

By: Representatives Smith (39th), Morris

To: Ways and Means

HOUSE BILL NO. 1762
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 31-25-28, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO BORROW
3 MONEY FROM THE MISSISSIPPI DEVELOPMENT BANK FOR THE PURPOSE OF
4 PROVIDING FUNDS FOR LOAN PROGRAMS ADMINISTERED BY SUCH AGENCY; TO
5 PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL QUALITY MAY PLEDGE
6 FUNDS RECEIVED BY IT AS LOAN REPAYMENTS UNDER SUCH A LOAN PROGRAM
7 TO REPAY ANY LOAN MADE BY THE MISSISSIPPI DEVELOPMENT BANK TO THE
8 DEPARTMENT OF ENVIRONMENTAL QUALITY; TO AUTHORIZE THE MISSISSIPPI
9 DEPARTMENT OF REHABILITATION SERVICES TO BORROW MONEY FROM THE
10 MISSISSIPPI DEVELOPMENT BANK FOR THE PURPOSE OF REFUNDING
11 CERTIFICATES OF PARTICIPATION ISSUED BY THE DEPARTMENT; TO EXEMPT
12 LOANS MADE BY THE MISSISSIPPI DEVELOPMENT BANK UNDER THIS ACT FROM
13 CERTAIN CRITERIA REQUIRED FOR OTHER LOANS MADE BY THE BANK TO THE
14 DEPARTMENT OF ENVIRONMENTAL QUALITY; TO AMEND SECTIONS 31-25-27,
15 49-17-85 AND 49-17-86, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO
16 THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 31-25-28, Mississippi Code of 1972, is
19 amended as follows:

20 31-25-28. (1) Local governmental units may borrow money or
21 receive grants from the bank for any of the purposes set forth in
22 this section or Section 31-25-20(g) and pay to the bank such fees
23 and charges for services as the bank may prescribe. Whenever any
24 such loan is made to a local governmental unit, such local
25 governmental unit may use available revenues for the repayment of
26 the principal of, premium, if any, and interest on such loan, and
27 pledge such available revenues or monies for the repayment of the
28 principal of, premium, if any, and interest on such loan. It is
29 the intention of the Legislature that any such pledge of revenues
30 or other monies shall be valid and binding from the date the
31 pledge is made; that such revenues or other monies so pledged and
32 thereafter received by the local governmental unit shall
33 immediately be subject to the lien of such pledge without any
34 physical delivery thereof or further act, and that the lien of any

35 such pledge shall be valid and binding as against all parties
36 having claims of any kind in tort, contract or otherwise against
37 the local governmental unit irrespective of whether such parties
38 have notice thereof; and neither the resolutions, contracts or any
39 other instrument by which a pledge is created need be recorded.

40 (2) Local governmental units may contract with the bank with
41 respect to any such loan and such contract shall contain such
42 terms and conditions as may be prescribed by the bank.

43 (3) Local governmental units may in connection with any such
44 loan enter into any covenants and agreements with respect to such
45 local governmental unit's operations, revenues, assets, monies,
46 funds or property, or such loan, as may be prescribed by the bank.

47 (4) Upon the making of any such loan by the bank to any
48 local governmental unit, such local governmental unit shall be
49 held and be deemed to have agreed that if such governmental unit
50 fails to pay the principal of, premium, if any, and interest on
51 any such loan as when due and payable, such governmental unit
52 shall have waived any and all defenses to such nonpayment, and the
53 bank, upon such nonpayment, shall thereupon avail itself of all
54 remedies, rights and provisions of law applicable in such
55 circumstance, including without limitation, any remedies or rights
56 theretofore agreed to by the local governmental unit, and that
57 such loan shall for all of the purposes of this section, be held
58 and be deemed to have become due and payable and to be unpaid.
59 The bank may carry out the provisions of this section and exercise
60 all of the rights and remedies and provisions of law provided or
61 referred to in this section and of all other applicable laws of
62 the state.

