

By: Senator(s) Moffatt

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2990

1 AN ACT TO TRANSFER THE ADMINISTRATION OF THE LOCAL
 2 GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS REVOLVING LOAN
 3 AND GRANT PROGRAM FROM THE MISSISSIPPI BOARD OF HEALTH TO THE
 4 COMMISSION ON ENVIRONMENTAL QUALITY; TO AMEND SECTIONS 41-3-15,
 5 49-17-81 AND 49-17-83, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
 6 CREATE SECTION 49-17-91 TO AUTHORIZE THE COMMISSION ON
 7 ENVIRONMENTAL QUALITY TO ADMINISTER THE PROGRAM; TO CREATE SECTION
 8 49-17-93 TO ESTABLISH THE LOCAL GOVERNMENTS AND RURAL WATER
 9 SYSTEMS IMPROVEMENTS REVOLVING LOAN AND GRANT FUND; TO REPEAL
 10 SECTION 41-3-16, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHED THE
 11 LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS REVOLVING
 12 LOAN AND GRANT FUND UNDER THE MISSISSIPPI BOARD OF HEALTH; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 41-3-15, Mississippi Code of 1972, is
 16 amended as follows:

17 41-3-15. (1) (a) There shall be a State Department of
 18 Health.

19 (b) The State Board of Health shall have the following
 20 powers and duties:

21 (i) To formulate the policy of the State
 22 Department of Health regarding public health matters within the
 23 jurisdiction of the department;

24 (ii) To adopt, modify, repeal and promulgate,
 25 after due notice and hearing, and enforce rules and regulations
 26 implementing or effectuating the powers and duties of the
 27 department under any and all statutes within the department's
 28 jurisdiction, and as the board may deem necessary;

29 (iii) To apply for, receive, accept and expend any
 30 federal or state funds or contributions, gifts, trusts, devises,



31 bequests, grants, endowments or funds from any other source or
32 transfers of property of any kind;

33 (iv) To enter into, and to authorize the executive
34 officer to execute contracts, grants and cooperative agreements
35 with any federal or state agency or subdivision thereof, or any
36 public or private institution located inside or outside the State
37 of Mississippi, or any person, corporation or association in
38 connection with carrying out the provisions of this chapter, if it
39 finds those actions to be in the public interest and the contracts
40 or agreements do not have a financial cost that exceeds the
41 amounts appropriated for those purposes by the Legislature;

42 (v) To appoint, upon recommendation of the
43 Executive Officer of the State Department of Health, a Director of
44 Internal Audit who shall be either a Certified Public Accountant
45 or Certified Internal Auditor, and whose employment shall be
46 continued at the discretion of the board, and who shall report
47 directly to the board, or its designee; and

48 (vi) To discharge such other duties,
49 responsibilities and powers as are necessary to implement the
50 provisions of this chapter.

51 (c) The Executive Officer of the State Department of
52 Health shall have the following powers and duties:

53 (i) To administer the policies of the State Board
54 of Health within the authority granted by the board;

55 (ii) To supervise and direct all administrative
56 and technical activities of the department, except that the
57 department's internal auditor shall be subject to the sole
58 supervision and direction of the board;

59 (iii) To organize the administrative units of the
60 department in accordance with the plan adopted by the board and,
61 with board approval, alter the organizational plan and reassign
62 responsibilities as he or she may deem necessary to carry out the
63 policies of the board;



64 (iv) To coordinate the activities of the various
65 offices of the department;

66 (v) To employ, subject to regulations of the State
67 Personnel Board, qualified professional personnel in the subject
68 matter or fields of each office, and such other technical and
69 clerical staff as may be required for the operation of the
70 department. The executive officer shall be the appointing
71 authority for the department, and shall have the power to delegate
72 the authority to appoint or dismiss employees to appropriate
73 subordinates, subject to the rules and regulations of the State
74 Personnel Board;

75 (vi) To recommend to the board such studies and
76 investigations as he or she may deem appropriate, and to carry out
77 the approved recommendations in conjunction with the various
78 offices;

