

By: Senator(s) Moffatt

To: Finance

SENATE BILL NO. 3193

1 AN ACT TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION  
 2 BONDS IN THE AMOUNT OF \$9,827,600.00 TO PROVIDE MATCHING FUNDS FOR  
 3 FEDERAL FUNDS FOR THE WATER POLLUTION CONTROL REVOLVING FUND; TO  
 4 AMEND SECTION 49-17-85, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
 5 INTEREST AND INVESTMENT EARNINGS ON MONEY IN THE WATER POLLUTION  
 6 CONTROL REVOLVING FUND TO BE UTILIZED TO PAY DEBT SERVICE ON THE  
 7 BONDS AUTHORIZED TO BE ISSUED BY THIS ACT; AND FOR RELATED  
 8 PURPOSES.

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

10 **SECTION 1.** (1) As used in this section, the following words  
 11 shall have the meanings ascribed herein unless the context clearly  
 12 requires otherwise:

13 (a) "Accreted value" of any bonds means, as of any date  
 14 of computation, an amount equal to the sum of (i) the stated  
 15 initial value of such bond, plus (ii) the interest accrued thereon  
 16 from the issue date to the date of computation at the rate,  
 17 compounded semiannually, that is necessary to produce the  
 18 approximate yield to maturity shown for bonds of the same  
 19 maturity.

20 (b) "State" means the State of Mississippi.

21 (c) "Commission" means the State Bond Commission.

22 (2) (a) The Commission on Environmental Quality, at one  
 23 time, or from time to time, may declare by resolution the  
 24 necessity for issuance of general obligation bonds of the State of  
 25 Mississippi to provide funds for the Water Pollution Control  
 26 Revolving Fund established in Section 49-17-85. Upon the adoption  
 27 of a resolution by the Commission on Environmental Quality,  
 28 declaring the necessity for the issuance of any part or all of the  
 29 general obligation bonds authorized by this subsection, the  
 30 Commission on Environmental Quality shall deliver a certified copy

31 of its resolution or resolutions to the commission; however, the  
32 commission shall declare the necessity for the issuance of bonds  
33 only in the amount necessary to match projected federal funds  
34 available through the following federal fiscal year. Upon receipt  
35 of such resolution, the commission, in its discretion, may act as  
36 the issuing agent, prescribe the form of the bonds, advertise for  
37 and accept bids, issue and sell the bonds so authorized to be sold  
38 and do any and all other things necessary and advisable in  
39 connection with the issuance and sale of such bonds. The total  
40 amount of bonds issued under this section shall not exceed Nine  
41 Million Eight Hundred Twenty-seven Thousand Six Hundred Dollars  
42 (\$9,827,600.00).

43 (b) The proceeds of bonds issued pursuant to this  
44 subsection of this act shall be deposited into the Water Pollution  
45 Control Revolving Fund created pursuant to Section 49-17-85.

46 (3) The principal of and interest on the bonds authorized  
47 under this section shall be payable in the manner provided in this  
48 section. Such bonds shall bear such date or dates, be in such  
49 denomination or denominations, bear interest at such rate or rates  
50 (not to exceed the limits set forth in Section 75-17-101,  
51 Mississippi Code of 1972), be payable at such place or places  
52 within or without the State of Mississippi, shall mature  
53 absolutely at such time or times not to exceed twenty-five (25)  
54 years from date of issue, be redeemable before maturity at such  
55 time or times and upon such terms, with or without premium, shall  
56 bear such registration privileges, and shall be substantially in  
57 such form, all as shall be determined by resolution of the  
58 commission.

59 (4) The bonds authorized by this section shall be signed by  
60 the chairman of the commission, or by his facsimile signature, and  
61 the official seal of the commission shall be affixed thereto,  
62 attested by the secretary of the commission. The interest  
63 coupons, if any, to be attached to such bonds may be executed by

64 the facsimile signatures of such officers. Whenever any such  
65 bonds shall have been signed by the officials designated to sign  
66 the bonds who were in office at the time of such signing but who  
67 may have ceased to be such officers before the sale and delivery  
68 of such bonds, or who may not have been in office on the date such  
69 bonds may bear, the signatures of such officers upon such bonds  
70 and coupons shall nevertheless be valid and sufficient for all  
71 purposes and have the same effect as if the person so officially  
72 signing such bonds had remained in office until their delivery to  
73 the purchaser, or had been in office on the date such bonds may  
74 bear. However, notwithstanding anything herein to the contrary,  
75 such bonds may be issued as provided in the Registered Bond Act of  
76 the State of Mississippi.

