

By: Senator(s) Cuevas

To: Finance

## SENATE BILL NO. 2947

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 Section  
64 41-3-16 or Sections 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 Senate Bill No. 2947, 2006 Regular Session, shall  
425 apply to the repayment of a loan by a county, incorporated  
426 municipality, district or other water organization that is located  
427 in the area of the state composed of the six (6) most southern  
428 counties of the state covered by the Presidential Declaration of  
429 Major Disaster for the State of Mississippi (FEMA-1604-DR) dated  
430 August 29, 2005.

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

433           49-17-85. (1) There is established in the State Treasury a  
434 fund to be known as the "Water Pollution Control Revolving Fund"  
435 which shall be administered by the commission acting through the  
436 department. The revolving fund may receive bond proceeds and  
437 funds appropriated or otherwise made available by the Legislature  
438 in any manner and funds from any other source, public or private.  
439 The revolving fund shall be maintained in perpetuity for the  
440 purposes established in this section.

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

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

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

466 otherwise limit the percentage of costs covered by loans from the  
467 revolving fund. The commission may establish a maximum amount for  
468 any loan in order to provide for broad and equitable participation  
469 in the program.

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

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

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

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

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

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

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

498           (b) To buy or refinance the debt obligation of  
499 political subdivisions at or below market rates, where the debt  
500 obligations were incurred after March 7, 1985, and where the  
501 projects were constructed in compliance with applicable federal  
502 and state regulations;

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

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

508           (e) To earn interest on fund accounts;

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

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

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

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

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



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

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

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

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

552 (13) Notwithstanding any provision of this section, Section  
553 1 of Senate Bill No. 2947, 2006 Regular Session, shall apply to  
554 the repayment of a loan made to any political subdivision that is  
555 located in the area of the state composed of the six (6) most  
556 southern counties of the state covered by the Presidential  
557 Declaration of Major Disaster for the State of Mississippi  
558 (FEMA-1604-DR) dated August 29, 2005.

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

561           49-17-87. (1) A political subdivision which receives a loan  
562 from the revolving fund or emergency fund is required to and  
563 authorized to pledge for the repayment of such loan (a) any part  
564 of the sales tax reimbursement to which it may be entitled under  
565 Section 27-65-75, and (b) any part of the homestead exemption  
566 annual tax loss reimbursement to which it may be entitled under  
567 Section 27-33-77, to meet a repayment schedule set forth in a loan  
568 agreement. The loan agreement shall provide for (i) monthly  
569 payments, (ii) semiannual payments or (iii) other periodic  
570 payments, the annual total of which shall not exceed the annual  
571 total for any other year of the loan by more than fifteen percent  
572 (15%). The loan agreement shall provide for the repayment of all  
573 funds received from the revolving fund within not more than twenty  
574 (20) years and repayment of all funds received from the emergency  
575 fund within not more than ten (10) years from the date of project  
576 completion. The State Tax Commission shall pay to the revolving  
577 fund or emergency fund monthly, or as often as is practicable,  
578 from the amount, which would otherwise be remitted to a political  
579 subdivision from its sales tax reimbursement or homestead  
580 exemption annual tax loss reimbursement, the amounts set forth in  
581 such loan agreement.

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

588           (b) For purposes of this paragraph, the term "borrower"  
589 means any political subdivision that is located in the area of the  
590 state composed of the six (6) most southern counties of the state  
591 covered by the Presidential Declaration of Major Disaster for the  
592 State of Mississippi (FEMA-1604-DR) dated August 29, 2005. Any  
593 loan agreement executed before August 29, 2005, by a borrower as

594 defined in this paragraph shall be amended, by operation of this  
595 act, to include a provision that if the borrower is unable to pay  
596 the sums in arrears on the loan, because of the destruction of or  
597 damage to improvements or structures caused by Hurricane Katrina,  
598 or because of economic conditions brought about by the effects of  
599 Hurricane Katrina, then repayment of the loan shall be held in  
600 permanent abeyance.

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

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

623 The State Auditor, upon the request of the commission, shall  
624 audit the receipts and expenditures of each district whose monthly  
625 payments are to be received by the department, and if the State  
626 Auditor should find the political subdivision in arrears, the

627 Auditor shall immediately begin withholding from funds due the  
628 taxing district in which the political subdivision is located,  
629 under Section 27-33-41, an amount equal to the payment due plus  
630 accrued interest, late charges and expenses incurred in the audit  
631 and issue a warrant for that amount to the revolving fund or  
632 emergency fund as directed below.

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

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

646 (5) Notwithstanding any provision of this section, Section 1  
647 of Senate Bill No. 2947, 2006 Regular Session, shall apply to the  
648 repayment of a loan made to any political subdivision that is  
649 located in the area of the state composed of the six (6) most  
650 southern counties of the state covered by the Presidential  
651 Declaration of Major Disaster for the State of Mississippi  
652 (FEMA-1604-DR) dated August 29, 2005.

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

655 49-17-89. (1) Political subdivisions are hereby authorized  
656 to borrow monies under the provisions of this act, to issue  
657 municipal securities to evidence such loans, and to enter into  
658 such other agreements necessary for such loans and municipal

659 securities on such terms and conditions as such political  
660 subdivisions shall deem necessary and advisable.

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

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

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

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

674 (d) Such loans and municipal securities shall not be  
675 deemed general obligations.

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

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

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

688 (h) This section shall be deemed to provide an  
689 additional, alternate and complete method for the doing of the  
690 things authorized hereby and shall be deemed and construed to be  
691 supplemental to any provisions of any other laws and not in

692 derogation of any such provisions. In connection with the  
693 issuance of municipal securities under this chapter, a political  
694 subdivision shall not be required to comply with the provisions of  
695 any other law except as provided herein.

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