63 (5) Any local governmental unit that borrows from the bank
64 under this section may agree in writing with the bank that, as
65 provided in this subsection, the State Tax Commission or any state
66 agency, department or commission created pursuant to state law
67 shall (a) withhold all or any part (as agreed by the local

68 governmental unit) of any monies that such local governmental unit
69 is entitled to receive from time to time pursuant to any law and
70 that is in the possession of the State Tax Commission or any state
71 agency, department or commission created pursuant to state law and
72 (b) pay the same over to the bank to satisfy any delinquent
73 payments on any such loan made to such local governmental unit
74 under the provisions of this section and any other delinquent
75 payments due and owing the bank by such local governmental unit,
76 all as the same shall occur. If the bank files a copy of such
77 written agreement, together with a statement of delinquency, with
78 the State Tax Commission or any state agency, department or
79 commission created pursuant to state law, then the State Tax
80 Commission or any state agency, department or commission created
81 pursuant to state law shall immediately make the withholdings
82 provided in such agreement from the amounts due the local
83 governmental unit and shall continue to pay the same over to the
84 bank until all such delinquencies are satisfied.

85 (6) Before authorizing any loan for any of the purposes
86 enumerated in Section 31-25-20(e), the governing authority of the
87 local governmental unit shall adopt a resolution declaring its
88 intention so to do, stating the amount of the loan proposed to be
89 authorized and the purpose for which the loan is to be authorized,
90 and the date upon which the loan will be authorized. Such
91 resolution shall be published once a week for at least three (3)
92 consecutive weeks in at least one (1) newspaper published in such
93 local governmental unit. The first publication of such resolution
94 shall be made not less than twenty-one (21) days before the date
95 fixed in such resolution for the authorization of the loan and the
96 last publication shall be made not more than seven (7) days before
97 such date. If no newspaper is published in such local
98 governmental unit, then such notice shall be given by publishing
99 the resolution for the required time in some newspaper having a
100 general circulation in such local governmental unit and, in

101 addition, by posting a copy of such resolution for at least
102 twenty-one (21) days next preceding the date fixed therein at
103 three (3) public places in such local governmental unit. If
104 fifteen percent (15%) of the qualified electors of the local
105 governmental unit or fifteen hundred (1500), whichever is the
106 lesser, file a written protest against the authorization of such
107 loan on or before the date specified in such resolution, then an
108 election on the question of the authorization of such loan shall
109 be called and held as otherwise provided for in connection with
110 the issuance of general obligation indebtedness of such local
111 governmental unit. Notice of such election shall be given as
112 otherwise required in connection with the issuance of general
113 obligation indebtedness of such local governmental unit. If
114 three-fifths (3/5) of the qualified electors voting in the
115 election vote in favor of authorizing the loan, then the governing
116 authority of the local governmental unit shall proceed with the
117 loan; however, if less than three-fifths (3/5) of the qualified
118 electors voting in the election vote in favor of authorizing the
119 loan, then the loan shall not be incurred. If no protest be
120 filed, then such loan may be entered into by the local
121 governmental unit without an election on the question of the
122 authorization of such loan, at any time within a period of two (2)
123 years after the date specified in the resolution. However, the
124 governing authority of any local governmental unit in its
125 discretion may nevertheless call an election on such question, in
126 which event it shall not be necessary to publish the resolution
127 declaring its intention to authorize such loan as provided in this
128 subsection.

129 (7) (a) The Department of Environmental Quality may borrow
130 money from the bank for any purpose as otherwise authorized by
131 this act or for the purpose of funding loan programs (including
132 revolving loan programs) for such local governmental unit, or
133 both. The Department of Environmental Quality may contract with

134 the bank with respect to any loan from the bank to fund such loan
135 programs and such loan from the bank may include any terms and
136 conditions as provided for in this section. If the Department of
137 Environmental Quality borrows funds pursuant to this subsection
138 (7), then such local governmental unit shall certify the following
139 to the bank prior to making the loan from the bank:

140 (i) The revolving loan program or other program to
141 be funded through the issuance of the bonds;

142 (ii) Available revenues which such local
143 governmental unit intends to use to repay the loan; and

144 (iii) That such local governmental unit does not
145 intend to request an additional appropriation from the Legislature
146 to pay debt service on the loan from the bank or for such
147 security.

