

By: Representatives Compretta, Dedeaux

To: Conservation and Water
Resources

HOUSE BILL NO. 1313

1 AN ACT TO PROVIDE THAT THE BALANCE ON A LOAN MADE TO A
2 COUNTY, MUNICIPALITY, DISTRICT OR OTHER WATER ORGANIZATION FOR
3 EXPANSION OR REPAIR OF A WATER SYSTEM FROM THE "LOCAL GOVERNMENTS
4 AND RURAL WATER SYSTEMS IMPROVEMENTS REVOLVING LOAN FUND" OR ON A
5 LOAN TO A POLITICAL SUBDIVISION FOR CONSTRUCTION OF A WATER
6 POLLUTION CONTROL PROJECT FROM THE "WATER POLLUTION CONTROL
7 REVOLVING FUND" SHALL BE HELD IN ABEYANCE IF THE COUNTY,
8 MUNICIPALITY, DISTRICT OR OTHER WATER ORGANIZATION, OR POLITICAL
9 SUBDIVISION IS LOCATED IN A SPECIFIC AREA OF THE STATE COVERED BY
10 THE PRESIDENTIAL DECLARATION OF MAJOR DISASTER PERTAINING TO
11 HURRICANE KATRINA; TO PROVIDE THAT IF THE BORROWER IS UNABLE TO
12 PAY THE SUMS IN ARREARS ON SUCH A LOAN BECAUSE OF HURRICANE
13 KATRINA, THEN REPAYMENT OF THE BALANCE REMAINING ON THE LOAN AFTER
14 AUGUST 29, 2005, SHALL BE HELD IN ABEYANCE; TO PROVIDE THAT ANY
15 LOAN AGREEMENT EXECUTED BEFORE AUGUST 29, 2005, WITH REGARD TO
16 SUCH LOAN PROGRAMS SHALL BE AMENDED BY OPERATION OF LAW TO INCLUDE
17 A "HURRICANE KATRINA ABEYANCE STIPULATION"; TO AMEND SECTION
18 41-3-16, MISSISSIPPI CODE OF 1972, PERTAINING TO THE "LOCAL
19 GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS REVOLVING LOAN
20 FUND," IN CONFORMITY THERETO; TO AMEND SECTIONS 49-17-85 AND
21 49-17-87, MISSISSIPPI CODE OF 1972, PERTAINING TO THE "WATER
22 POLLUTION CONTROL REVOLVING FUND," IN CONFORMITY THERETO; TO BRING
23 FORWARD SECTION 49-17-89, MISSISSIPPI CODE OF 1972, PERTAINING TO
24 THE "WATER POLLUTION CONTROL REVOLVING FUND," FOR PURPOSES OF
25 AMENDMENT; AND FOR RELATED PURPOSES.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

27 **SECTION 1.** (1) (a) The Legislature finds that Hurricane
28 Katrina was the worst natural disaster in the state's history.
29 Extensive and prolonged damage caused by the storm has been
30 devastating to infrastructure and to the civil, social, economic
31 and environmental well-being of Mississippi. Extraordinary and
32 unprecedented assistance to the affected areas is required if this
33 region is to recover from the effects of the devastation.

34 (b) The Legislature further finds that the devastation
35 caused by Hurricane Katrina in Mississippi continues to affect all
36 aspects of the economy, the environment, public health and safety,
37 infrastructure, public and private institutions, and the general
38 welfare of the region and, indirectly, of the entire state.

39 (c) The provisions of this act are intended to address
40 the welfare of the citizens of the region with respect to the
41 expansion or repair of existing water systems and with respect to
42 the construction of water pollution control projects, and the
43 importance of such projects to public health and safety justify
44 the exercise of the powers authorized in this act.

45 (2) The provisions of this section shall apply to:

46 (a) Any county, incorporated municipality, or district
47 or other water organization that has been granted tax exempt
48 status under either federal or state law, that has received a loan
49 under Section 41-3-16 before August 29, 2005, and that is located
50 in the area of the state composed of the six (6) most southern
51 counties of the state covered by the Presidential Declaration of
52 Major Disaster for the State of Mississippi (FEMA-1604-DR) dated
53 August 29, 2005.

54 (b) Any political subdivision that has received a loan
55 under Sections 49-17-81 through 49-17-89 before August 29, 2005,
56 to assist in the construction of a water pollution control
57 project, and that is located in the area of the state composed of
58 the six (6) most southern counties of the state covered by the
59 Presidential Declaration of Major Disaster for the State of
60 Mississippi (FEMA-1604-DR) dated August 29, 2005.

