  
427 purposes established in this section.

428 (2) There is established in the State Treasury a fund to be  
429 known as the "Water Pollution Control Hardship Grants Fund," which  
430 shall be administered by the commission acting through the  
431 department. The grants fund shall be maintained in perpetuity for  
432 the purposes established in this section. Any interest earned on  
433 monies in the grants fund shall be credited to that fund.

434 (3) The commission shall promulgate regulations for the  
435 administration of the revolving fund program, the hardship grants  
436 program and for related programs authorized under this section.  
437 The regulations shall be in accordance with the federal Water  
438 Quality Act of 1987, as amended and regulations and guidance  
439 issued under that act. The commission may enter into  
440 capitalization grant agreements with the United States  
441 Environmental Protection Agency and may accept capitalization  
442 grant awards made under Title VI of the Water Quality Act of 1987,  
443 as amended.

444 (4) The commission shall establish a loan program which  
445 shall commence after October 1, 1988, to assist political  
446 subdivisions in the construction of water pollution control  
447 projects. Loans from the revolving fund may be made to political  
448 subdivisions as set forth in a loan agreement in amounts not  
449 exceeding one hundred percent (100%) of eligible project costs as  
450 established by the commission. Notwithstanding loan amount  
451 limitations set forth in Section 49-17-61, the commission may  
452 require local participation or funding from other sources, or  
453 otherwise limit the percentage of costs covered by loans from the  
454 revolving fund. The commission may establish a maximum amount for  
455 any loan in order to provide for broad and equitable participation  
456 in the program.

457           (5) The commission shall establish a hardship grants program  
458 for rural communities, which shall commence after July 1, 1997, to  
459 assist severely economically disadvantaged small rural political  
460 subdivisions in the construction of water pollution control  
461 projects. The commission may receive and administer state or  
462 federal funds, or both, appropriated for the operation of this  
463 grants program and may take all actions necessary to implement the  
464 program in accordance with the federal hardship grants program.  
465 The hardship grants program shall operate in conjunction with the  
466 revolving loan program administered under this section.

467           (6) The commission shall act for the state in all matters  
468 and with respect to all determinations under Title VI of the  
469 federal Water Quality Act of 1987, as amended and the federal  
470 Omnibus Appropriations and Recision Act of 1996.

471           (7) Except as otherwise provided in this section, the  
472 revolving fund may be used only:

473                   (a) To make loans on the condition that:

474                           (i) The loans are made at or below market interest  
475 rates, at terms not to exceed twenty (20) years after project  
476 completion; the interest rate and term may vary from time to time  
477 and from loan to loan at the discretion of the commission;

478                           (ii) Periodic principal and interest payments will  
479 commence when required by the commission but not later than one  
480 (1) year after project completion and all loans will be fully  
481 amortized when required by the commission but not later than  
482 twenty (20) years after project completion;

483                           (iii) The recipient of a loan will establish a  
484 dedicated source of revenue for repayment of loans;

485                   (b) To buy or refinance the debt obligation of  
486 political subdivisions at or below market rates, where the debt  
487 obligations were incurred after March 7, 1985, and where the  
488 projects were constructed in compliance with applicable federal  
489 and state regulations;

490           (c) To guarantee, or purchase insurance for,  
491 obligations of political subdivisions where the action would  
492 improve credit market access or reduce interest rates;

493           (d) To provide loan guarantees for similar revolving  
494 funds established by municipalities or intermunicipal agencies;

495           (e) To earn interest on fund accounts;

496           (f) To establish nonpoint source pollution control  
497 management programs;

498           (g) To establish estuary conservation and management  
499 programs;

500           (h) For the reasonable costs of administering the  
501 revolving fund and conducting activities under this act, subject  
502 to the limitations established in Section 603(d)(7) of Title VI of  
503 the federal Clean Water Act, as amended, and subject to annual  
504 appropriation by the Legislature; and

505           (i) In connection with the issuance, sale and purchase  
506 of bonds under Section 31-25-1 et seq., related to the funding of  
507 projects, to provide security or a pledge of revenues for the  
508 repayment of the bonds.

509       (8) The hardship grants program shall be used only to  
510 provide hardship grants consistent with the federal hardship  
511 grants program for rural communities, regulations and guidance  
512 issued by the United States Environmental Protection Agency,  
513 subsections (3) and (5) of this section and regulations  
514 promulgated and guidance issued by the commission under this  
515 section.

516       (9) The commission shall establish by regulation a system of  
517 priorities and a priority list of projects eligible for funding  
518 with loans from the revolving fund.

519       (10) The commission may provide a loan from the revolving  
520 fund only with respect to a project if that project is on the  
521 priority list established by the commission.

522       (11) The revolving fund shall be credited with all payments  
523 of principal and interest derived from the fund uses described in  
524 subsection (7) of this section. However, notwithstanding any

525 other provision of law to the contrary, all or any portion of  
526 payments of principal and interest derived from the fund uses  
527 described in subsection (7) of this section may be designated or  
528 pledged for repayment of a loan as provided for in Section  
529 31-25-28 in connection with a loan from the Mississippi  
530 Development Bank.

531 (12) The commission may establish and collect fees to defray  
532 the reasonable costs of administering the revolving fund if it  
533 determines that the administrative costs will exceed the  
534 limitations established in Section 603(d)(7) of Title VI of the  
535 federal Clean Water Act, as amended. The administration fees may  
536 be included in loan amounts to political subdivisions for the  
537 purpose of facilitating payment to the commission. The fees may  
538 not exceed five percent (5%) of the loan amount.