148 (b) If such local governmental unit meets the
149 requirements of paragraph (a) of this subsection (7), then such
150 local governmental unit shall not be required to meet the
151 requirements of Section 31-25-27(14). Notwithstanding any other
152 provision of law, including any limitations or restrictions under
153 Section 49-17-81 et seq., such local governmental unit may
154 designate or pledge any funds, revenues or any other amounts
155 received under its loan programs designated under paragraph (a)(i)
156 of this subsection (7) to repay a loan from the bank under this
157 subsection (7). Funds, revenues or any other amounts received
158 under a loan program as provided under this subsection (7)
159 specifically include, but are not limited to, any principal and/or
160 interest loan repayments from any participant under the program,
161 any investment earnings, or other amounts held by the Department
162 of Environmental Quality in connection with the applicable loan
163 program. Any loan program of the Department of Environmental
164 Quality otherwise authorized by law shall be deemed to be a public
165 purpose for purposes of this act which the bank may loan funds
166 under the provisions of this act.

167 (c) In connection with a loan under this subsection
168 (7), the bank may administer and manage loan programs as provided
169 in the contracts with the bank to loan funds thereunder.

170 (d) The maximum amount that the Department of
171 Environmental Quality may borrow under this subsection (7) shall
172 not exceed Thirty-five Million Dollars (\$35,000,000.00) in the
173 aggregate.

174 (e) This subsection (7) shall stand repealed from and
175 after July 1, 2006.

176 (8) In connection with any refunding of the Ten Million Five
177 Hundred Seventy Thousand Dollars (\$10,570,000.00), State of
178 Mississippi, Department of Rehabilitation Services, Certificates
179 of Participation (State of Mississippi, Department of
180 Rehabilitation Services Project) dated August 1, 1993, the bank
181 may issue its bonds to provide for such refunding and the
182 Department of Rehabilitation Services may borrow money from the
183 bank for the purpose of providing for the refunding of such
184 Certificates of Participation. The Department of Rehabilitation
185 Services may contract with the bank with respect to any loan from
186 the bank under this subsection (8), to provide for the refunding
187 of such Certificates of Participation and such loan from the bank
188 may include any terms and conditions as provided for in this
189 section. In connection with the refunding of the Certificates of
190 Participation pursuant to this subsection (8), such refunding
191 shall result in an overall net present value savings to maturity
192 of not less than two percent (2%) of the Certificates of
193 Participation being refunded. In connection with any loan under
194 this subsection (8), the Department of Rehabilitation Services
195 shall not be required to meet the requirements of Section
196 31-25-27(14).

197 (9) This section shall be deemed to provide an additional,
198 alternative and complete method for the doing of the things
199 authorized by this section and shall be deemed and construed to be

200 supplemental to any power conferred by other laws on local
201 governmental units and not in derogation of any such powers. Any
202 loan made pursuant to the provisions of this section shall not
203 constitute an indebtedness of the local governmental unit within
204 the meaning of any constitutional or statutory limitation or
205 restriction. In connection with a loan under this chapter, a
206 local governmental unit shall not be required to comply with the
207 provisions of any other law except as provided in this section.

208 **SECTION 2.** Section 31-25-27, Mississippi Code of 1972, is
209 amended as follows:

210 31-25-27. (1) Each local governmental unit is hereby
211 authorized and empowered to contract with the bank with respect to
212 the bank's purchase of such local governmental unit's securities
213 and such contract shall contain such terms and conditions as may
214 be prescribed by the bank. Each local governmental unit is
215 authorized and empowered to pay to the bank such fees and charges
216 for services as the bank may prescribe.