61 (3) For purposes of this section, the term "borrower" means
62 any entity as described in subsection (2). If the borrower is
63 unable to pay the sums in arrears on a loan executed under
64 Sections 41-3-16 or 49-17-81 through 49-17-89 before August 29,
65 2005, because of the destruction of or damage to improvements or
66 structures caused by Hurricane Katrina, or because of economic
67 conditions brought about by the effects of Hurricane Katrina, then
68 repayment of the balance remaining on the loan after August 29,
69 2005, shall be held in permanent abeyance. Any loan agreement
70 executed before August 29, 2005, by a borrower shall be amended,
71 by operation of this act, to include a provision stipulating that

72 if destruction of or damage to improvements or structures is
73 caused by Hurricane Katrina, or because of economic conditions
74 brought about by the effects of Hurricane Katrina, then repayment
75 of the balance remaining on the loan after August 29, 2005, shall
76 be held in permanent abeyance, which stipulation shall be known as
77 the "Hurricane Katrina Abeyance Stipulation."

78 **SECTION 2.** Section 41-3-16, Mississippi Code of 1972, is
79 amended as follows:

80 41-3-16. (1) (a) There is established a local governments
81 and rural water systems improvements revolving loan and grant
82 program to be administered by the State Department of Health,
83 referred to in this section as "department," for the purpose of
84 assisting counties, incorporated municipalities, districts or
85 other water organizations that have been granted tax exempt status
86 under either federal or state law, in making improvements to their
87 water systems, including construction of new water systems or
88 expansion or repair of existing water systems. Loan and grant
89 proceeds may be used by the recipient for planning, professional
90 services, acquisition of interests in land, acquisition of
91 personal property, construction, construction-related services,
92 maintenance, and any other reasonable use which the board, in its
93 discretion, may allow. For purposes of this section, "water
94 systems" has the same meaning as the term "public water system"
95 under Section 41-26-3.

96 (b) (i) There is created a board to be known as the
97 "Local Governments and Rural Water Systems Improvements Board,"
98 referred to in this section as "board," to be composed of the
99 following nine (9) members: the State Health Officer, or his
100 designee, who shall serve as chairman of the board; the Executive
101 Director of the Mississippi Development Authority, or his
102 designee; the Executive Director of the Department of
103 Environmental Quality, or his designee; the Executive Director of
104 the Department of Finance and Administration, or his designee; the

105 Executive Director of the Mississippi Association of Supervisors,
106 or his designee; the Executive Director of the Mississippi
107 Municipal League, or his designee; the Executive Director of the
108 Consulting Engineers Council, or his designee; the State Director
109 of the United States Department of Agriculture, Rural Development,
110 or his designee; and a manager of a rural water system.

111 The Governor shall appoint a manager of a rural water system
112 from a list of candidates provided by the Executive Director of
113 the Mississippi Rural Water Association. The Executive Director
114 of the Mississippi Rural Water Association shall provide the
115 Governor a list of candidates which shall contain a minimum of
116 three (3) candidates for each appointment.

117 (ii) Nonappointed members of the board may
118 designate another representative of their agency or association to
119 serve as an alternate.

120 (iii) The gubernatorial appointee shall serve a
121 term concurrent with the term of the Governor and until a
122 successor is appointed and qualified. No member, officer or
123 employee of the Board of Directors of the Mississippi Rural Water
124 Association shall be eligible for appointment.

125 (c) The department, if requested by the board, shall
126 furnish the board with facilities and staff as needed to
127 administer this section. The department may contract, upon
128 approval by the board, for those facilities and staff needed to
129 administer this section, including routine management, as it deems
130 necessary. The board may advertise for or solicit proposals from
131 public or private sources, or both, for administration of this
132 section or any services required for administration of this
133 section or any portion thereof. It is the intent of the
134 Legislature that the board endeavor to ensure that the costs of
135 administration of this section are as low as possible in order to
136 provide the water consumers of Mississippi safe drinking water at
137 affordable prices.

138 (d) Members of the board may not receive any salary,
139 compensation or per diem for the performance of their duties under
140 this section.