79 (vii) To prepare and deliver to the Legislature
80 and the Governor on or before January 1 of each year, and at such
81 other times as may be required by the Legislature or Governor, a
82 full report of the work of the department and the offices thereof,
83 including a detailed statement of expenditures of the department
84 and any recommendations the board may have;

85 (viii) To prepare and deliver to the Chairmen of
86 the Public Health and Welfare/Human Services Committees of the
87 Senate and House on or before January 1 of each year, a plan for
88 monitoring infant mortality in Mississippi and a full report of
89 the work of the department on reducing Mississippi's infant
90 mortality and morbidity rates and improving the status of maternal
91 and infant health; and

92 (ix) To enter into contracts, grants and
93 cooperative agreements with any federal or state agency or
94 subdivision thereof, or any public or private institution located
95 inside or outside the State of Mississippi, or any person,
96 corporation or association in connection with carrying out the



97 provisions of this chapter, if he or she finds those actions to be
98 in the public interest and the contracts or agreements do not have
99 a financial cost that exceeds the amounts appropriated for those
100 purposes by the Legislature. Each contract or agreement entered
101 into by the executive officer shall be submitted to the board
102 before its next meeting.

103 (2) The State Board of Health shall have the authority to
104 establish an Office of Rural Health within the department. The
105 duties and responsibilities of this office shall include the
106 following:

107 (a) To collect and evaluate data on rural health
108 conditions and needs;

109 (b) To engage in policy analysis, policy development
110 and economic impact studies with regard to rural health issues;

111 (c) To develop and implement plans and provide
112 technical assistance to enable community health systems to respond
113 to various changes in their circumstances;

114 (d) To plan and assist in professional recruitment and
115 retention of medical professionals and assistants; and

116 (e) To establish information clearinghouses to improve
117 access to and sharing of rural health care information.

118 (3) The State Board of Health shall have general supervision
119 of the health interests of the people of the state and to exercise
120 the rights, powers and duties of those acts which it is authorized
121 by law to enforce.

122 (4) The State Board of Health shall have authority:

123 (a) To make investigations and inquiries with respect
124 to the causes of disease and death, and to investigate the effect
125 of environment, including conditions of employment and other
126 conditions that may affect health, and to make such other
127 investigations as it may deem necessary for the preservation and
128 improvement of health.



129 (b) To make such sanitary investigations as it may,
130 from time to time, deem necessary for the protection and
131 improvement of health and to investigate nuisance questions that
132 affect the security of life and health within the state.

133 (c) To direct and control sanitary and quarantine
134 measures for dealing with all diseases within the state possible
135 to suppress same and prevent their spread.

136 (d) To obtain, collect and preserve such information
137 relative to mortality, morbidity, disease and health as may be
138 useful in the discharge of its duties or may contribute to the
139 prevention of disease or the promotion of health in this state.

140 (e) To charge and collect reasonable fees for health
141 services, including immunizations, inspections and related
142 activities, and the board shall charge fees for those services;
143 provided, however, if it is determined that a person receiving
144 services is unable to pay the total fee, the board shall collect
145 any amount that the person is able to pay.

146 (f) (i) To establish standards for, issue permits and
147 exercise control over, any cafes, restaurants, food or drink
148 stands, sandwich manufacturing establishments, and all other
149 establishments, other than churches, church-related and private
150 schools, and other nonprofit or charitable organizations, where
151 food or drink is regularly prepared, handled and served for pay;
152 and

153 (ii) To require that a permit be obtained from the
154 Department of Health before those persons begin operation. If any
155 such person fails to obtain the permit required in this
156 subparagraph (ii), the State Board of Health, after due notice and
157 opportunity for a hearing, may impose a monetary penalty not to
158 exceed One Thousand Dollars (\$1,000.00) for each violation.
159 However, the department is not authorized to impose a monetary
160 penalty against any person whose gross annual prepared food sales
161 are less than Five Thousand Dollars (\$5,000.00). Money collected



162 by the board under this subparagraph (ii) shall be deposited to
163 the credit of the State General Fund of the State Treasury.

164 (g) To promulgate rules and regulations and exercise
165 control over the production and sale of milk pursuant to the
166 provisions of Sections 75-31-41 through 75-31-49.