217 (2) Each local governmental unit is hereby authorized to
218 issue securities under the provisions of this act and to sell such
219 securities to the bank to raise money for any purpose or purposes
220 set forth in Sections 21-27-23, 21-33-301, 21-33-325, 21-33-326,
221 31-27-5, 17-17-301 et seq. and any other state law authorizing the
222 issuance of local governmental unit debt, and for the purpose of
223 refunding any securities issued under the provisions of this act
224 or under the provisions of Section 21-27-11 et seq., or Section
225 21-33-301 et seq., or Section 31-27-1 et seq. Such securities may
226 be issued in accordance with Sections 21-33-301, 21-33-303,
227 21-33-307, 21-33-309, 21-33-311, 21-33-313, 21-33-325 and
228 21-33-326, or Sections 21-27-23 through 21-27-43 and Sections
229 21-27-47 through 21-27-71, or Sections 31-27-1 through 31-27-25,
230 or Sections 17-5-3 through 17-5-11, or Sections 49-17-101 through
231 49-17-123, or Sections 17-17-301 through 17-17-349 or any other
232 state law authorizing issuance of local governmental unit debt, as

233 the case may be, unless otherwise specifically provided in this
234 act; provided, however, the securities of any local governmental
235 unit may be issued with such terms and provisions as may be
236 necessary and appropriate in order to comply with the provisions
237 of any loan agreement described in Section 49-17-87. Whenever
238 securities shall be issued under this subsection, the governing
239 authority may also pledge to the payment of principal of, premium,
240 if any, and interest on such securities the revenues of any
241 project to be constructed, improved or purchased with the proceeds
242 thereof. Whenever any project is a part of a system or combined
243 system, then all or any portion of the revenues of such system or
244 combined system may be pledged to secure repayment of such
245 securities as determined by the bank.

246 (3) Each local governmental unit is hereby authorized to
247 issue securities to the bank to raise money for any purpose or
248 purposes set forth in Sections 19-9-1, 19-9-27 or 19-9-28 and for
249 the purpose of refunding any securities issued under the
250 provisions of this act or under the provisions of Section 19-9-1
251 et seq. Such securities may be issued in accordance with Sections
252 19-9-1, 19-9-3, 19-9-5, 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15,
253 19-9-17, 19-9-27 and 19-9-28, or Sections 17-5-3 through 17-5-11,
254 or Sections 49-17-101 through 49-17-123, as the case may be,
255 unless otherwise specifically provided in this act; provided,
256 however, the securities of any local governmental unit may be
257 issued with such terms and provisions as may be necessary and
258 appropriate in order to comply with the provisions of any loan
259 agreement described in Section 49-17-87. Whenever securities
260 shall be issued under this subsection, the board of supervisors of
261 the county may also pledge to the payment of principal of,
262 premium, if any, and interest on such securities the revenues of
263 any project to be constructed, improved, repaired or purchased
264 with the proceeds thereof. Whenever any project is a part of a
265 system or combined system, then all or any portion of the revenues

266 of such system or combined system may be pledged to secure
267 repayment of such securities as determined by the bank.

268 (4) In addition, any local governmental unit is hereby
269 authorized to issue securities to the bank to raise money for any
270 purpose or purposes otherwise authorized by state law and for the
271 purpose of refunding any securities issued under the provisions of
272 this act or as otherwise authorized by state law including Section
273 49-17-83 et seq. Such securities may be issued in accordance with
274 any other applicable provision of state law related to the
275 issuance of securities including Section 49-17-83 et seq.

276 Whenever securities shall be issued under this subsection, the
277 governing body of such local governmental unit may also pledge to
278 the payment of principal of, premium, if any, and interest on such
279 securities the revenues of any project to be constructed, improved
280 or purchased with the proceeds thereof. Whenever any project is a
281 part of a system or combined system, then all or any portion of
282 the revenues of such system or combined system may be pledged to
283 secure repayment of such securities as determined by the bank.