141 (2) (a) There is created a special fund in the State
142 Treasury to be designated as the "Local Governments and Rural
143 Water Systems Improvements Revolving Loan Fund," referred to in
144 this section as "revolving fund," which fund shall consist of
145 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
146 of 1995. The revolving fund may receive appropriations, bond
147 proceeds, grants, gifts, donations or funds from any source,
148 public or private. The revolving fund shall be credited with all
149 repayments of principal and interest derived from loans made from
150 the revolving fund. The monies in the revolving fund may be
151 expended only in amounts appropriated by the Legislature, and the
152 different amounts specifically provided for the loan program and
153 the grant program shall be so designated. Monies in the fund may
154 only be expended for the grant program from the amount designated
155 for such program. The revolving fund shall be maintained in
156 perpetuity for the purposes established in this section and
157 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended
158 amounts remaining in the revolving fund at the end of a fiscal
159 year shall not lapse into the State General Fund, and any interest
160 earned on amounts in the revolving fund shall be deposited to the
161 credit of the fund. Monies in the revolving fund may not be used
162 or expended for any purpose except as authorized under this
163 section and Sections 6 through 20 of Chapter 521, Laws of 1995.
164 Any monies in the fund may be used to match any federal funds that
165 are available for the same or related purposes for which funds are
166 used and expended under this section and Sections 6 through 20 of
167 Chapter 521, Laws of 1995. Any federal funds shall be used and
168 expended only in accordance with federal laws, rules and
169 regulations governing the expenditure of those funds. No person
170 shall use any monies from the revolving fund for the acquisition

171 of real property or any interest in real property unless that
172 property is integral to the project funded under this section and
173 the purchase is made from a willing seller. No county,
174 incorporated municipality or district shall acquire any real
175 property or any interest in any real property for a project funded
176 through the revolving fund by condemnation. The board's
177 application of Sections 43-37-1 through 43-37-13 shall be no more
178 stringent or extensive in scope, coverage and effect than federal
179 property acquisition laws and regulations.

180 (b) There is created a special fund in the State
181 Treasury to be designated as the "Local Governments and Rural
182 Water Systems Emergency Loan Fund," hereinafter referred to as
183 "emergency fund," which fund shall consist of those monies as
184 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
185 emergency fund may receive appropriations, bond proceeds, grants,
186 gifts, donations or funds from any source, public or private. The
187 emergency fund shall be credited with all repayments of principal
188 and interest derived from loans made from the emergency fund. The
189 monies in the emergency fund may be expended only in amounts
190 appropriated by the Legislature. The emergency fund shall be
191 maintained in perpetuity for the purposes established in this
192 section and Section 6 of Chapter 521, Laws of 1995. Unexpended
193 amounts remaining in the emergency fund at the end of a fiscal
194 year shall not lapse into the State General Fund. Any interest
195 earned on amounts in the emergency fund shall be deposited to the
196 credit of the fund. Monies in the emergency fund may not be used
197 or expended for any purpose except as authorized under this
198 section and Section 6 of Chapter 521, Laws of 1995.

199 (c) The board created in subsection (1) shall establish
200 loan and grant programs by which loans and grants may be made
201 available to counties, incorporated municipalities, districts or
202 other water organizations that have been granted tax exempt status
203 under either federal or state law, to assist those counties,

204 incorporated municipalities, districts or water organizations in
205 making water systems improvements, including the construction of
206 new water systems or expansion or repair of existing water
207 systems. Any entity eligible under this section may receive
208 either a loan or a grant, or both. No grant awarded under the
209 program established in this section may be made using funds from
210 the loan program. Grants may be awarded only when the Legislature
211 specifically appropriates funds for that particular purpose. The
212 interest rate on those loans may vary from time to time and from
213 loan to loan, and will be at or below market interest rates as
214 determined by the board. The board shall act as quickly as is
215 practicable and prudent in deciding on any loan request that it
216 receives. Loans from the revolving fund or emergency fund may be
217 made to counties, incorporated municipalities, districts or other
218 water organizations that have been granted tax exempt status under
219 either federal or state law, as set forth in a loan agreement in
220 amounts not to exceed one hundred percent (100%) of eligible
221 project costs as established by the board. The board may require
222 county, municipal, district or other water organization
223 participation or funding from other sources, or otherwise limit
224 the percentage of costs covered by loans from the revolving fund
225 or the emergency fund. The maximum amount for any loan from the
226 emergency fund shall be Five Hundred Thousand Dollars
227 (\$500,000.00), and the maximum amount for any loan from the
228 revolving fund shall be One Million Five Hundred Thousand Dollars
229 (\$1,500,000.00).