77 (5) All bonds and interest coupons issued under the  
78 provisions of this section have all the qualities and incidents of  
79 negotiable instruments under the provisions of the Uniform  
80 Commercial Code, and in exercising the powers granted by this  
81 section, the commission shall not be required to and need not  
82 comply with the provisions of the Uniform Commercial Code.

83 (6) The commission shall act as the issuing agent for the  
84 bonds authorized under this section, prescribe the form of the  
85 bonds, advertise for and accept bids, issue and sell the bonds so  
86 authorized to be sold, pay all fees and costs incurred in such  
87 issuance and sale, and do any and all other things necessary and  
88 advisable in connection with the issuance and sale of such bonds.  
89 The commission is authorized and empowered to pay the costs that  
90 are incident to the sale, issuance and delivery of the bonds  
91 authorized under this section from the proceeds derived from the  
92 sale of such bonds. The commission shall sell such bonds on  
93 sealed bids at public sale, and for such price as it may determine  
94 to be for the best interest of the State of Mississippi, but no  
95 such sale shall be made at a price less than par plus accrued  
96 interest to the date of delivery of the bonds to the purchaser.

97 All interest accruing on such bonds so issued shall be payable  
98 semiannually or annually; however, the first interest payment may  
99 be for any period of not more than one (1) year.

100 Notice of the sale of any such bonds shall be published at  
101 least one time, not less than ten (10) days before the date of  
102 sale, and shall be so published in one or more newspapers  
103 published or having a general circulation in the City of Jackson,  
104 Mississippi, and in one or more other newspapers or financial  
105 journals with a national circulation, to be selected by the  
106 commission.

107 The commission, when issuing any bonds under the authority of  
108 this section, may provide that bonds, at the option of the State  
109 of Mississippi, may be called in for payment and redemption at the  
110 call price named therein and accrued interest on such date or  
111 dates named therein.

112 (7) The bonds issued under the provisions of this section  
113 are general obligations of the State of Mississippi, and for the  
114 payment thereof the full faith and credit of the State of  
115 Mississippi is irrevocably pledged. Interest and investment  
116 earnings on money in the Water Pollution Control Revolving Fund  
117 shall be utilized to pay the principal and interest on such bonds  
118 as they become due. If the interest and investment earnings of  
119 the fund and any funds appropriated by the Legislature are  
120 insufficient to pay the principal of and the interest on such  
121 bonds as they become due, then the deficiency shall be paid by the  
122 State Treasurer from any funds in the State Treasury not otherwise  
123 appropriated. All such bonds shall contain recitals on their  
124 faces substantially covering the provisions of this section.

125 (8) Upon the issuance and sale of bonds under the provisions  
126 of this section, the commission shall transfer the proceeds of any  
127 such sale or sales to the Water Pollution Control Revolving Fund  
128 created in Section 49-17-85. After the transfer of the proceeds  
129 of any such sale or sales to the Water Pollution Control Revolving

130 Fund, any investment earnings or interest earned on the proceeds  
131 of such bonds shall be deposited to the credit of the Water  
132 Pollution Control Revolving Fund and shall be used only for the  
133 purposes provided in Section 49-17-85. The proceeds of such bonds  
134 shall be disbursed solely upon the order of the Commission on  
135 Environmental Quality under such restrictions, if any, as may be  
136 contained in the resolution providing for the issuance of the  
137 bonds.

138 (9) The bonds authorized under this section may be issued  
139 without any other proceedings or the happening of any other  
140 conditions or things other than those proceedings, conditions and  
141 things which are specified or required by this section. Any  
142 resolution providing for the issuance of bonds under the  
143 provisions of this section shall become effective immediately upon  
144 its adoption by the commission, and any such resolution may be  
145 adopted at any regular or special meeting of the commission by a  
146 majority of its members.