284 (5) Securities issued by a local governmental unit under the
285 provisions of this act:

286 (a) May be sold only to the bank at private sale and
287 may be sold at such price or prices, in such manner and at such
288 times as may be agreed to by the bank and the local governmental
289 unit, and the governing body of the local governmental unit may
290 pay all expenses, premiums, fees and commissions which it may deem
291 necessary and advantageous in connection with the issuance and
292 sale thereof;

293 (b) Shall be secured as provided by Chapter 27, Title
294 21, Mississippi Code of 1972; Chapter 33, Title 21, Mississippi
295 Code of 1972; or Chapter 9, Title 19, Mississippi Code of 1972, or
296 other provisions of state law, and as provided in this act; and it
297 is the intention of the Legislature that any pledge of earnings,
298 revenues or other monies made by the local governmental unit shall

299 be valid and binding from the time the pledge is made; that the
300 earnings, revenues or other monies so pledged and thereafter
301 received by the local governmental unit shall immediately be
302 subject to the lien of such pledge without any physical delivery
303 thereof or further act, and that the lien of any such pledge shall
304 be valid and binding as against all parties having claims of any
305 kind in tort, contract or otherwise against the local governmental
306 unit irrespective of whether such parties have notice thereof; and
307 neither the resolution nor any other instrument by which a pledge
308 is created need be recorded;

309 (c) Neither the officers or members of the governing
310 body of the local governmental unit nor any person executing the
311 bonds shall be personally liable on the bonds or be subject to any
312 personal liability or accountability by reason of the issuance
313 thereof;

314 (d) Shall be issued for the purposes set forth in this
315 act and shall include terms and conditions which meet the state
316 law authorizing the issuance of such local governmental unit debt
317 and/or such terms and conditions consistent with the requirements
318 for issuance of Mississippi Development Bank Bonds under Section
319 31-25-37.

320 (6) Each local governmental unit issuing securities under
321 the provisions of this act is hereby authorized and empowered in
322 connection with the issuance of such securities to enter into any
323 covenants, agreements as to defaults and agreements as to remedies
324 of the bank for defaults with respect to such local governmental
325 unit's operation, revenues, assets, monies, funds or property as
326 may be prescribed by the bank.

327 (7) The proceeds of securities shall be deposited in one or
328 more special funds established by resolution of the local
329 governmental unit issuing the same and shall be applied to the
330 following: (a) the purpose for which the securities were issued;
331 (b) the payment of all costs of issuance of the securities; (c)

332 the payments of any fees and charges established by the bank; (d)
333 the payment of interest on the securities for a period of time not
334 greater than the period of time estimated to be required to
335 complete the purpose for which the securities were issued; all to
336 the extent provided by resolution of the governing body of the
337 local governmental unit and approved by the bank. Such special
338 fund shall be held by commercial banks qualified to act as
339 depositories therefor.

340 (8) In the event the bank determines to issue bonds and in
341 connection therewith to exercise the powers provided in subsection
342 (7) of Section 31-25-37, and if the requirements of subsection
343 (2), (3) or (4) as the case may be, of this section have been
344 satisfied, a local governmental unit is authorized to issue its
345 securities as provided in this section.

346 (9) Securities issued under this act may be validated in the
347 manner and with the force and effect provided in Section 31-13-1
348 et seq.

349 (10) This act shall be deemed to provide an additional,
350 alternative and complete method for the doing of the things
351 authorized hereby and shall be deemed and construed to be
352 supplemental to any power conferred by other laws on local
353 governmental units and not in derogation of any such powers.

354 (11) Any person who attempts to or obtains financial aid for
355 a local governmental unit hereunder or who attempts to or sells
356 securities of a governmental unit to the bank by false or
357 misleading information or who shall by fraud attempt to obtain
358 monies from the bank or its approval for the payment of monies or
359 shall fraudulently attempt to or does prevent the collection of
360 any monies due to the bank shall, upon conviction, be guilty of a
361 felony for each offense.

362 (12) Upon the sale and issuance of any securities to the
363 bank by any governmental unit, such governmental unit shall be
364 held and be deemed to have agreed that in the event of the failure

365 of such governmental unit to pay the interest on or the principal
366 of any of such securities owned or held by the bank as and when
367 due and payable, such governmental unit shall have waived any and
368 all defenses to such nonpayment, and the bank upon such nonpayment
369 shall thereupon constitute a holder or owner of such securities as
370 being in default, and the bank may then and thereupon avail itself
371 of all remedies, rights and provisions of law applicable in such
372 circumstance, including without limitation any remedies or rights
373 theretofore agreed to by the local governmental unit, and that all
374 of the securities of the issue of securities of such governmental
375 unit as to which there has been such nonpayment, shall for all of
376 the purposes of this section be held and be deemed to have become
377 due and payable and to be unpaid. The bank is hereby authorized
378 and empowered to carry out the provisions of this section and to
379 exercise all of the rights and remedies and provisions of law
380 herein provided or referred to.

