

By: Representative Franks

To: Conservation and Water
Resources

HOUSE BILL NO. 1296

1 AN ACT TO CREATE THE RECYCLING ACT OF 2005; TO BRING FORWARD
2 SECTION 17-17-3, MISSISSIPPI CODE OF 1972, RELATING TO DEFINITIONS
3 OF SOLID WASTES DISPOSAL; TO BRING FORWARD SECTION 17-17-5,
4 MISSISSIPPI CODE OF 1972, RELATING TO THE RESPONSIBILITY OF LOCAL
5 GOVERNING BODIES IN THE DISPOSAL OF SOLID WASTES; TO BRING FORWARD
6 SECTION 17-17-33, MISSISSIPPI CODE OF 1972, RELATING TO THE
7 AUTHORIZATION TO PARTICIPATE IN REGIONAL SOLID WASTE DISPOSAL AND
8 RECOVERY SYSTEMS; TO BRING FORWARD SECTION 17-17-65, MISSISSIPPI
9 CODE OF 1972, RELATING TO THE LOCAL GOVERNMENTS SOLID WASTE
10 ASSISTANCE FUND; TO BRING FORWARD SECTION 17-17-101, MISSISSIPPI
11 CODE OF 1972, RELATING TO THE LEGISLATIVE INTENT OF SUCH FUND; TO
12 BRING FORWARD SECTION 17-17-103, MISSISSIPPI CODE OF 1972,
13 RELATING TO THE DEFINITIONS FOR SUCH FUND; TO BRING FORWARD
14 SECTION 17-17-107, MISSISSIPPI CODE OF 1972, RELATING TO THE
15 ISSUANCE OF REVENUE BONDS; TO BRING FORWARD SECTION 17-17-203,
16 MISSISSIPPI CODE OF 1972, RELATING TO THE INTENT FOR THE
17 NONHAZARDOUS SOLID WASTE PLANNING ACT; TO BRING FORWARD SECTION
18 17-17-205, MISSISSIPPI CODE OF 1972, RELATING TO DEFINITIONS; TO
19 BRING FORWARD SECTION 17-17-207, MISSISSIPPI CODE OF 1972,
20 RELATING TO THE IMPRINTING OF PLASTIC BOTTLES; TO BRING FORWARD
21 SECTION 17-17-209, MISSISSIPPI CODE OF 1972, RELATING TO THE
22 IMPOSITION OF DEPOSITS ON BOTTLES AND CONTAINERS; TO BRING FORWARD
23 SECTION 17-17-213, MISSISSIPPI CODE OF 1972, RELATING TO THE
24 AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO CREATE
25 RULES; TO BRING FORWARD SECTION 17-17-217, MISSISSIPPI CODE OF
26 1972, RELATING TO THE ENVIRONMENTAL PROTECTION TRUST FUND; TO
27 BRING FORWARD SECTION 17-17-219, MISSISSIPPI CODE OF 1972,
28 RELATING TO THE FILING BY OWNERS WHO MANAGE MUNICIPAL SOLID WASTE;
29 TO BRING FORWARD SECTION 17-17-221, MISSISSIPPI CODE OF 1972,
30 RELATING TO THE DEVELOPMENT AND ADMINISTRATION OF STATE
31 NONHAZARDOUS SOLID WASTE MANAGEMENT; TO BRING FORWARD SECTION
32 17-17-227, MISSISSIPPI CODE OF 1972, RELATING TO COUNTY ADOPTION
33 OF LOCAL NONHAZARDOUS WASTE; TO BRING FORWARD SECTION 17-17-231,
34 MISSISSIPPI CODE OF 1972, RELATING TO THE ADOPTION OF RULES AND
35 REGULATIONS GOVERNING MUNICIPAL SANITARY LANDFILLS; TO BRING
36 FORWARD SECTION 49-31-9, MISSISSIPPI CODE OF 1972, RELATING TO
37 DEFINITIONS OF THE MULTIMEDIA POLLUTION PREVENTION ACT; TO BRING
38 FORWARD SECTION 49-31-11, MISSISSIPPI CODE OF 1972, RELATING TO
39 THE RULES AND REGULATIONS OF SUCH ACT; TO BRING FORWARD SECTION
40 49-31-13, MISSISSIPPI CODE OF 1972, RELATING TO THE STATUS OF
41 POLLUTION ACTIVITIES; TO BRING FORWARD SECTION 49-31-15,
42 MISSISSIPPI CODE OF 1972, RELATING TO THE ESTABLISHMENT OF
43 RECYCLING PROGRAMS AND SOURCE REDUCTION PROGRAMS; TO AMEND SECTION
44 49-31-17, MISSISSIPPI CODE OF 1972, RELATING TO THE PROMOTION OF
45 THE RECYCLING INDUSTRY; TO BRING FORWARD SECTION 49-31-19,
46 MISSISSIPPI CODE OF 1972, RELATING TO THE DEVELOPMENT OF A WASTE
47 MINIMIZATION AWARENESS PROGRAM; TO BRING FORWARD SECTION 49-31-21,
48 MISSISSIPPI CODE OF 1972, RELATING TO GENERATORS OF HAZARDOUS
49 WASTE FILING REQUIREMENTS; TO BRING FORWARD SECTION 49-31-25,
50 MISSISSIPPI CODE OF 1972, RELATING TO THE POLLUTION PREVENTION
51 FEE; FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