167 (h) On presentation of proper authority, to enter into
168 and inspect any public place or building where the State Health
169 Officer or his representative deems it necessary and proper to
170 enter for the discovery and suppression of disease and for the
171 enforcement of any health or sanitary laws and regulations in the
172 state.

173 (i) To conduct investigations, inquiries and hearings,
174 and to issue subpoenas for the attendance of witnesses and the
175 production of books and records at any hearing when authorized and
176 required by statute to be conducted by the State Health Officer or
177 the State Board of Health.

178 (j) To promulgate rules and regulations, and to collect
179 data and information, on (i) the delivery of services through the
180 practice of telemedicine; and (ii) the use of electronic records
181 for the delivery of telemedicine services.

182 (k) To enforce and regulate domestic and imported fish
183 as authorized under Section 69-7-601 et seq.

184 (5) (a) The State Board of Health shall have the authority,
185 in its discretion, to establish programs to promote the public
186 health, to be administered by the State Department of Health.
187 Specifically, those programs may include, but shall not be limited
188 to, programs in the following areas:

- 189 (i) Maternal and child health;
- 190 (ii) Family planning;
- 191 (iii) Pediatric services;
- 192 (iv) Services to crippled and disabled children;
- 193 (v) Control of communicable and noncommunicable
194 disease;



- 195 (vi) Chronic disease;
- 196 (vii) Accidental deaths and injuries;
- 197 (viii) Child care licensure;
- 198 (ix) Radiological health;
- 199 (x) Dental health;
- 200 (xi) Milk sanitation;
- 201 (xii) Occupational safety and health;
- 202 (xiii) Food, vector control and general
203 sanitation;
- 204 (xiv) Protection of drinking water;
- 205 (xv) Sanitation in food handling establishments
206 open to the public;
- 207 (xvi) Registration of births and deaths and other
208 vital events;
- 209 (xvii) Such public health programs and services as
210 may be assigned to the State Board of Health by the Legislature or
211 by executive order; and
- 212 (xviii) Regulation of domestic and imported fish
213 for human consumption.

214 (b) The State Board of Health and State Department of
215 Health shall not be authorized to sell, transfer, alienate or
216 otherwise dispose of any of the home health agencies owned and
217 operated by the department on January 1, 1995, and shall not be
218 authorized to sell, transfer, assign, alienate or otherwise
219 dispose of the license of any of those home health agencies,
220 except upon the specific authorization of the Legislature by an
221 amendment to this section. However, this paragraph (b) shall not
222 prevent the board or the department from closing or terminating
223 the operation of any home health agency owned and operated by the
224 department, or closing or terminating any office, branch office or
225 clinic of any such home health agency, or otherwise discontinuing
226 the providing of home health services through any such home health
227 agency, office, branch office or clinic, if the board first



228 demonstrates that there are other providers of home health
229 services in the area being served by the department's home health
230 agency, office, branch office or clinic that will be able to
231 provide adequate home health services to the residents of the area
232 if the department's home health agency, office, branch office or
233 clinic is closed or otherwise discontinues the providing of home
234 health services. This demonstration by the board that there are
235 other providers of adequate home health services in the area shall
236 be spread at length upon the minutes of the board at a regular or
237 special meeting of the board at least thirty (30) days before a
238 home health agency, office, branch office or clinic is proposed to
239 be closed or otherwise discontinue the providing of home health
240 services.

241 (c) The State Department of Health may undertake such
242 technical programs and activities as may be required for the
243 support and operation of those programs, including maintaining
244 physical, chemical, bacteriological and radiological laboratories,
245 and may make such diagnostic tests for diseases and tests for the
246 evaluation of health hazards as may be deemed necessary for the
247 protection of the people of the state.

248 * * *

249 (6) Notwithstanding any other provision to the contrary, the
250 State Department of Health shall have the following specific
251 powers: The department shall issue a license to Alexander Milne
252 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
253 construction, conversion, expansion and operation of not more than
254 forty-five (45) beds for developmentally disabled adults who have
255 been displaced from New Orleans, Louisiana, with the beds to be
256 located in a certified ICF-MR facility in the City of Laurel,
257 Mississippi. There shall be no prohibition or restrictions on
258 participation in the Medicaid program for the person receiving the
259 license under this subsection (7). The license described in this
260 subsection shall expire five (5) years from the date of its issue.