381 (13) Any local governmental unit which borrows from the bank
382 is hereby authorized and empowered to agree in writing with the
383 bank that, as provided in this subsection, the State Tax
384 Commission or any state agency, department or commission created
385 pursuant to state law shall (a) withhold all or any part (as
386 agreed by the local governmental unit) of any monies which such
387 local governmental unit is entitled to receive from time to time
388 pursuant to any law and which is in the possession of the State
389 Tax Commission, or any state agency, department or commission
390 created pursuant to state law and (b) pay the same over to the
391 bank to satisfy any delinquent payments on any securities issued
392 by such local governmental unit under the provisions of this act
393 and any other delinquent payments due and owing the bank by such
394 local governmental unit, all as the same shall occur. In the
395 event the bank shall file a copy of such written agreement,
396 together with a statement of delinquency, with the State Tax
397 Commission, or any state agency, department or commission created

398 pursuant to state law then the State Tax Commission or any state
399 agency, department or commission created pursuant to state law
400 shall immediately make the withholdings provided in such agreement
401 from the amounts due the local governmental unit and shall
402 continue to pay the same over to the bank until all such
403 delinquencies are satisfied.

404 (14) (a) Except as otherwise provided in Section 31-25-28
405 (7) and (8), if the state or any agency thereof, the institutions
406 of higher learning of the state or any education building
407 corporation established for institutions of higher learning,
408 borrows funds from the bank under Section 31-25-28 or sells its
409 securities to the bank pursuant to this act, then such local
410 governmental unit shall certify the following to the bank prior to
411 the issuance of bonds:

412 (i) The legal authority for such local
413 governmental unit to borrow funds; and

414 (ii) That such local governmental unit does not
415 intend to request an additional appropriation from the Legislature
416 to pay debt service on the loan or for such security.

417 (b) If the state or any agency thereof, the
418 institutions of higher learning of the state or any education
419 building corporation established for institutions of higher
420 learning, does not make the certification required under paragraph
421 (a)(ii) of this subsection, then such local governmental unit
422 shall not borrow funds from the bank under Section 31-25-28 or
423 sell its securities to the bank pursuant to this act unless an
424 appropriation by the Legislature authorizes the payment of debt
425 service for the first year of the loan or for such security.

426 (15) Any local governmental unit may borrow money from the
427 bank loaned under any loan guaranty program of any department or
428 agency of the United States, including the United States
429 Department of Agriculture Rural Utility Services Water and Waste

430 Disposal Guaranteed Loan Program and Community Programs Guaranteed
431 Loan Program or any such successor guaranty programs.

432 (16) Notwithstanding any law to the contrary, each local
433 governmental unit is authorized and empowered to contract with the
434 bank for the exercise by the bank of any and all of the bank's
435 powers as set out in this act with respect to the proceeds of such
436 local governmental unit's securities or certificates of
437 participation issued by such local governmental unit pursuant to
438 any state law authorizing the issuance of local governmental unit
439 debt.

440 (17) Subsections (15) and (16) of this section shall be
441 deemed to provide all necessary authority for the doing of the
442 things authorized thereby and shall be liberally construed to
443 accomplish the purposes and authorizations therein stated.

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

446 49-17-85. (1) There is established in the State Treasury a
447 fund to be known as the "Water Pollution Control Revolving Fund"
448 which shall be administered by the commission acting through the
449 department. The revolving fund may receive bond proceeds and
450 funds appropriated or otherwise made available by the Legislature
451 in any manner and funds from any other source, public or private.
452 The revolving fund shall be maintained in perpetuity for the
453 purposes established in this section.