539 **SECTION 4.** Section 49-17-86, Mississippi Code of 1972, is  
540 amended as follows:

541 49-17-86. (1) (a) There is created a fund in the State  
542 Treasury to be designated as the "Water Pollution Control  
543 Emergency Loan Fund" hereinafter referred to as "emergency fund."

544 (b) The emergency fund may receive appropriations, bond  
545 proceeds, grants, gifts, donations or funds from any source,  
546 public or private. The emergency fund shall be credited with all  
547 repayments of principal and interest derived from loans made from  
548 the emergency fund.

549 (c) The monies in the emergency fund may be expended  
550 only in amounts appropriated by the Legislature.

551 (d) The emergency fund shall be maintained in  
552 perpetuity for the purposes established in Sections 49-17-81  
553 through 49-17-89. Unexpended amounts remaining in the emergency  
554 fund at the end of a fiscal year shall not lapse into the State  
555 General Fund. Any interest earned on amounts in the emergency  
556 fund shall be deposited to the credit of the fund.

557 (2) The commission shall establish a loan program to assist  
558 political subdivisions in making emergency improvements such as  
559 repairs to or replacement of machinery, equipment, materials,

560 structures or devices in existing water pollution abatement  
561 projects or such other emergency water pollution abatement  
562 projects as the commission deems necessary. Loans from the  
563 emergency fund may be made to political subdivisions as set forth  
564 in a loan agreement in amounts not exceeding one hundred percent  
565 (100%) of eligible project costs as established by the commission.  
566 The commission may require local participation or funding from  
567 other sources, or otherwise limit the percentage of costs covered  
568 by loans from the emergency fund. The commission may establish a  
569 maximum amount for any loan not to exceed Three Hundred Fifty  
570 Thousand Dollars (\$350,000.00).

571 (3) Except as otherwise provided in this section, the  
572 emergency fund may be used only:

573 (a) To make loans on the condition that:

574 (i) Loans are made at or below market interest  
575 rates, at terms not to exceed ten (10) years after project  
576 completion; the interest rate may vary from time to time and from  
577 loan to loan at the discretion of the commission.

578 (ii) Periodic principal and interest payments will  
579 commence when required by the commission but not later than one  
580 (1) year after project completion and all loans will be fully  
581 amortized when required by the commission but not later than ten  
582 (10) years after project completion.

583 (iii) The recipient of a loan shall establish a  
584 dedicated source of revenue for repayment of loans. In addition,  
585 the commission may require any loan recipient to impose a per  
586 connection surcharge on each customer for repayment of any loan  
587 funds provided under this section.

588 (iv) The recipient of the loan is not in arrears  
589 in repayments to the Water Pollution Control Revolving Fund, the  
590 Water Pollution Control Emergency Loan Fund or under the Water  
591 Pollution Abatement Loan Program.

592 (b) To provide financial assistance to political  
593 subdivisions in making emergency improvements such as repairs to  
594 or replacement of machinery, equipment, materials, structures or

595 devices in existing water pollution abatement projects or such  
596 other emergency water pollution abatement projects as the  
597 commission deems necessary.

598 (c) To defray the reasonable costs of administering the  
599 emergency fund and conducting activities under this section,  
600 subject to annual appropriation by the Legislature.

601 (4) The commission shall establish a system of evaluating  
602 the eligibility of projects, including a determination of the  
603 emergency nature of a situation for which funding is sought.

604 (5) The fund will be credited with all payments of principal  
605 and interest derived from the fund uses described in subsection  
606 (3) of this section. However, notwithstanding any other provision  
607 of law to the contrary, all or any portion of payments of  
608 principal and interest derived from the fund uses described in  
609 subsection (3) of this section may be designated or pledged for  
610 repayment of a loan as provided for in Section 31-25-28 in  
611 connection with a loan from the Mississippi Development Bank.

612 (6) In addition to any amounts allowed under subsection  
613 (3)(c), the commission may establish and collect fees to further  
614 defray the reasonable costs of administering the emergency fund.  
615 Any administrative fees may be included in loan amounts to  
616 political subdivisions for the purpose of facilitating payment to  
617 the commission; fees may not exceed five percent (5%) of the loan  
618 amount. The commission may also use administrative fees collected  
619 pursuant to Section 49-17-85 to defray the reasonable costs of  
620 administering the emergency fund.

621 **SECTION 5.** This act shall take effect and be in force from  
622 and after July 1, 2004, and shall stand repealed from and after  
623 June 30, 2004.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 31-25-28, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO BORROW  
3 MONEY FROM THE MISSISSIPPI DEVELOPMENT BANK FOR THE PURPOSE OF  
4 PROVIDING FUNDS FOR LOAN PROGRAMS ADMINISTERED BY SUCH AGENCY; TO  
5 PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY MAY PLEDGE  
6 FUNDS RECEIVED BY IT AS LOAN REPAYMENTS UNDER SUCH A LOAN PROGRAM

7 TO REPAY ANY LOAN MADE BY THE MISSISSIPPI DEVELOPMENT BANK TO THE  
8 DEPARTMENT OF ENVIRONMENTAL QUALITY; TO EXEMPT LOANS MADE BY THE  
9 MISSISSIPPI DEVELOPMENT BANK UNDER THIS ACT FROM CERTAIN CRITERIA  
10 REQUIRED FOR OTHER LOANS MADE BY THE BANK TO THE DEPARTMENT OF  
11 ENVIRONMENTAL QUALITY; TO AMEND SECTIONS 31-25-27, 49-17-85 AND  
12 49-17-86, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
13 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

SS01\HB1762A.1J

John O. Gilbert  
Secretary of the Senate