261 The license authorized by this subsection shall be issued upon the
262 initial payment by the licensee of an application fee of
263 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
264 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
265 the license, to be paid as long as the licensee continues to
266 operate. The initial and monthly licensing fees shall be
267 deposited by the State Department of Health into the special fund
268 created under Section 41-7-188.

269 (7) Notwithstanding any other provision to the contrary, the
270 State Department of Health shall have the following specific
271 powers: The State Department of Health is authorized to issue a
272 license to an existing home health agency for the transfer of a
273 county from that agency to another existing home health agency,
274 and to charge a fee for reviewing and making a determination on
275 the application for such transfer not to exceed one-half (1/2) of
276 the authorized fee assessed for the original application for the
277 home health agency, with the revenue to be deposited by the State
278 Department of Health into the special fund created under Section
279 41-7-188.

280 (8) Notwithstanding any other provision to the contrary, the
281 State Department of Health shall have the following specific
282 powers: For the period beginning July 1, 2010, through June 30,
283 2014, the State Department of Health is authorized and empowered
284 to assess a fee in addition to the fee prescribed in Section
285 41-7-188 for reviewing applications for certificates of need in an
286 amount not to exceed twenty-five one-hundredths of one percent
287 (.25 of 1%) of the amount of a proposed capital expenditure, but
288 shall be not less than Two Hundred Fifty Dollars (\$250.00)
289 regardless of the amount of the proposed capital expenditure, and
290 the maximum additional fee permitted shall not exceed Fifty
291 Thousand Dollars (\$50,000.00). Provided that the total
292 assessments of fees for certificate of need applications under



293 Section 41-7-188 and this section shall not exceed the actual cost
294 of operating the certificate of need program.

295 (9) Notwithstanding any other provision to the contrary, the
296 State Department of Health shall have the following specific
297 powers: The State Department of Health is authorized to extend
298 and renew any certificate of need that has expired, and to charge
299 a fee for reviewing and making a determination on the application
300 for such action not to exceed one-half (1/2) of the authorized fee
301 assessed for the original application for the certificate of need,
302 with the revenue to be deposited by the State Department of Health
303 into the special fund created under Section 41-7-188.

304 (10) Notwithstanding any other provision to the contrary,
305 the State Department of Health shall have the following specific
306 powers: The State Department of Health is authorized and
307 empowered, to revoke, immediately, the license and require closure
308 of any institution for the aged or infirm, including any other
309 remedy less than closure to protect the health and safety of the
310 residents of said institution or the health and safety of the
311 general public.

312 (11) Notwithstanding any other provision to the contrary,
313 the State Department of Health shall have the following specific
314 powers: The State Department of Health is authorized and
315 empowered, to require the temporary detainment of individuals for
316 disease control purposes based upon violation of any order of the
317 State Health Officer, as provided in Section 41-23-5. For the
318 purpose of enforcing such orders of the State Health Officer,
319 persons employed by the department as investigators shall have
320 general arrest powers. All law enforcement officers are
321 authorized and directed to assist in the enforcement of such
322 orders of the State Health Officer.

323 **SECTION 2.** Section 49-17-81, Mississippi Code of 1972, is
324 amended as follows:



325 49-17-81. Sections 49-17-81 through 49-17-93 shall be known
326 and cited as the "Mississippi Water Pollution Control Revolving
327 Fund, Emergency Loan Fund and Rural Water Systems Improvements
328 Revolving Loan Fund Act."

329 **SECTION 3.** Section 49-17-83, Mississippi Code of 1972, is
330 amended as follows:

331 49-17-83. For the purposes of Sections 49-17-81 through
332 49-17-93, the following words and phrases shall have the meaning
333 ascribed in this section:

334 (a) "Administrator" means the Administrator of the
335 United States Environmental Protection Agency.

336 (b) "Commission" means the Mississippi Commission on
337 Environmental Quality.