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

460 (3) The commission shall promulgate regulations for the
461 administration of the revolving fund program, the hardship grants
462 program and for related programs authorized under this section.

463 The regulations shall be in accordance with the federal Water
464 Quality Act of 1987, as amended and regulations and guidance
465 issued under that act. The commission may enter into
466 capitalization grant agreements with the United States
467 Environmental Protection Agency and may accept capitalization
468 grant awards made under Title VI of the Water Quality Act of 1987,
469 as amended.

470 (4) The commission shall establish a loan program which
471 shall commence after October 1, 1988, to assist political
472 subdivisions in the construction of water pollution control
473 projects. Loans from the revolving fund may be made to political
474 subdivisions as set forth in a loan agreement in amounts not
475 exceeding one hundred percent (100%) of eligible project costs as
476 established by the commission. Notwithstanding loan amount
477 limitations set forth in Section 49-17-61, the commission may
478 require local participation or funding from other sources, or
479 otherwise limit the percentage of costs covered by loans from the
480 revolving fund. The commission may establish a maximum amount for
481 any loan in order to provide for broad and equitable participation
482 in the program.

483 (5) The commission shall establish a hardship grants program
484 for rural communities, which shall commence after July 1, 1997, to
485 assist severely economically disadvantaged small rural political
486 subdivisions in the construction of water pollution control
487 projects. The commission may receive and administer state or
488 federal funds, or both, appropriated for the operation of this
489 grants program and may take all actions necessary to implement the
490 program in accordance with the federal hardship grants program.
491 The hardship grants program shall operate in conjunction with the
492 revolving loan program administered under this section.

493 (6) The commission shall act for the state in all matters
494 and with respect to all determinations under Title VI of the

495 federal Water Quality Act of 1987, as amended and the federal
496 Omnibus Appropriations and Recision Act of 1996.

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

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

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

504 (ii) Periodic principal and interest payments will
505 commence when required by the commission but not later than one
506 (1) year after project completion and all loans will be fully
507 amortized when required by the commission but not later than
508 twenty (20) years after project completion;

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

511 (b) To buy or refinance the debt obligation of
512 political subdivisions at or below market rates, where the debt
513 obligations were incurred after March 7, 1985, and where the
514 projects were constructed in compliance with applicable federal
515 and state regulations;

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

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

521 (e) To earn interest on fund accounts;

522 (f) To establish nonpoint source pollution control
523 management programs;

524 (g) To establish estuary conservation and management
525 programs;

526 (h) For the reasonable costs of administering the
527 revolving fund and conducting activities under this act, subject

528 to the limitations established in Section 603(d)(7) of Title VI of
529 the federal Clean Water Act, as amended, and subject to annual
530 appropriation by the Legislature; and

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

535 (8) The hardship grants program shall be used only to
536 provide hardship grants consistent with the federal hardship
537 grants program for rural communities, regulations and guidance
538 issued by the United States Environmental Protection Agency,
539 subsections (3) and (5) of this section and regulations
540 promulgated and guidance issued by the commission under this
541 section.

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

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

548 (11) The revolving fund shall be credited with all payments
549 of principal and interest derived from the fund uses described in
550 subsection (7) of this section. However, notwithstanding any
551 other provision of law to the contrary, all or any portion of
552 payments of principal and interest derived from the fund uses
553 described in subsection (7) of this section may be designated or
554 pledged for repayment of a loan as provided for in Section
555 31-25-28 in connection with a loan from the Mississippi
556 Development Bank.

557 (12) The commission may establish and collect fees to defray
558 the reasonable costs of administering the revolving fund if it
559 determines that the administrative costs will exceed the
560 limitations established in Section 603(d)(7) of Title VI of the

561 federal Clean Water Act, as amended. The administration fees may
562 be included in loan amounts to political subdivisions for the
563 purpose of facilitating payment to the commission. The fees may
564 not exceed five percent (5%) of the loan amount.

565 **SECTION 4.** Section 49-17-86, Mississippi Code of 1972, is
566 amended as follows:

567 49-17-86. (1) (a) There is created a fund in the State
568 Treasury to be designated as the "Water Pollution Control
569 Emergency Loan Fund" hereinafter referred to as "emergency fund."