147 (10) The bonds authorized under the authority of this  
148 section may be validated in the Chancery Court of the First  
149 Judicial District of Hinds County, Mississippi, in the manner and  
150 with the force and effect provided by Chapter 13, Title 31,  
151 Mississippi Code of 1972, for the validation of county, municipal,  
152 school district and other bonds. The notice to taxpayers required  
153 by such statutes shall be published in a newspaper published or  
154 having a general circulation in the City of Jackson, Mississippi.

155 (11) Any holder of bonds issued under the provisions of this  
156 section or of any of the interest coupons pertaining thereto may,  
157 either at law or in equity, by suit, action, mandamus or other  
158 proceeding, protect and enforce any and all rights granted under  
159 this section, or under such resolution, and may enforce and compel  
160 performance of all duties required by this section to be  
161 performed, in order to provide for the payment of bonds and  
162 interest thereon.

163 (12) All bonds issued under the provisions of this section  
164 shall be legal investments for trustees and other fiduciaries, and  
165 for savings banks, trust companies and insurance companies  
166 organized under the laws of the State of Mississippi, and such  
167 bonds shall be legal securities which may be deposited with and  
168 shall be received by all public officers and bodies of this state  
169 and all municipalities and political subdivisions for the purpose  
170 of securing the deposit of public funds.

171 (13) Bonds issued under the provisions of this section and  
172 income therefrom shall be exempt from all taxation in the State of  
173 Mississippi.

174 (14) The proceeds of the bonds issued under this section  
175 shall be used solely for the purposes therein provided, including  
176 the costs incident to the issuance and sale of such bonds.

177 (15) The State Treasurer is authorized, without further  
178 process of law, to certify to the Department of Finance and  
179 Administration the necessity for warrants, and the Department of  
180 Finance and Administration is authorized and directed to issue  
181 such warrants, in such amounts as may be necessary to pay when due  
182 the principal of, premium, if any, and interest on, or the  
183 accreted value of, all bonds issued under this section; and the  
184 State Treasurer shall forward the necessary amount to the  
185 designated place or places of payment of such bonds in ample time  
186 to discharge such bonds, or the interest thereon, on the due dates  
187 thereof.

188 (16) This section shall be deemed to be full and complete  
189 authority for the exercise of the powers therein granted, but this  
190 section shall not be deemed to repeal or to be in derogation of  
191 any existing law of this state.

192 **SECTION 2.** Section 49-17-85, Mississippi Code of 1972, is  
193 amended as follows:

194 49-17-85. (1) There is established in the State Treasury a  
195 fund to be known as the "Water Pollution Control Revolving Fund"

196 which shall be administered by the commission acting through the  
197 department. The revolving fund may receive bond proceeds and  
198 funds appropriated or otherwise made available by the Legislature  
199 in any manner and funds from any other source, public or private.  
200 The revolving fund shall be maintained in perpetuity for the  
201 purposes established in this section.

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

208 (3) The commission shall promulgate regulations for the  
209 administration of the revolving fund program, the hardship grants  
210 program and for related programs authorized under this section.  
211 The regulations shall be in accordance with the federal Water  
212 Quality Act of 1987, as amended and regulations and guidance  
213 issued under that act. The commission may enter into  
214 capitalization grant agreements with the United States  
215 Environmental Protection Agency and may accept capitalization  
216 grant awards made under Title VI of the Water Quality Act of 1987,  
217 as amended.

218 (4) The commission shall establish a loan program which  
219 shall commence after October 1, 1988, to assist political  
220 subdivisions in the construction of water pollution control  
221 projects. Loans from the revolving fund may be made to political  
222 subdivisions as set forth in a loan agreement in amounts not  
223 exceeding one hundred percent (100%) of eligible project costs as  
224 established by the commission. Notwithstanding loan amount  
225 limitations set forth in Section 49-17-61, the commission may  
226 require local participation or funding from other sources, or  
227 otherwise limit the percentage of costs covered by loans from the  
228 revolving fund. The commission may establish a maximum amount for

229 any loan in order to provide for broad and equitable participation  
230 in the program.

