

## REPORT OF CONFERENCE COMMITTEE

**MADAM PRESIDENT AND MR. SPEAKER:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2602: Drinking water state revolving fund; remove cap on loans.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

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

6           **SECTION 1.** Section 41-3-16, Mississippi Code of 1972, is  
7 amended as follows:

8           41-3-16. (1) (a) There is established a local governments  
9 and rural water systems improvements revolving loan and grant  
10 program to be administered by the State Department of Health,  
11 referred to in this section as "department," for the purpose of  
12 assisting counties, incorporated municipalities, districts or  
13 other water organizations that have been granted tax exempt status  
14 under either federal or state law, in making improvements to their  
15 water systems, including construction of new water systems or  
16 expansion or repair of existing water systems. Loan and grant  
17 proceeds may be used by the recipient for planning, professional  
18 services, acquisition of interests in land, acquisition of  
19 personal property, construction, construction-related services,  
20 maintenance, and any other reasonable use which the board, in its  
21 discretion, may allow. For purposes of this section, "water  
22 systems" has the same meaning as the term "public water system"  
23 under Section 41-26-3.

24           (b) (i) There is created a board to be known as the  
25 "Local Governments and Rural Water Systems Improvements Board,"  
26 referred to in this section as "board," to be composed of the

27 following nine (9) members: the State Health Officer, or his  
28 designee, who shall serve as chairman of the board; the Executive  
29 Director of the Mississippi Development Authority, or his  
30 designee; the Executive Director of the Department of  
31 Environmental Quality, or his designee; the Executive Director of  
32 the Department of Finance and Administration, or his designee; the  
33 Executive Director of the Mississippi Association of Supervisors,  
34 or his designee; the Executive Director of the Mississippi  
35 Municipal League, or his designee; the Executive Director of the  
36 American Council of Engineering Companies of Mississippi, or his  
37 designee; the State Director of the United States Department of  
38 Agriculture, Rural Development, or his designee; and a manager of  
39 a rural water system.

40 The Governor shall appoint a manager of a rural water system  
41 from a list of candidates provided by the Executive Director of  
42 the Mississippi Rural Water Association. The Executive Director  
43 of the Mississippi Rural Water Association shall provide the  
44 Governor a list of candidates which shall contain a minimum of  
45 three (3) candidates for each appointment.

46 (ii) Nonappointed members of the board may  
47 designate another representative of their agency or association to  
48 serve as an alternate.

49 (iii) The gubernatorial appointee shall serve a  
50 term concurrent with the term of the Governor and until a  
51 successor is appointed and qualified. No member, officer or  
52 employee of the Board of Directors of the Mississippi Rural Water  
53 Association shall be eligible for appointment.

54 (c) The department, if requested by the board, shall  
55 furnish the board with facilities and staff as needed to  
56 administer this section. The department may contract, upon  
57 approval by the board, for those facilities and staff needed to  
58 administer this section, including routine management, as it deems

59 necessary. The board may advertise for or solicit proposals from  
60 public or private sources, or both, for administration of this  
61 section or any services required for administration of this  
62 section or any portion thereof. It is the intent of the  
63 Legislature that the board endeavor to ensure that the costs of  
64 administration of this section are as low as possible in order to  
65 provide the water consumers of Mississippi safe drinking water at  
66 affordable prices.

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

70 (2) (a) There is created a special fund in the State  
71 Treasury to be designated as the "Local Governments and Rural  
72 Water Systems Improvements Revolving Loan Fund," referred to in  
73 this section as "revolving fund," which fund shall consist of  
74 those monies as provided in Sections 6 and 13 of Chapter 521, Laws  
75 of 1995. The revolving fund may receive appropriations, bond  
76 proceeds, grants, gifts, donations or funds from any source,  
77 public or private. The revolving fund shall be credited with all  
78 repayments of principal and interest derived from loans made from  
79 the revolving fund. The monies in the revolving fund may be  
80 expended only in amounts appropriated by the Legislature, and the  
81 different amounts specifically provided for the loan program and  
82 the grant program shall be so designated. Monies in the fund may  
83 only be expended for the grant program from the amount designated  
84 for such program. The revolving fund shall be maintained in  
85 perpetuity for the purposes established in this section and  
86 Sections 6 through 20 of Chapter 521, Laws of 1995. Unexpended  
87 amounts remaining in the revolving fund at the end of a fiscal  
88 year shall not lapse into the State General Fund, and any interest  
89 earned on amounts in the revolving fund shall be deposited to the  
90 credit of the fund. Monies in the revolving fund may not be used