338 (c) "Department" means the Mississippi Department of
339 Environmental Quality.

340 (d) "Emergency fund" means the "Water Pollution Control
341 Emergency Loan Fund" created under Section 49-17-86.

342 (e) "Loan agreement" means an agreement by and among
343 the commission, a political subdivision and the Department of
344 Revenue to evidence the terms and provisions of a loan under this
345 act.

346 (f) "Loan fund" means the Water Pollution Abatement
347 Loan Fund created pursuant to Section 49-17-61.

348 (g) "Municipal security" means a bond, note or other
349 evidence of indebtedness issued by a political subdivision to
350 evidence a loan pursuant to the provisions of this act.

351 (h) "Political subdivision" means any county,
352 municipality, utility, district, political subdivision, or other
353 governmental unit created under state law.

354 (i) "Project" means a publicly owned wastewater
355 collection, treatment or disposal system including sludge
356 disposal, renovation, repair and upgrading of existing systems,
357 nonpoint source pollution control management programs and estuary



358 conservation and management programs, and otherwise qualified
359 under rules of the commission pursuant to the federal Water
360 Quality Act of 1987.

361 (j) "Revolving fund" means the Mississippi Water
362 Pollution Control Revolving Fund created under Section 49-17-85.

363 (k) "State" means the State of Mississippi.

364 **SECTION 4.** The following shall be codified as Section
365 49-17-91, Mississippi Code of 1972:

366 49-17-91. (1) In addition to its other authorities and
367 responsibilities, the commission acting through the department
368 shall administer the local governments and rural water systems
369 improvements loan program in accordance with the provisions of
370 Section 49-17-93.

371 (2) The commission, acting through the department, shall
372 have authority:

373 (a) To enter into capitalization grant agreements with
374 the United States Environmental Protection Agency, or any
375 successor agency thereto;

376 (b) To accept capitalization grant awards made under
377 the federal Safe Drinking Water Act, as amended;

378 (c) To provide annual reports and audits to the United
379 States Environmental Protection Agency, as may be required by
380 federal capitalization grant agreements; and

381 (d) To establish and collect fees to defray the
382 reasonable costs of administering the revolving fund or emergency
383 fund if the commission determines that those costs will exceed the
384 limitations established in the federal Safe Drinking Water Act, as
385 amended. The administration fees may be included in loan amounts
386 to loan recipients for the purpose of facilitating payment to the
387 board; however, those fees may not exceed five percent (5%) of the
388 loan amount.

389 **SECTION 5.** The following shall be codified as Section
390 49-17-93, Mississippi Code of 1972:



391 49-17-93. (1) There is established a local governments and
392 rural water systems improvements revolving loan and grant program
393 to be administered by the commission acting through the
394 department, for the purpose of assisting counties, incorporated
395 municipalities, districts or other water organizations that have
396 been granted tax exempt status under either federal or state law,
397 in making improvements to their water systems, including
398 construction of new water systems or expansion or repair of
399 existing water systems. Loan and grant proceeds may be used by
400 the recipient for planning, professional services, acquisition of
401 interests in land, acquisition of personal property, construction,
402 construction-related services, maintenance, and any other
403 reasonable use which the commission, in its discretion, may allow.
404 For purposes of this section, "water systems" has the same meaning
405 as the term "public water system" under Section 41-26-3.

406 (2) (a) There is created a special fund in the State
407 Treasury to be designated as the "Local Governments and Rural
408 Water Systems Improvements Revolving Loan Fund," referred to in
409 this section as "revolving fund," which fund shall consist of
410 those monies as provided in Sections 6 and 13 of Chapter 521, Laws
411 of 1995. The revolving fund may receive appropriations, bond
412 proceeds, grants, gifts, donations or funds from any source,
413 public or private. Except as otherwise provided in this section,
414 the revolving fund shall be credited with all repayments of
415 principal and interest derived from loans made from the revolving
416 fund. Except as otherwise provided in this section, the monies in
417 the revolving fund may be expended only in amounts appropriated by
418 the Legislature, and the different amounts specifically provided
419 for the loan program and the grant program shall be so designated.
420 Except as otherwise provided in this section, monies in the fund
421 may only be expended for the grant program from the amount
422 designated for such program. The revolving fund shall be
423 maintained in perpetuity for the purposes established in this