230 (d) (i) A county that receives a loan from the
231 revolving fund or the emergency fund shall pledge for repayment of
232 the loan any part of the homestead exemption annual tax loss
233 reimbursement to which it may be entitled under Section 27-33-77,
234 as may be required to meet the repayment schedule contained in the
235 loan agreement. An incorporated municipality that receives a loan
236 from the revolving fund or the emergency fund shall pledge for

237 repayment of the loan any part of the sales tax revenue
238 distribution to which it may be entitled under Section 27-65-75,
239 as may be required to meet the repayment schedule contained in the
240 loan agreement. All recipients of such loans shall establish a
241 dedicated source of revenue for repayment of the loan. Before any
242 county or incorporated municipality shall receive any loan, it
243 shall have executed with the State Tax Commission and the board a
244 loan agreement evidencing that loan. The loan agreement shall not
245 be construed to prohibit any recipient from prepaying any part or
246 all of the funds received. The repayment schedule in each loan
247 agreement shall provide for (i) monthly payments, (ii) semiannual
248 payments or (iii) other periodic payments, the annual total of
249 which shall not exceed the annual total for any other year of the
250 loan by more than fifteen percent (15%). The loan agreement shall
251 provide for the repayment of all funds received from the revolving
252 fund within not more than fifteen (15) years or a term as
253 otherwise allowed by the federal Safe Drinking Water Act, and all
254 funds received from the emergency fund within not more than five
255 (5) years from the date of project completion, and any repayment
256 shall commence not later than one (1) year after project
257 completion. The State Tax Commission shall withhold semiannually
258 from counties and monthly from incorporated municipalities from
259 the amount to be remitted to the county or municipality, a sum
260 equal to the next repayment as provided in the loan agreement.

261 (ii) For purposes of this subparagraph, the term
262 "borrower" means a county, incorporated municipality, district or
263 other water organization that is located in the area of the state
264 composed of the six (6) most southern counties of the state
265 covered by the Presidential Declaration of Major Disaster for the
266 State of Mississippi (FEMA-1604-DR) dated August 29, 2005. Any
267 loan agreement executed before August 29, 2005, by a borrower as
268 defined in this subparagraph shall be amended, by operation of
269 this act, to include a provision that if the borrower is unable to

270 pay the sums in arrears on the loan, because of the destruction of
271 or damage to improvements or structures caused by Hurricane
272 Katrina, or because of economic conditions brought about by the
273 effects of Hurricane Katrina, then repayment of the loan shall be
274 held in permanent abeyance.

275 (e) (i) Any county, incorporated municipality,
276 district or other water organization desiring to construct a
277 project approved by the board which receives a loan from the state
278 for that purpose but which is not eligible to pledge for repayment
279 under the provisions of paragraph (d) of this subsection, shall
280 repay that loan by making payments each month to the State
281 Treasurer through the Department of Finance and Administration for
282 and on behalf of the board according to Section 7-7-15, to be
283 credited to either the revolving fund or the emergency fund,
284 whichever is appropriate, in lieu of pledging homestead exemption
285 annual tax loss reimbursement or sales tax revenue distribution.

286 Loan repayments shall be according to a repayment schedule
287 contained in each loan agreement as provided in paragraph (d) of
288 this subsection.

289 (ii) For purposes of this subparagraph, the term
290 "borrower" means a county, incorporated municipality, district or
291 other water organization that is located in the area of the state
292 composed of the six (6) most southern counties of the state
293 covered by the Presidential Declaration of Major Disaster for the
294 State of Mississippi (FEMA-1604-DR) dated August 29, 2005. Any
295 loan agreement executed before August 29, 2005, by a borrower as
296 defined in this subparagraph shall be amended, by operation of
297 this act, to include a provision that if the borrower is unable to
298 pay the sums in arrears on the loan, because of the destruction of
299 or damage to improvements or structures caused by Hurricane
300 Katrina, or because of economic conditions brought about by the
301 effects of Hurricane Katrina, then repayment of the loan shall be
302 held in permanent abeyance.

303 (f) (i) Any district created pursuant to Sections
304 19-5-151 through 19-5-207 that receives a loan from the revolving
305 fund or the emergency fund shall pledge for repayment of the loan
306 any part of the revenues received by that district pursuant to
307 Sections 19-5-151 through 19-5-207, as may be required to meet the
308 repayment schedule contained in the loan agreement.