53 **SECTION 1.** Section 17-17-3, Mississippi Code of 1972, is
54 brought forward as follows:

55 17-17-3. For purposes of this chapter, the following words
56 shall have the definitions ascribed herein unless the context
57 requires otherwise:

58 (a) "Agency" means any controlling agency, public or
59 private, elected, appointed or volunteer, controlling and
60 supervising the collection and/or disposal of solid wastes.

61 (b) "Ashes" means the solid residue from burning of
62 wood, coal, coke or other combustible materials used for heating,
63 or from incineration of solid wastes, but excepting solid residue
64 the storage or disposition of which is controlled by other
65 agencies.

66 (c) "Commercial hazardous waste management facility"
67 means any facility engaged in the storage, treatment, recovery or
68 disposal of hazardous waste for a fee and which accepts hazardous
69 waste from more than one (1) generator. A facility (i) which is
70 designed principally for treatment of aqueous hazardous wastes and
71 residue; and (ii) which is situated within an industrial park or
72 area; and (iii) which disposes of no hazardous waste within the
73 State of Mississippi shall not constitute a commercial hazardous
74 waste management facility for purposes of Section 17-17-151(3)(a)
75 only.

76 (d) "Commercial nonhazardous solid waste management
77 facility" means any facility engaged in the storage, treatment,
78 processing or disposal of nonhazardous solid waste for
79 compensation or which accepts nonhazardous solid waste from more
80 than one (1) generator not owned by the facility owner.

81 (e) "Commercial oil field exploration and production
82 waste disposal" means storage, treatment, recovery, processing,
83 disposal or acceptance of oil field exploration and production
84 waste from more than one (1) generator or for a fee.

85 (f) "Commercial purpose" means for the purpose of
86 economic gain.

87 (g) "Commission" means the Mississippi Commission on
88 Environmental Quality.

89 (h) "Composting or compost plant" means an officially
90 controlled method or operation whereby putrescible solid wastes
91 are broken down through microbic action to a material offering no
92 hazard or nuisance factors to public health or well-being.

93 (i) "Department" means the Mississippi Department of
94 Environmental Quality.

95 (j) "Disposal" means the discharge, deposit, injection,
96 dumping, spilling, leaking or placing of any solid waste or
97 hazardous waste into or on any land or water so that such solid
98 waste or hazardous waste or any constituent thereof may enter the
99 environment or be emitted into the air or discharged into any
100 waters, including groundwaters.

101 (k) "Executive director" means the Executive Director
102 of the Mississippi Department of Environmental Quality.

103 (l) "Garbage" means putrescible animal and vegetable
104 wastes resulting from the handling, preparation, cooking and
105 consumption of food, including wastes from markets, storage
106 facilities, handling and sale of produce and other food products,
107 and excepting such materials that may be serviced by garbage
108 grinders and handled as household sewage.

109 (m) "Hazardous wastes" means any waste or combination
110 of waste of a solid, liquid, contained gaseous, or semisolid form
111 which because of its quantity, concentration or physical, chemical
112 or infectious characteristics, may (i) cause, or significantly
113 contribute to an increase in mortality or an increase in serious
114 irreversible or incapacitating reversible illness; or (ii) pose a
115 substantial present or potential hazard to human health or the
116 environment when improperly treated, stored, transported, disposed
117 of, or otherwise managed which are listed by the Environmental

118 Protection Agency as hazardous wastes which exceed the threshold
119 limits set forth in the Environmental Protection Agency
120 regulations for classifying hazardous waste. Such wastes include,
121 but are not limited to, those wastes which are toxic, corrosive,
122 flammable, irritants, strong sensitizers, or which generate
123 pressure through decomposition, heat or other means. Such wastes
124 do not include those radioactive materials regulated pursuant to
125 the Mississippi Radiation Protection Law of 1976, appearing in
126 Section 45-14-1 et seq.