424 section. Unexpended amounts remaining in the revolving fund at
425 the end of a fiscal year shall not lapse into the State General
426 Fund, and any interest earned on amounts in the revolving fund
427 shall be deposited to the credit of the fund. Monies in the
428 revolving fund may not be used or expended for any purpose except
429 as authorized under this section. Any monies in the fund may be
430 used to match any federal funds that are available for the same or
431 related purposes for which funds are used and expended under this
432 section. Any federal funds shall be used and expended only in
433 accordance with federal laws, rules and regulations governing the
434 expenditure of those funds. No person shall use any monies from
435 the revolving fund for the acquisition of real property or any
436 interest in real property unless that property is integral to the
437 project funded under this section and the purchase is made from a
438 willing seller. No county, incorporated municipality or district
439 shall acquire any real property or any interest in any real
440 property for a project funded through the revolving fund by
441 condemnation. The commission's application of Sections 43-37-1
442 through 43-37-13 shall be no more stringent or extensive in scope,
443 coverage and effect than federal property acquisition laws and
444 regulations.

445 (b) There is created a special fund in the State
446 Treasury to be designated as the "Local Governments and Rural
447 Water Systems Emergency Loan Fund," hereinafter referred to as
448 "emergency fund," which fund shall consist of those monies as
449 provided in Sections 6 and 13 of Chapter 521, Laws of 1995. The
450 emergency fund may receive appropriations, bond proceeds, grants,
451 gifts, donations or funds from any source, public or private.
452 Except as otherwise provided in this section, the emergency fund
453 shall be credited with all repayments of principal and interest
454 derived from loans made from the emergency fund. Except as
455 otherwise provided in this section, the monies in the emergency
456 fund may be expended only in amounts appropriated by the



457 Legislature. The emergency fund shall be maintained in perpetuity
458 for the purposes established in this section. Unexpended amounts
459 remaining in the emergency fund at the end of a fiscal year shall
460 not lapse into the State General Fund. Any interest earned on
461 amounts in the emergency fund shall be deposited to the credit of
462 the fund. Monies in the emergency fund may not be used or
463 expended for any purpose except as authorized under this section.

464 (c) The commission, acting through the department,
465 shall establish loan and grant programs by which loans and grants
466 may be made available to counties, incorporated municipalities,
467 districts or other water organizations that have been granted tax
468 exempt status under either federal or state law, to assist those
469 counties, incorporated municipalities, districts or water
470 organizations in making water systems improvements, including the
471 construction of new water systems or expansion or repair of
472 existing water systems. Any entity eligible under this section
473 may receive either a loan or a grant, or both. No grant awarded
474 under the program established in this section may be made using
475 funds from the loan program. Grants may be awarded only when the
476 Legislature specifically appropriates funds for that particular
477 purpose. The interest rate on those loans may vary from time to
478 time and from loan to loan, and will be at or below market
479 interest rates as determined by the commission. The commission
480 shall act as quickly as is practicable and prudent in deciding on
481 any loan request that it receives. Loans from the revolving fund
482 or emergency fund may be made to counties, incorporated
483 municipalities, districts or other water organizations that have
484 been granted tax exempt status under either federal or state law,
485 as set forth in a loan agreement in amounts not to exceed one
486 hundred percent (100%) of eligible project costs as established by
487 the commission. The commission may require county, municipal,
488 district or other water organization participation or funding from
489 other sources, or otherwise limit the percentage of costs covered



490 by loans from the revolving fund or the emergency fund. The
491 commission may establish a maximum amount for any loan from the
492 revolving fund or emergency fund in order to provide for broad and
493 equitable participation in the programs.