309 (ii) For purposes of this subparagraph, the term
310 "borrower" means a county, incorporated municipality, district or
311 other water organization that is located in the area of the state
312 composed of the six (6) most southern counties of the state
313 covered by the Presidential Declaration of Major Disaster for the
314 State of Mississippi (FEMA-1604-DR) dated August 29, 2005. Any
315 loan agreement executed before August 29, 2005, by a borrower as
316 defined in this subparagraph shall be amended, by operation of
317 this act, to include a provision that if the borrower is unable to
318 pay the sums in arrears on the loan, because of the destruction of
319 or damage to improvements or structures caused by Hurricane
320 Katrina, or because of economic conditions brought about by the
321 effects of Hurricane Katrina, then repayment of the loan shall be
322 held in permanent abeyance.

323 (g) The State Auditor, upon request of the board, shall
324 audit the receipts and expenditures of a county, an incorporated
325 municipality, district or other water organization whose loan
326 repayments appear to be in arrears, and if the Auditor finds that
327 the county, incorporated municipality, district or other water
328 organization is in arrears in those repayments, the Auditor shall
329 immediately notify the chairman of the board who may take any
330 action as may be necessary to enforce the terms of the loan
331 agreement, including liquidation and enforcement of the security
332 given for repayment of the loan, and the Executive Director of the
333 Department of Finance and Administration who shall withhold all
334 future payments to the county of homestead exemption annual tax
335 loss reimbursements under Section 27-33-77 and all sums allocated

336 to the county or the incorporated municipality under Section
337 27-65-75 until such time as the county or the incorporated
338 municipality is again current in its loan repayments as certified
339 by the board.

340 (h) All monies deposited in the revolving fund or the
341 emergency fund, including loan repayments and interest earned on
342 those repayments, shall be used only for providing loans or other
343 financial assistance to water systems as the board deems
344 appropriate. In addition, any amounts in the revolving fund or
345 the emergency fund may be used to defray the reasonable costs of
346 administering the revolving fund or the emergency fund and
347 conducting activities under this section and Sections 6 through 20
348 of Chapter 521, Laws of 1995, subject to any limitations
349 established in the federal Safe Drinking Water Act, as amended and
350 subject to annual appropriation by the Legislature. The
351 department is authorized, upon approval by the board, to use
352 amounts available to it from the revolving fund or the emergency
353 fund to contract for those facilities and staff needed to
354 administer and provide routine management for the funds and loan
355 program.

356 (3) In administering this section and Sections 6 through 20
357 of Chapter 521, Laws of 1995, the board created in subsection (1)
358 of this section shall have the following powers and duties:

359 (a) To supervise the use of all funds made available
360 under this section and Sections 6 through 20 of Chapter 521, Laws
361 of 1995, for local governments and rural water systems
362 improvements;

363 (b) To promulgate rules and regulations, to make
364 variances and exceptions thereto, and to establish procedures in
365 accordance with this section and Sections 6 through 20 of Chapter
366 521, Laws of 1995, for the implementation of the local governments
367 and rural water systems improvements revolving loan program;

368 (c) To require, at the board's discretion, any loan or
369 grant recipient to impose a per connection fee or surcharge or
370 amended water rate schedule or tariff on each customer or any
371 class of customers, benefiting from an improvement financed by a
372 loan or grant made under this section, for repayment of any loan
373 funds provided under this section and Sections 6 through 20 of
374 Chapter 521, Laws of 1995. The board may require any loan or
375 grant recipient to undergo a water system viability analysis and
376 may require a loan or grant recipient to implement any result of
377 the viability analysis. If the loan recipient fails to implement
378 any result of a viability analysis as required by the board, the
379 board may impose a monetary penalty or increase the interest rate
380 on the loan, or both. If the grant recipient fails to implement
381 any result of a viability analysis as required by the board, the
382 board may impose a monetary penalty on the grant;

383 (d) To review and certify all projects for which funds
384 are authorized to be made available under this section and
385 Sections 6 through 20 of Chapter 521, Laws of 1995, for local
386 governments and rural water systems improvements;

387 (e) To requisition monies in the Local Governments and
388 Rural Water Systems Improvements Revolving Loan Fund and the Local
389 Governments and Rural Water Systems Emergency Loan Fund and
390 distribute those monies on a project-by-project basis in
391 accordance with this section;