127 (n) "Hazardous waste management" means the systematic
128 control of the collection, source separation, storage,
129 transportation, processing, treatment, recovery and disposal of
130 hazardous waste.

131 (o) "Head" means the head of the Office of Pollution
132 Control of the Mississippi Department of Environmental Quality or
133 his designee.

134 (p) "Health department" means the Mississippi State
135 Health Department and every county or district health department.
136 "Health officer" means the state or affected county health officer
137 or his designee.

138 (q) "Manifest" means the form used for identifying the
139 quantity, composition, origin, routing and destination of
140 hazardous waste during its transport.

141 (r) "Office" means the Office of Pollution Control of
142 the Mississippi Department of Environmental Quality.

143 (s) "Open dump" means any officially recognized place,
144 land or building which serves as a final depository for solid
145 wastes, whether or not burned or buried, which does not meet the
146 minimum requirements for a sanitary landfill, except approved
147 incinerators, compost plants and salvage yards.

148 (t) "Permit board" means the permit board created by
149 Section 49-17-28.

150 (u) "Person" means any individual, trust, firm,
151 joint-stock company, public or private corporation (including a
152 government corporation), partnership, association, state, or any
153 agency or institution thereof, municipality, commission, political
154 subdivision of a state or any interstate body, and includes any
155 officer or governing or managing body of any municipality,
156 political subdivision, or the United States or any officer or
157 employee thereof.

158 (v) "Pollution Emergency Fund" means the fund created
159 under Section 49-17-68.

160 (w) "Rubbish" means nonputrescible solid wastes
161 (excluding ashes) consisting of both combustible and
162 noncombustible wastes. Combustible rubbish includes paper, rags,
163 cartons, wood, furniture, rubber, plastics, yard trimmings, leaves
164 and similar materials. Noncombustible rubbish includes glass,
165 crockery, metal cans, metal furniture and like materials which
166 will not burn at ordinary incinerator temperatures (not less than
167 1600 degrees F.).

168 (x) "Sanitary landfill" means a controlled area of land
169 upon which solid waste is deposited, and is compacted and covered
170 with no on-site burning of wastes, and so located, contoured,
171 drained and operated so that it will not cause an adverse effect
172 on public health or the environment.

173 (y) "Solid wastes" means any garbage, refuse, sludge
174 from a waste treatment plant, water supply treatment plant or air
175 pollution control facility and other discarded material, including
176 solid, liquid, semisolid or contained gaseous material resulting
177 from industrial, commercial, mining and agricultural operations,
178 and from community activities, but does not include solid or
179 dissolved material in domestic sewage, or solid or dissolved
180 materials in irrigation return flows or industrial discharges
181 which are point sources subject to permits under Section 402 of
182 the Federal Water Pollution Control Act, as amended (86 Stat.

183 880), or source, special nuclear or by-product material as defined
184 by the Atomic Energy Act of 1954.

185 (z) "Storage" means the containment of wastes, either
186 on a temporary basis or for a period of years, except as provided
187 in 40 C.F.R. 263.12, in such a manner as not to constitute
188 disposal of such wastes.

189 (aa) "Transport" means the movement of wastes from the
190 point of generation to any intermediate points, and finally to the
191 point of ultimate storage or disposal.

192 (bb) "Treatment" means any method, technique or
193 process, including neutralization, designed to change the
194 physical, chemical or biological character or composition of any
195 solid waste in order to neutralize such character or composition
196 of any solid waste, neutralize such waste or render such waste,
197 safer for transport, amenable for recovery, amenable for storage
198 or reduced in volume.

199 (cc) "Treatment facility" means a location at which
200 waste is subjected to treatment and may include a facility where
201 waste has been generated.