91 or expended for any purpose except as authorized under this  
92 section and Sections 6 through 20 of Chapter 521, Laws of 1995.  
93 Any monies in the fund may be used to match any federal funds that  
94 are available for the same or related purposes for which funds are  
95 used and expended under this section and Sections 6 through 20 of  
96 Chapter 521, Laws of 1995. Any federal funds shall be used and  
97 expended only in accordance with federal laws, rules and  
98 regulations governing the expenditure of those funds. No person  
99 shall use any monies from the revolving fund for the acquisition  
100 of real property or any interest in real property unless that  
101 property is integral to the project funded under this section and  
102 the purchase is made from a willing seller. No county,  
103 incorporated municipality or district shall acquire any real  
104 property or any interest in any real property for a project funded  
105 through the revolving fund by condemnation. The board's  
106 application of Sections 43-37-1 through 43-37-13 shall be no more  
107 stringent or extensive in scope, coverage and effect than federal  
108 property acquisition laws and regulations.

109 (b) There is created a special fund in the State  
110 Treasury to be designated as the "Local Governments and Rural  
111 Water Systems Emergency Loan Fund," hereinafter referred to as  
112 "emergency fund," which fund shall consist of those monies as  
113 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The  
114 emergency fund may receive appropriations, bond proceeds, grants,  
115 gifts, donations or funds from any source, public or private. The  
116 emergency fund shall be credited with all repayments of principal  
117 and interest derived from loans made from the emergency fund. The  
118 monies in the emergency fund may be expended only in amounts  
119 appropriated by the Legislature. The emergency fund shall be  
120 maintained in perpetuity for the purposes established in this  
121 section and Section 6 of Chapter 521, Laws of 1995. Unexpended  
122 amounts remaining in the emergency fund at the end of a fiscal

123 year shall not lapse into the State General Fund. Any interest  
124 earned on amounts in the emergency fund shall be deposited to the  
125 credit of the fund. Monies in the emergency fund may not be used  
126 or expended for any purpose except as authorized under this  
127 section and Section 6 of Chapter 521, Laws of 1995.

128 (c) The board created in subsection (1) shall establish  
129 loan and grant programs by which loans and grants may be made  
130 available to counties, incorporated municipalities, districts or  
131 other water organizations that have been granted tax exempt status  
132 under either federal or state law, to assist those counties,  
133 incorporated municipalities, districts or water organizations in  
134 making water systems improvements, including the construction of  
135 new water systems or expansion or repair of existing water  
136 systems. Any entity eligible under this section may receive  
137 either a loan or a grant, or both. No grant awarded under the  
138 program established in this section may be made using funds from  
139 the loan program. Grants may be awarded only when the Legislature  
140 specifically appropriates funds for that particular purpose. The  
141 interest rate on those loans may vary from time to time and from  
142 loan to loan, and will be at or below market interest rates as  
143 determined by the board. The board shall act as quickly as is  
144 practicable and prudent in deciding on any loan request that it  
145 receives. Loans from the revolving fund or emergency fund may be  
146 made to counties, incorporated municipalities, districts or other  
147 water organizations that have been granted tax exempt status under  
148 either federal or state law, as set forth in a loan agreement in  
149 amounts not to exceed one hundred percent (100%) of eligible  
150 project costs as established by the board. The board may require  
151 county, municipal, district or other water organization  
152 participation or funding from other sources, or otherwise limit  
153 the percentage of costs covered by loans from the revolving fund  
154 or the emergency fund. The board may establish a maximum amount

155 for any loan from the revolving fund or emergency fund in order to  
156 provide for broad and equitable participation in the programs.