392 (f) To ensure that the funds made available under this
393 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to
394 a county, an incorporated municipality, a district or a water
395 organization that has been granted tax exempt status under either
396 federal or state law provide for a distribution of projects and
397 funds among the entities under a priority system established by
398 the board;

399 (g) To maintain in accordance with generally accepted
400 government accounting standards an accurate record of all monies

401 in the revolving fund and the emergency fund made available to
402 counties, incorporated municipalities, districts or other water
403 organizations under this section and Sections 6 through 20 of
404 Chapter 521, Laws of 1995, and the costs for each project;

405 (h) To establish policies, procedures and requirements
406 concerning viability and financial capability to repay loans that
407 may be used in approving loans available under this section,
408 including a requirement that all loan recipients have a rate
409 structure which will be sufficient to cover the costs of
410 operation, maintenance, major equipment replacement and repayment
411 of any loans made under this section; and

412 (i) To file annually with the Legislature a report
413 detailing how monies in the Local Governments and Rural Water
414 Systems Improvements Revolving Loan Fund and the Local Governments
415 and Rural Water Systems Emergency Loan Fund were spent during the
416 preceding fiscal year in each county, incorporated municipality,
417 district or other water organization, the number of projects
418 approved and constructed, and the cost of each project.

419 For efficient and effective administration of the loan
420 program, revolving fund and emergency fund, the board may
421 authorize the department or the State Health Officer to carry out
422 any or all of the powers and duties enumerated above.

423 (j) Notwithstanding any provision of this section,
424 Section 1 of this act shall apply to the repayment of a loan by a
425 county, incorporated municipality, district or other water
426 organization that is located in the area of the state composed of
427 the six (6) most southern counties of the state covered by the
428 Presidential Declaration of Major Disaster for the State of
429 Mississippi (FEMA-1604-DR) dated August 29, 2005.

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

432 49-17-85. (1) There is established in the State Treasury a
433 fund to be known as the "Water Pollution Control Revolving Fund"

434 which shall be administered by the commission acting through the
435 department. The revolving fund may receive bond proceeds and
436 funds appropriated or otherwise made available by the Legislature
437 in any manner and funds from any other source, public or private.
438 The revolving fund shall be maintained in perpetuity for the
439 purposes established in this section.

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

446 (3) The commission shall promulgate regulations for the
447 administration of the revolving fund program, the hardship grants
448 program and for related programs authorized under this section.
449 The regulations shall be in accordance with the federal Water
450 Quality Act of 1987, as amended and regulations and guidance
451 issued under that act. The commission may enter into
452 capitalization grant agreements with the United States
453 Environmental Protection Agency and may accept capitalization
454 grant awards made under Title VI of the Water Quality Act of 1987,
455 as amended.

456 (4) The commission shall establish a loan program which
457 shall commence after October 1, 1988, to assist political
458 subdivisions in the construction of water pollution control
459 projects. Loans from the revolving fund may be made to political
460 subdivisions as set forth in a loan agreement in amounts not
461 exceeding one hundred percent (100%) of eligible project costs as
462 established by the commission. Notwithstanding loan amount
463 limitations set forth in Section 49-17-61, the commission may
464 require local participation or funding from other sources, or
465 otherwise limit the percentage of costs covered by loans from the
466 revolving fund. The commission may establish a maximum amount for

467 any loan in order to provide for broad and equitable participation
468 in the program.

469 (5) The commission shall establish a hardship grants program
470 for rural communities, which shall commence after July 1, 1997, to
471 assist severely economically disadvantaged small rural political
472 subdivisions in the construction of water pollution control
473 projects. The commission may receive and administer state or
474 federal funds, or both, appropriated for the operation of this
475 grants program and may take all actions necessary to implement the
476 program in accordance with the federal hardship grants program.
477 The hardship grants program shall operate in conjunction with the
478 revolving loan program administered under this section.

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

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

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

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

490 (ii) Periodic principal and interest payments will
491 commence when required by the commission but not later than one
492 (1) year after project completion and all loans will be fully
493 amortized when required by the commission but not later than
494 twenty (20) years after project completion;

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

497 (b) To buy or refinance the debt obligation of
498 political subdivisions at or below market rates, where the debt
499 obligations were incurred after March 7, 1985, and where the

500 projects were constructed in compliance with applicable federal
501 and state regulations;

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

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

507 (e) To earn interest on fund accounts;

508 (f) To establish nonpoint source pollution control
509 management programs;

510 (g) To establish estuary conservation and management
511 programs;

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

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

521 (8) The hardship grants program shall be used only to
522 provide hardship grants consistent with the federal hardship
523 grants program for rural communities, regulations and guidance
524 issued by the United States Environmental Protection Agency,
525 subsections (3) and (5) of this section and regulations
526 promulgated and guidance issued by the commission under this
527 section.