202 (dd) "Unauthorized dump" means any collection of solid
203 wastes either dumped or caused to be dumped or placed on any
204 property either public or private, whether or not regularly used.
205 An abandoned automobile, large appliance, or similar large item of
206 solid waste shall be considered as forming an unauthorized dump
207 within the meaning of this chapter, but not the careless,
208 scattered littering of smaller individual items as tires, bottles,
209 cans and the like. An unauthorized dump shall also mean any solid
210 waste disposal site which does not meet the regulatory provisions
211 of this chapter.

212 **SECTION 2.** Section 17-17-5, Mississippi Code of 1972, is
213 brought forward as follows:

214 17-17-5. (1) After December 31, 1992, the board of
215 supervisors and/or municipal governing body shall provide for the

216 collection and disposal of garbage and the disposal of rubbish.
217 The board of supervisors and/or municipal governing body may
218 provide such collection or disposal services by contract with
219 private or other controlling agencies, and the service may include
220 house-to-house service or the placement of regularly serviced and
221 controlled bulk refuse receptacles within reasonable distance from
222 the farthest affected household, and the wastes disposed of in a
223 manner acceptable to the department and within the meaning of this
224 chapter. The board of supervisors and/or municipal governing body
225 shall have the power to and are hereby authorized to enter into
226 contracts related in any manner to the collection and
227 transportation of solid wastes for a term of up to six (6) years
228 and to enter into contracts related in any manner to the
229 generation and sale of energy generated from solid waste, and
230 contracts for treatment, processing, distribution, recycling,
231 elimination or disposal of solid wastes for a term of up to thirty
232 (30) years. The municipal governing body of any municipality is
233 authorized to regulate the disposal of garbage and rubbish in
234 sanitary landfills, as provided in Section 21-19-1, Mississippi
235 Code of 1972.

236 (2) In the event an unincorporated area which is annexed by
237 a municipality is being provided collection and disposal of
238 garbage and rubbish under contract with private or other
239 controlling agencies, the municipality shall annex the area
240 subject to the contract for the remainder of the term of the
241 contract, but not to exceed five (5) years.

242 **SECTION 3.** Section 17-17-33, Mississippi Code of 1972, is
243 brought forward as follows:

244 17-17-33. Counties, municipal and private companies are
245 hereby authorized to participate in applicable approved regional
246 solid waste disposal and recovery systems.

247 **SECTION 4.** Section 17-17-65, Mississippi Code of 1972, is
248 brought forward as follows:

249 17-17-65. (1) There is created in the State Treasury a fund
250 designated as the Local Governments Solid Waste Assistance Fund,
251 referred to in this section as "fund," to be administered by the
252 executive director of the department.

253 (2) The fund shall be used to provide grants to counties,
254 municipalities, regional solid waste management authorities or
255 multicounty entities as provided in subsection (5) of this section
256 for one or more of the following purposes:

257 (a) Cleanup of existing and future unauthorized dumps
258 on public or private property, subject to the limitation in
259 subsection (4) of this section;

260 (b) Establishment of a collection center or program for
261 white goods, recyclables or other bulky rubbish waste not managed
262 by local residential solid waste collection programs;

263 (c) Provision of public notice and education related to
264 the proper management of solid waste, including recycling;

265 (d) Payment of a maximum of fifty percent (50%) of the
266 cost of employing a local solid waste enforcement officer;

267 (e) Distribution and use as grants to regional solid
268 waste management authorities, counties and municipalities for
269 implementation of household hazardous waste collection programs,
270 in accordance with Sections 17-17-439 through 17-17-445. The
271 grants shall not exceed seventy-five percent (75%) of eligible
272 project costs as established by the commission; and

273 (f) Development of other local solid waste management
274 program activities associated with the prevention, enforcement or
275 abatement of unauthorized dumps, as approved by the commission.

276 (3) The commission shall earmark ten percent (10%) of the
277 amount deposited in the fund annually to be used to make grants to
278 counties, municipalities, regional solid waste management
279 authorities or multicounty entities to assist in defraying the
280 cost of preparing solid waste management plans required by Section
281 17-17-227. The commission shall award these grants according to

282 the merit of grant proposals received by the commission and the
283 level of need and timeliness of the requirement for the county or
284 regional solid waste management authority to update its solid
285 waste management plan.

286 (4) If a person is found to be responsible for creating an
287 unauthorized dump, the grantee shall make a reasonable effort to
288 require that person to clean up the property before expending any
289 monies from the fund to clean up the property. If the grantee is
290 unable to locate the person responsible for creating the dump, or
291 if the grantee determines that person is financially or otherwise
292 incapable of cleaning up the property, the grantee may use the
293 monies from the fund to clean up the property and shall make a
294 reasonable effort to recover from the responsible person any funds
295 expended.