570 (b) The emergency fund may receive appropriations, bond
571 proceeds, grants, gifts, donations or funds from any source,
572 public or private. The emergency fund shall be credited with all
573 repayments of principal and interest derived from loans made from
574 the emergency fund.

575 (c) The monies in the emergency fund may be expended
576 only in amounts appropriated by the Legislature.

577 (d) The emergency fund shall be maintained in
578 perpetuity for the purposes established in Sections 49-17-81
579 through 49-17-89. Unexpended amounts remaining in the emergency
580 fund at the end of a fiscal year shall not lapse into the State
581 General Fund. Any interest earned on amounts in the emergency
582 fund shall be deposited to the credit of the fund.

583 (2) The commission shall establish a loan program to assist
584 political subdivisions in making emergency improvements such as
585 repairs to or replacement of machinery, equipment, materials,
586 structures or devices in existing water pollution abatement
587 projects or such other emergency water pollution abatement
588 projects as the commission deems necessary. Loans from the
589 emergency fund may be made to political subdivisions as set forth
590 in a loan agreement in amounts not exceeding one hundred percent
591 (100%) of eligible project costs as established by the commission.
592 The commission may require local participation or funding from
593 other sources, or otherwise limit the percentage of costs covered

594 by loans from the emergency fund. The commission may establish a
595 maximum amount for any loan not to exceed Three Hundred Fifty
596 Thousand Dollars (\$350,000.00).

597 (3) Except as otherwise provided in this section, the
598 emergency fund may be used only:

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

600 (i) Loans are made at or below market interest
601 rates, at terms not to exceed ten (10) years after project
602 completion; the interest rate may vary from time to time and from
603 loan to loan at the discretion of the commission.

604 (ii) Periodic principal and interest payments will
605 commence when required by the commission but not later than one
606 (1) year after project completion and all loans will be fully
607 amortized when required by the commission but not later than ten
608 (10) years after project completion.

609 (iii) The recipient of a loan shall establish a
610 dedicated source of revenue for repayment of loans. In addition,
611 the commission may require any loan recipient to impose a per
612 connection surcharge on each customer for repayment of any loan
613 funds provided under this section.

614 (iv) The recipient of the loan is not in arrears
615 in repayments to the Water Pollution Control Revolving Fund, the
616 Water Pollution Control Emergency Loan Fund or under the Water
617 Pollution Abatement Loan Program.

618 (b) To provide financial assistance to political
619 subdivisions in making emergency improvements such as repairs to
620 or replacement of machinery, equipment, materials, structures or
621 devices in existing water pollution abatement projects or such
622 other emergency water pollution abatement projects as the
623 commission deems necessary.

624 (c) To defray the reasonable costs of administering the
625 emergency fund and conducting activities under this section,
626 subject to annual appropriation by the Legislature.

627 (4) The commission shall establish a system of evaluating
628 the eligibility of projects, including a determination of the
629 emergency nature of a situation for which funding is sought.

630 (5) The fund will be credited with all payments of principal
631 and interest derived from the fund uses described in subsection
632 (3) of this section. However, notwithstanding any other provision
633 of law to the contrary, all or any portion of payments of
634 principal and interest derived from the fund uses described in
635 subsection (3) of this section may be designated or pledged for
636 repayment of a loan as provided for in Section 31-25-28 in
637 connection with a loan from the Mississippi Development Bank.

638 (6) In addition to any amounts allowed under subsection
639 (3)(c), the commission may establish and collect fees to further
640 defray the reasonable costs of administering the emergency fund.
641 Any administrative fees may be included in loan amounts to
642 political subdivisions for the purpose of facilitating payment to
643 the commission; fees may not exceed five percent (5%) of the loan
644 amount. The commission may also use administrative fees collected
645 pursuant to Section 49-17-85 to defray the reasonable costs of
646 administering the emergency fund.

647 **SECTION 5.** This act shall take effect and be in force from
648 and after its passage.