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

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

534 (11) The revolving fund shall be credited with all payments
535 of principal and interest derived from the fund uses described in
536 subsection (7) of this section. However, notwithstanding any
537 other provision of law to the contrary, all or any portion of
538 payments of principal and interest derived from the fund uses
539 described in subsection (7) of this section may be designated or
540 pledged for repayment of a loan as provided for in Section
541 31-25-28 in connection with a loan from the Mississippi
542 Development Bank.

543 (12) The commission may establish and collect fees to defray
544 the reasonable costs of administering the revolving fund if it
545 determines that the administrative costs will exceed the
546 limitations established in Section 603(d)(7) of Title VI of the
547 federal Clean Water Act, as amended. The administration fees may
548 be included in loan amounts to political subdivisions for the
549 purpose of facilitating payment to the commission. The fees may
550 not exceed five percent (5%) of the loan amount.

551 (13) Notwithstanding any provision of this section, Section
552 1 of this act shall apply to the repayment of a loan made to any
553 political subdivision that is located in the area of the state
554 composed of the six (6) most southern counties of the state
555 covered by the Presidential Declaration of Major Disaster for the
556 State of Mississippi (FEMA-1604-DR) dated August 29, 2005.

557 **SECTION 4.** Section 49-17-87, Mississippi Code of 1972, is
558 amended as follows:

559 49-17-87. (1) A political subdivision which receives a loan
560 from the revolving fund or emergency fund is required to and
561 authorized to pledge for the repayment of such loan (a) any part
562 of the sales tax reimbursement to which it may be entitled under
563 Section 27-65-75, and (b) any part of the homestead exemption

564 annual tax loss reimbursement to which it may be entitled under
565 Section 27-33-77, to meet a repayment schedule set forth in a loan
566 agreement. The loan agreement shall provide for (i) monthly
567 payments, (ii) semiannual payments or (iii) other periodic
568 payments, the annual total of which shall not exceed the annual
569 total for any other year of the loan by more than fifteen percent
570 (15%). The loan agreement shall provide for the repayment of all
571 funds received from the revolving fund within not more than twenty
572 (20) years and repayment of all funds received from the emergency
573 fund within not more than ten (10) years from the date of project
574 completion. The State Tax Commission shall pay to the revolving
575 fund or emergency fund monthly, or as often as is practicable,
576 from the amount, which would otherwise be remitted to a political
577 subdivision from its sales tax reimbursement or homestead
578 exemption annual tax loss reimbursement, the amounts set forth in
579 such loan agreement.

580 (2) (a) Before any political subdivision shall receive any
581 loan from the revolving fund or the emergency fund, it shall have
582 executed with the State Tax Commission and the commission a loan
583 agreement evidencing that loan. The loan agreement hereinabove
584 provided for shall not be construed to prohibit any recipient from
585 prepaying any part or all of the funds received.

586 (b) For purposes of this paragraph, the term "borrower"
587 means any political subdivision that is located in the area of the
588 state composed of the six (6) most southern counties of the state
589 covered by the Presidential Declaration of Major Disaster for the
590 State of Mississippi (FEMA-1604-DR) dated August 29, 2005. Any
591 loan agreement executed before August 29, 2005, by a borrower as
592 defined in this paragraph shall be amended, by operation of this
593 act, to include a provision that if the borrower is unable to pay
594 the sums in arrears on the loan, because of the destruction of or
595 damage to improvements or structures caused by Hurricane Katrina,
596 or because of economic conditions brought about by the effects of

597 Hurricane Katrina, then repayment of the loan shall be held in
598 permanent abeyance.

599 (3) As determined by the commission, any political
600 subdivision desiring to construct a project approved by the
601 department and which receives a loan from the state for that
602 purpose may be required to pledge as security for the repayment of
603 that loan, all or any part of the revenues of any project
604 constructed, improved, repaired, replaced, purchased or refinanced
605 with the proceeds of such loan. Whenever any project is a part of
606 a system or combined system, then all or any portion of the
607 revenues of that system or combined system may be pledged to
608 secure repayment of a loan as determined by the commission.