296 (5) (a) Of monies annually deposited in the fund and any
297 balance remaining in the fund, the commission shall annually
298 allocate monies as follows:

299 (i) One-half (1/2) of the deposited funds and
300 remaining balance shall be allocated to each county based on the
301 percentage of state aid road mileage as established by the
302 Mississippi Department of Transportation State Aid road formula.

303 (ii) One-half (1/2) of the deposited funds and
304 remaining balance shall be made available to counties or
305 municipalities for grants on a competitive basis.

306 (b) The department shall notify the president of the
307 board of supervisors of each county in writing of the amount
308 allocated under paragraph (a)(i) of this subsection and that
309 additional funds are available on a competitive basis as provided
310 under paragraph (a)(ii) of this subsection.

311 (c) Upon receipt of a scope of work and cost proposal
312 acceptable to the commission, the commission shall award a grant
313 to a county up to the allocated amount for that county under
314 paragraph (a)(i) of this subsection. The commission may award

315 additional grant funds from monies available under paragraph
316 (a)(ii) of this subsection based upon the acceptable scope of work
317 and cost proposal.

318 (d) The commission may award grants to a regional solid
319 waste management authority or other multicounty entity upon
320 submission of a consolidated scope of work and cost proposal
321 acceptable to the commission and authorized by the member
322 counties. Upon submission of a scope of work and cost proposal,
323 the commission may award grants to municipalities from monies
324 available under paragraph (a)(ii) of this subsection.

325 (e) No grantee shall use more than three percent (3%)
326 of funds provided under this section to defray the costs of
327 administration of the grant.

328 (6) The department may use up to three percent (3%) of
329 monies annually deposited in the fund and of any balance remaining
330 in the fund to provide for the administration of this section.

331 (7) Expenditures may be made from the fund upon requisition
332 by the executive director of the department.

333 (8) The fund shall be treated as a special trust fund.
334 Interest earned on the principal in the fund shall be credited by
335 the department to the fund.

336 (9) The fund may receive monies from any available public or
337 private source, including, but not limited to, collection of fees,
338 interest, grants, taxes, public and private donations, judicial
339 actions and appropriated funds.

340 (10) Monies in the fund at the end of the fiscal year shall
341 be retained in the fund for use in the succeeding fiscal year.

342 (11) The commission may consolidate any grant provided under
343 this section with any grant provided under the waste tire
344 management program or the right-way-to-throw-away program. Funds
345 provided through any consolidated grant shall be used in
346 accordance with the program under which the funds are provided.

347 (12) Funds provided under this section shall not be used to
348 pay any costs of the establishment or operation of a landfill,
349 rubbish disposal site or other type of solid waste disposal
350 facility, for the routine collection of garbage or to collect any
351 fees assessed under Section 19-5-21 or 21-19-2.

352 (13) The commission shall not provide any funds under this
353 section to any grantee with an inadequate garbage or rubbish
354 collection or disposal system as required under Section 19-5-17 or
355 21-19-1.

356 **SECTION 5.** Section 17-17-101, Mississippi Code of 1972, is
357 brought forward as follows:

358 17-17-101. It is the intent of the Legislature by the
359 passage of Sections 17-17-101 through 17-17-135 to authorize
360 municipalities to acquire, own and lease a project for the purpose
361 of promoting the construction and installation of projects for the
362 collection, treatment, processing, reprocessing, generation,
363 distribution, recycling, elimination, or disposal of solid and
364 hazardous waste products, as hereinafter defined, by inducing
365 manufacturing and industrial enterprises, qualified persons,
366 firms, or corporations to locate and construct said projects in
367 this state. It is intended that each project be self-liquidating.
368 Sections 17-17-101 through 17-17-135 shall be construed to conform
369 with its intent. The powers hereby conferred upon the
370 municipalities shall be exercised only after such municipality has
371 obtained a certificate of public convenience and necessity from
372 the Mississippi Board of Economic Development as provided in
373 Sections 57-1-19, 57-1-21, 57-1-23 and 57-1-27; provided, however,
374 that if a project is constructed solely with revenue bonds the
375 board shall not be required to adjudicate that there are adequate
376 property values and suitable financial conditions so that the
377 total bonded indebtedness of the municipality, solely for the
378 purposes authorized by Sections 17-17-101 through 17-17-135, shall

379 not exceed twenty percent (20%) of the total assessed valuation of
380 the property in the municipality.