157 (d) A county that receives a loan from the revolving  
158 fund or the emergency fund shall pledge for repayment of the loan  
159 any part of the homestead exemption annual tax loss reimbursement  
160 to which it may be entitled under Section 27-33-77, as may be  
161 required to meet the repayment schedule contained in the loan  
162 agreement. An incorporated municipality that receives a loan from  
163 the revolving fund or the emergency fund shall pledge for  
164 repayment of the loan any part of the sales tax revenue  
165 distribution to which it may be entitled under Section 27-65-75,  
166 as may be required to meet the repayment schedule contained in the  
167 loan agreement. All recipients of such loans shall establish a  
168 dedicated source of revenue for repayment of the loan. Before any  
169 county or incorporated municipality shall receive any loan, it  
170 shall have executed with the State Tax Commission and the board a  
171 loan agreement evidencing that loan. The loan agreement shall not  
172 be construed to prohibit any recipient from prepaying any part or  
173 all of the funds received. The repayment schedule in each loan  
174 agreement shall provide for (i) monthly payments, (ii) semiannual  
175 payments or (iii) other periodic payments, the annual total of  
176 which shall not exceed the annual total for any other year of the  
177 loan by more than fifteen percent (15%). Except as otherwise  
178 provided in subsection (4) of this section, the loan agreement  
179 shall provide for the repayment of all funds received from the  
180 revolving fund within not more than fifteen (15) years or a term  
181 as otherwise allowed by the federal Safe Drinking Water Act, and  
182 all funds received from the emergency fund within not more than  
183 five (5) years from the date of project completion, and any  
184 repayment shall commence not later than one (1) year after project  
185 completion. The State Tax Commission shall withhold semiannually  
186 from counties and monthly from incorporated municipalities from

187 the amount to be remitted to the county or municipality, a sum  
188 equal to the next repayment as provided in the loan agreement.

189 (e) Any county, incorporated municipality, district or  
190 other water organization desiring to construct a project approved  
191 by the board which receives a loan from the state for that purpose  
192 but which is not eligible to pledge for repayment under the  
193 provisions of paragraph (d) of this subsection, shall repay that  
194 loan by making payments each month to the State Treasurer through  
195 the Department of Finance and Administration for and on behalf of  
196 the board according to Section 7-7-15, to be credited to either  
197 the revolving fund or the emergency fund, whichever is  
198 appropriate, in lieu of pledging homestead exemption annual tax  
199 loss reimbursement or sales tax revenue distribution.

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

203 (f) Any district created pursuant to Sections 19-5-151  
204 through 19-5-207 that receives a loan from the revolving fund or  
205 the emergency fund shall pledge for repayment of the loan any part  
206 of the revenues received by that district pursuant to Sections  
207 19-5-151 through 19-5-207, as may be required to meet the  
208 repayment schedule contained in the loan agreement.

209 (g) The State Auditor, upon request of the board, shall  
210 audit the receipts and expenditures of a county, an incorporated  
211 municipality, district or other water organization whose loan  
212 repayments appear to be in arrears, and if the Auditor finds that  
213 the county, incorporated municipality, district or other water  
214 organization is in arrears in those repayments, the Auditor shall  
215 immediately notify the chairman of the board who may take any  
216 action as may be necessary to enforce the terms of the loan  
217 agreement, including liquidation and enforcement of the security  
218 given for repayment of the loan, and the Executive Director of the

219 Department of Finance and Administration who shall withhold all  
220 future payments to the county of homestead exemption annual tax  
221 loss reimbursements under Section 27-33-77 and all sums allocated  
222 to the county or the incorporated municipality under Section  
223 27-65-75 until such time as the county or the incorporated  
224 municipality is again current in its loan repayments as certified  
225 by the board.

226           (h) All monies deposited in the revolving fund or the  
227 emergency fund, including loan repayments and interest earned on  
228 those repayments, shall be used only for providing loans or other  
229 financial assistance to water systems as the board deems  
230 appropriate. In addition, any amounts in the revolving fund or  
231 the emergency fund may be used to defray the reasonable costs of  
232 administering the revolving fund or the emergency fund and  
233 conducting activities under this section and Sections 6 through 20  
234 of Chapter 521, Laws of 1995, subject to any limitations  
235 established in the federal Safe Drinking Water Act, as amended and  
236 subject to annual appropriation by the Legislature. The  
237 department is authorized, upon approval by the board, to use  
238 amounts available to it from the revolving fund or the emergency  
239 fund to contract for those facilities and staff needed to  
240 administer and provide routine management for the funds and loan  
241 program.