609 Except as may be otherwise provided in subsection (2)(b), the
610 agreement shall provide for periodic payments, the annual total of
611 which shall not exceed the annual total for any other year of the
612 loan by more than fifteen percent (15%). The repayment schedule
613 shall provide for the repayment of all funds received from the
614 revolving fund within no more than twenty (20) years and repayment
615 of all funds received from the emergency fund within not more than
616 ten (10) years from the date of project completion. Payments
617 under the loan agreement shall be made prior to the payments of
618 principal or interest on any bonds issued by the political
619 subdivision in connection with the project or projects to which
620 loans from the revolving fund or emergency fund are made.

621 The State Auditor, upon the request of the commission, shall
622 audit the receipts and expenditures of each district whose monthly
623 payments are to be received by the department, and if the State
624 Auditor should find the political subdivision in arrears, the
625 Auditor shall immediately begin withholding from funds due the
626 taxing district in which the political subdivision is located,
627 under Section 27-33-41, an amount equal to the payment due plus
628 accrued interest, late charges and expenses incurred in the audit

629 and issue a warrant for that amount to the revolving fund or
630 emergency fund as directed below.

631 The loan agreement hereinabove provided for shall not be
632 construed to prohibit any recipient from prepaying any part or all
633 of the funds received.

634 (4) Loans or any bonds or other evidences of indebtedness
635 which are incurred or issued either pursuant to this chapter or
636 Section 31-25-1 et seq., in relation to this chapter, or pursuant
637 to any other law as evidence of any loan made or indebtedness
638 incurred pursuant to this chapter, shall not be deemed
639 indebtedness within the meaning specified in Section 21-33-303,
640 with regard to cities or incorporated towns, in Section 19-9-5,
641 with regard to counties, and in any other state law establishing a
642 similar indebtedness limitation with regard to political
643 subdivisions other than cities, incorporated towns and counties.

644 (5) Notwithstanding any provision of this section, Section 1
645 of this act shall apply to the repayment of a loan made to any
646 political subdivision that is located in the area of the state
647 composed of the six (6) most southern counties of the state
648 covered by the Presidential Declaration of Major Disaster for the
649 State of Mississippi (FEMA-1604-DR) dated August 29, 2005.

650 **SECTION 5.** Section 49-17-89, Mississippi Code of 1972, is
651 brought forward as follows:

652 49-17-89. (1) Political subdivisions are hereby authorized
653 to borrow monies under the provisions of this act, to issue
654 municipal securities to evidence such loans, and to enter into
655 such other agreements necessary for such loans and municipal
656 securities on such terms and conditions as such political
657 subdivisions shall deem necessary and advisable.

658 (2) In connection with the issuance of municipal securities
659 by political subdivisions to evidence loans under the provisions
660 of this chapter and as may be required by Section 31-25-1 et seq.,
661 the following provisions shall specifically apply:

662 (a) No notice of intent to issue municipal securities
663 as may otherwise be required by state law shall be required.

664 (b) The governing body of the political subdivision
665 shall adopt such resolutions as may be necessary to borrow monies
666 under this chapter, to issue and sell municipal securities to
667 evidence such loans, and to approve and authorize the execution of
668 any agreements related thereto.

669 (c) Such loans and municipal securities shall be
670 secured as provided for in Section 49-17-87.

671 (d) Such loans and municipal securities shall not be
672 deemed general obligations.

673 (e) Such municipal securities shall be sold only to
674 evidence the repayment of a loan under this chapter and may be
675 sold at such price or prices, in such form, and subject to such
676 terms and conditions of issue, redemption and maturity, rate of
677 interest and time of payment of interest as otherwise provided for
678 a loan under this chapter.

679 (f) A political subdivision may pay all expenses,
680 premiums, fees and commissions which it may deem necessary and
681 advantageous in connection with any loan and the issuance and sale
682 of municipal securities under this chapter.

683 (g) Municipal securities issued under this chapter need
684 not be validated as provided in Section 31-13-1 et seq.

685 (h) This section shall be deemed to provide an
686 additional, alternate and complete method for the doing of the
687 things authorized hereby and shall be deemed and construed to be
688 supplemental to any provisions of any other laws and not in
689 derogation of any such provisions. In connection with the
690 issuance of municipal securities under this chapter, a political
691 subdivision shall not be required to comply with the provisions of
692 any other law except as provided herein.

693 **SECTION 6.** This act shall take effect and be in force from
694 and after its passage.