231 (5) The commission shall establish a hardship grants program  
232 for rural communities, which shall commence after July 1, 1997, to  
233 assist severely economically disadvantaged small rural political  
234 subdivisions in the construction of water pollution control  
235 projects. The commission may receive and administer state or  
236 federal funds, or both, appropriated for the operation of this  
237 grants program and may take all actions necessary to implement the  
238 program in accordance with the federal hardship grants program.  
239 The hardship grants program shall operate in conjunction with the  
240 revolving loan program administered under this section.

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

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

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

248 (i) The loans are made at or below market interest  
249 rates, at terms not to exceed the maximum time allowed by federal  
250 law after project completion; the interest rate and term may vary  
251 from time to time and from loan to loan at the discretion of the  
252 commission;

253 (ii) Periodic principal and interest payments will  
254 commence when required by the commission but not later than one  
255 (1) year after project completion and all loans will be fully  
256 amortized when required by the commission but not later than the  
257 maximum time allowed by federal law after project completion;

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

260 (b) To buy or refinance the debt obligation of  
261 political subdivisions at or below market rates, where the debt



262 obligations were incurred after March 7, 1985, and where the  
263 projects were constructed in compliance with applicable federal  
264 and state regulations;

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

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

270 (e) To earn interest on fund accounts;

271 (f) To establish nonpoint source pollution control  
272 management programs;

273 (g) To establish estuary conservation and management  
274 programs;

275 (h) For the reasonable costs of administering the  
276 revolving fund and conducting activities under this act, subject  
277 to the limitations established in Section 603(d)(7) of Title VI of  
278 the federal Clean Water Act, as amended, and subject to annual  
279 appropriation by the Legislature; \* \* \*

280 (i) In connection with the issuance, sale and purchase  
281 of bonds under Section 31-25-1 et seq., related to the funding of  
282 projects, to provide security or a pledge of revenues for the  
283 repayment of the bonds; and

284 (j) To pay the principal and interest on bonds issued  
285 pursuant to Section 1 of Senate Bill No. 3193, 2007, as they  
286 become due; however, only interest and investment earnings on  
287 money in the fund may be utilized for this purpose.

288 (8) The hardship grants program shall be used only to  
289 provide hardship grants consistent with the federal hardship  
290 grants program for rural communities, regulations and guidance  
291 issued by the United States Environmental Protection Agency,  
292 subsections (3) and (5) of this section and regulations  
293 promulgated and guidance issued by the commission under this  
294 section.

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

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

301 (11) The revolving fund shall be credited with all payments  
302 of principal and interest derived from the fund uses described in  
303 subsection (7) of this section. However, notwithstanding any  
304 other provision of law to the contrary, all or any portion of  
305 payments of principal and interest derived from the fund uses  
306 described in subsection (7) of this section may be designated or  
307 pledged for repayment of a loan as provided for in Section  
308 31-25-28 in connection with a loan from the Mississippi  
309 Development Bank.

310 (12) The commission may establish and collect fees to defray  
311 the reasonable costs of administering the revolving fund if it  
312 determines that the administrative costs will exceed the  
313 limitations established in Section 603(d)(7) of Title VI of the  
314 federal Clean Water Act, as amended. The administration fees may  
315 be included in loan amounts to political subdivisions for the  
316 purpose of facilitating payment to the commission. The fees may  
317 not exceed five percent (5%) of the loan amount.

318 (13) The commission may, on a case-by-case basis and to the  
319 extent allowed by federal law, renegotiate the payment of  
320 principal and interest on loans made under this section to the six  
321 (6) most southern counties of the state covered by the  
322 Presidential Declaration of Major Disaster for the State of  
323 Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political  
324 subdivisions located in such counties; however, the interest on  
325 the loans shall not be forgiven for a period of more than  
326 twenty-four (24) months and the maturity of the loans shall not be  
327 extended for a period of more than forty-eight (48) months.

328           **SECTION 3.** This act shall take effect and be in force from  
329 and after its passage.