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

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

249           (b) To promulgate rules and regulations, to make  
250 variances and exceptions thereto, and to establish procedures in



251 accordance with this section and Sections 6 through 20 of Chapter  
252 521, Laws of 1995, for the implementation of the local governments  
253 and rural water systems improvements revolving loan program;

254 (c) To require, at the board's discretion, any loan or  
255 grant recipient to impose a per connection fee or surcharge or  
256 amended water rate schedule or tariff on each customer or any  
257 class of customers, benefiting from an improvement financed by a  
258 loan or grant made under this section, for repayment of any loan  
259 funds provided under this section and Sections 6 through 20 of  
260 Chapter 521, Laws of 1995. The board may require any loan or  
261 grant recipient to undergo a water system viability analysis and  
262 may require a loan or grant recipient to implement any result of  
263 the viability analysis. If the loan recipient fails to implement  
264 any result of a viability analysis as required by the board, the  
265 board may impose a monetary penalty or increase the interest rate  
266 on the loan, or both. If the grant recipient fails to implement  
267 any result of a viability analysis as required by the board, the  
268 board may impose a monetary penalty on the grant;

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

273 (e) To requisition monies in the Local Governments and  
274 Rural Water Systems Improvements Revolving Loan Fund and the Local  
275 Governments and Rural Water Systems Emergency Loan Fund and  
276 distribute those monies on a project-by-project basis in  
277 accordance with this section;

278 (f) To ensure that the funds made available under this  
279 section and Sections 6 through 20 of Chapter 521, Laws of 1995, to  
280 a county, an incorporated municipality, a district or a water  
281 organization that has been granted tax exempt status under either  
282 federal or state law provide for a distribution of projects and

283 funds among the entities under a priority system established by  
284 the board;

285 (g) To maintain in accordance with generally accepted  
286 government accounting standards an accurate record of all monies  
287 in the revolving fund and the emergency fund made available to  
288 counties, incorporated municipalities, districts or other water  
289 organizations under this section and Sections 6 through 20 of  
290 Chapter 521, Laws of 1995, and the costs for each project;

291 (h) To establish policies, procedures and requirements  
292 concerning viability and financial capability to repay loans that  
293 may be used in approving loans available under this section,  
294 including a requirement that all loan recipients have a rate  
295 structure which will be sufficient to cover the costs of  
296 operation, maintenance, major equipment replacement and repayment  
297 of any loans made under this section; and

298 (i) To file annually with the Legislature a report  
299 detailing how monies in the Local Governments and Rural Water  
300 Systems Improvements Revolving Loan Fund and the Local Governments  
301 and Rural Water Systems Emergency Loan Fund were spent during the  
302 preceding fiscal year in each county, incorporated municipality,  
303 district or other water organization, the number of projects  
304 approved and constructed, and the cost of each project.

305 For efficient and effective administration of the loan  
306 program, revolving fund and emergency fund, the board may  
307 authorize the department or the State Health Officer to carry out  
308 any or all of the powers and duties enumerated above.

309 (4) The board may, on a case-by-case basis and to the extent  
310 allowed by federal law, renegotiate the payment of principal and  
311 interest on loans made under this section to the six (6) most  
312 southern counties of the state covered by the Presidential  
313 Declaration of Major Disaster for the State of Mississippi  
314 (FEMA-1604-DR) dated August 29, 2005, and to incorporated

315 municipalities, districts or other water organizations located in  
316 such counties; however, the interest on the loans shall not be  
317 forgiven for a period of more than twenty-four (24) months and the  
318 maturity of the loans shall not be extended for a period of more  
319 than forty-eight (48) months.

320 **SECTION 2.** This act shall take effect and be in force from  
321 and after July 1, 2007.

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

1 AN ACT TO AMEND SECTION 41-3-16, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE THE CAP ON THE LOCAL GOVERNMENTS AND RURAL DRINKING WATER  
3 SYSTEMS IMPROVEMENTS LOAN AND GRANT PROGRAM; AND FOR RELATED  
4 PURPOSES.

CONFEREES FOR THE SENATE

CONFEREES FOR THE HOUSE

X (SIGNED)  
Robertson

X (SIGNED)  
Watson

X (SIGNED)  
Dawkins

X (SIGNED)  
Howell

X (SIGNED)  
Mettetal

X (SIGNED)  
Rotenberry