494 (d) A county that receives a loan from the revolving
495 fund or the emergency fund shall pledge for repayment of the loan
496 any part of the homestead exemption annual tax loss reimbursement
497 to which it may be entitled under Section 27-33-77, as may be
498 required to meet the repayment schedule contained in the loan
499 agreement. An incorporated municipality that receives a loan from
500 the revolving fund or the emergency fund shall pledge for
501 repayment of the loan any part of the sales tax revenue
502 distribution to which it may be entitled under Section 27-65-75,
503 as may be required to meet the repayment schedule contained in the
504 loan agreement. All recipients of such loans shall establish a
505 dedicated source of revenue for repayment of the loan. Before any
506 county or incorporated municipality shall receive any loan, it
507 shall have executed with the Department of Revenue and the
508 Commission a loan agreement evidencing that loan. The loan
509 agreement shall not be construed to prohibit any recipient from
510 prepaying any part or all of the funds received. The repayment
511 schedule in each loan agreement shall provide for (i) monthly
512 payments, (ii) semiannual payments, or (iii) other periodic
513 payments, the annual total of which shall not exceed the annual
514 total for any other year of the loan by more than fifteen percent
515 (15%). Except as otherwise provided in subsection (4) of this
516 section, the loan agreement shall provide for the repayment of all
517 funds received from the revolving fund within not more than
518 fifteen (15) years or a term as otherwise allowed by the federal
519 Safe Drinking Water Act, and all funds received from the emergency
520 fund within not more than five (5) years from the date of project
521 completion, and any repayment shall commence not later than one
522 (1) year after project completion. The Department of Revenue



523 shall withhold semiannually from counties and monthly from
524 incorporated municipalities from the amount to be remitted to the
525 county or municipality, a sum equal to the next repayment as
526 provided in the loan agreement.

527 (e) Any county, incorporated municipality, district or
528 other water organization desiring to construct a project approved
529 by the commission which receives a loan from the state for that
530 purpose but which is not eligible to pledge for repayment under
531 the provisions of paragraph (d) of this subsection, shall repay
532 that loan by making payments each month to the State Treasurer
533 through the Department of Finance and Administration for and on
534 behalf of the commission according to Section 7-7-15, to be
535 credited to either the revolving fund or the emergency fund,
536 whichever is appropriate, in lieu of pledging homestead exemption
537 annual tax loss reimbursement or sales tax revenue distribution.

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

541 (f) Any district created pursuant to Sections 19-5-151
542 through 19-5-207 that receives a loan from the revolving fund or
543 the emergency fund shall pledge for repayment of the loan any part
544 of the revenues received by that district pursuant to Sections
545 19-5-151 through 19-5-207, as may be required to meet the
546 repayment schedule contained in the loan agreement.

547 (g) The State Auditor, upon request of the commission,
548 shall audit the receipts and expenditures of a county, an
549 incorporated municipality, district or other water organization
550 whose loan repayments appear to be in arrears, and if the Auditor
551 finds that the county, incorporated municipality, district or
552 other water organization is in arrears in those repayments, the
553 Auditor shall immediately notify the chairman of the commission
554 who may take any action as may be necessary to enforce the terms
555 of the loan agreement, including liquidation and enforcement of



556 the security given for repayment of the loan, and the Executive
557 Director of the Department of Finance and Administration who shall
558 withhold all future payments to the county of homestead exemption
559 annual tax loss reimbursements under Section 27-33-77 and all sums
560 allocated to the county or the incorporated municipality under
561 Section 27-65-75 until such time as the county or the incorporated
562 municipality is again current in its loan repayments as certified
563 by the commission.

564 (h) Except as otherwise provided in this section, all
565 monies deposited in the revolving fund or the emergency fund,
566 including loan repayments and interest earned on those repayments,
567 shall be used only for providing loans or other financial
568 assistance to water systems as the commission deems appropriate.
569 In addition, any amounts in the revolving fund or the emergency
570 fund may be used to defray the reasonable costs of administering
571 the revolving fund or the emergency fund and conducting activities
572 under this section, subject to any limitations established in the
573 federal Safe Drinking Water Act, as amended and subject to annual
574 appropriation by the Legislature. The department is authorized,
575 upon approval by the commission, to use amounts available to it
576 from the revolving fund or the emergency fund to contract for
577 those facilities and staff needed to administer and provide
578 routine management for the funds and loan program. However,
579 notwithstanding any other provision of law to the contrary, all or
580 any portion of repayments of principal and interest derived from
581 the fund uses described in this section may be designated or
582 pledged for repayment of a loan as provided for in Section
583 31-25-28 in connection with a loan from the Mississippi
584 Development Bank.

585 (3) In administering this section, the commission acting
586 through the department shall have the following powers and duties:



587 (a) To supervise the use of all funds made available
588 under this section for local governments and rural water systems
589 improvements;

590 (b) To promulgate rules and regulations, to make
591 variances and exceptions thereto, and to establish procedures in
592 accordance with this section for the implementation of the local
593 governments and rural water systems improvements revolving loan
594 program;

595 (c) To require, at the commission's discretion, any
596 loan or grant recipient to impose a per connection fee or
597 surcharge or amended water rate schedule or tariff on each
598 customer or any class of customers, benefiting from an improvement
599 financed by a loan or grant made under this section, for repayment
600 of any loan funds provided under this section. The commission
601 acting through the department may require any loan or grant
602 recipient to undergo a water system viability analysis and may
603 require a loan or grant recipient to implement any result of the
604 viability analysis. If the loan recipient fails to implement any
605 result of a viability analysis as required by the commission, the
606 commission may impose a monetary penalty or increase the interest
607 rate on the loan, or both. If the grant recipient fails to
608 implement any result of a viability analysis as required by the
609 commission, the commission may impose a monetary penalty on the
610 grant;

611 (d) To review and certify all projects for which funds
612 are authorized to be made available under this section for local
613 governments and rural water systems improvements;

614 (e) To requisition monies in the Local Governments and
615 Rural Water Systems Improvements Revolving Loan Fund and the Local
616 Governments and Rural Water Systems Emergency Loan Fund and
617 distribute those monies on a project-by-project basis in
618 accordance with this section;



619 (f) To ensure that the funds made available under this
620 section to a county, an incorporated municipality, a district or a
621 water organization that has been granted tax exempt status under
622 either federal or state law provide for a distribution of projects
623 and funds among the entities under a priority system established
624 by the commission;

625 (g) To maintain in accordance with generally accepted
626 government accounting standards an accurate record of all monies
627 in the revolving fund and the emergency fund made available to
628 counties, incorporated municipalities, districts or other water
629 organizations under this section, and the costs for each project;

630 (h) To establish policies, procedures and requirements
631 concerning viability and financial capability to repay loans that
632 may be used in approving loans available under this section,
633 including a requirement that all loan recipients have a rate
634 structure which will be sufficient to cover the costs of
635 operation, maintenance, major equipment replacement and repayment
636 of any loans made under this section; and

637 (i) To file annually with the Legislature a report
638 detailing how monies in the Local Governments and Rural Water
639 Systems Improvements Revolving Loan Fund and the Local Governments
640 and Rural Water Systems Emergency Loan Fund were spent during the
641 preceding fiscal year in each county, incorporated municipality,
642 district or other water organization, the number of projects
643 approved and constructed, and the cost of each project.

644 For efficient and effective administration of the loan
645 program, revolving fund and emergency fund, the commission may
646 authorize the department or the executive director to carry out
647 any or all of the powers and duties enumerated above.

648 (4) The commission may, on a case-by-case basis and to the
649 extent allowed by federal law, renegotiate the payment of
650 principal and interest on loans made under this section to the six
651 (6) most southern counties of the state covered by the



652 Presidential Declaration of Major Disaster for the State of
653 Mississippi (FEMA-1604-DR) dated August 29, 2005, and to
654 incorporated municipalities, districts or other water
655 organizations located in such counties; however, the interest on
656 the loans shall not be forgiven for a period of more than
657 twenty-four (24) months and the maturity of the loans shall not be
658 extended for a period of more than forty-eight (48) months.

659 **SECTION 6.** This act shall take effect and be in force from
660 and after January 1, 2012, or the date Federal Funding Authorities
661 authorize funding to support the Local Governments and Rural Water
662 Systems Improvements Revolving Loan and Grant Program as
663 authorized by this act, whichever occurs first.