381 **SECTION 6.** Section 17-17-103, Mississippi Code of 1972, is
382 brought forward as follows:

383 17-17-103. Unless the context clearly requires otherwise,
384 the definitions which follow govern the construction and meaning
385 of the terms used in Sections 17-17-101 through 17-17-135:

386 (a) "Bonds" shall include notes, bonds and other
387 written obligations authorized to be issued under Sections
388 17-17-101 through 17-17-135.

389 (b) "Governing board" shall mean the governing bodies
390 of the several counties and incorporated municipalities of the
391 state as now or hereafter constituted, acting jointly or
392 severally, and in the event that a project is located in more than
393 one (1) county, the term "governing board" shall also refer to the
394 governing bodies of the several counties wherein such project is
395 located.

396 (c) "Municipality" shall mean one or more counties or
397 incorporated municipalities of this state, or any combination
398 thereof, acting jointly or severally.

399 (d) "Project" shall mean any real, personal or mixed
400 property of any and every kind that can be used or that will be
401 useful in controlling, collecting, storing, removing, handling,
402 reducing, disposing of, treating and otherwise concerning solid or
403 hazardous waste, including without limitation, property that can
404 be used or that will be useful in extracting and converting waste
405 to energy, encompassing the acquisition, handling, storage, and
406 utilization of coal, lignite or any other fuel or water that can
407 be used or that will be useful in converting waste to energy, and
408 distributing such energy to users thereof, or otherwise separating
409 and preparing waste for reuse.

410 (e) "Solid wastes" shall mean any garbage, refuse,
411 sludge from a waste treatment plant, water supply treatment plant

412 or air pollution control facility and other discarded material,
413 including solid, liquid, semisolid or contained gaseous material
414 resulting from industrial, commercial, mining and agricultural
415 operations, and from community activities, but does not include
416 solid or dissolved material in domestic sewage, or solid or
417 dissolved materials in irrigation return flows or industrial
418 discharges which are point sources subject to permits under
419 Section 402 of the Federal Water Pollution Control Act, as amended
420 (86 Stat. 880), or source, special nuclear or by-product material
421 as defined by the Atomic Energy Act of 1954.

422 (f) "Hazardous wastes" shall mean any waste or
423 combination of waste of a solid, liquid, contained gaseous, or
424 semisolid form which because of its quantity, concentration or
425 physical, chemical or infectious characteristics, may (i) cause,
426 or significantly contribute to an increase in mortality or an
427 increase in serious irreversible or incapacitating reversible
428 illness; or (ii) pose a substantial present or potential hazard to
429 human health or the environment when improperly treated, stored,
430 transported, disposed of, or otherwise managed which are listed by
431 the Environmental Protection Agency as hazardous wastes which
432 exceed the threshold limits set forth in the Environmental
433 Protection Agency regulations for classifying hazardous waste.
434 Such wastes include, but are not limited to, those wastes which
435 are toxic, corrosive, flammable, irritants, strong sensitizers, or
436 which generate pressure through decomposition, heat or other
437 means. Such wastes do not include those radioactive materials
438 regulated pursuant to the Mississippi Radiation Protection Law of
439 1976, appearing in Section 45-14-1 et seq.

440 (g) "Industry" shall mean any person, firm or
441 corporation operating any enterprise or facility for the
442 collection, treatment, processing, reprocessing, generation,
443 distributing, recycling, elimination or disposal of any type of
444 waste product from which operation conditions result in or pose a

445 substantial present, future or potential hazard to human health or
446 the environment when improperly treated, stored, transported or
447 disposed of or otherwise managed.

448 (h) "Authority" shall mean the Mississippi Department of
449 Natural Resources.

450 (i) "Lease/sale" shall mean any agreement without
451 limitation whereby a municipality may lease and/or convey title of
452 a project to an industry, made by and between the governing board
453 and such industry by which such industry agrees to pay to (and to
454 secure if so required) the municipality, or to any assignee
455 thereof, as the case may be, the sums required to meet the payment
456 of the principal, interest and redemption premium, if any, on any
457 bonds, and/or the expenses, if any, of operation by such
458 municipality or county.

459 (j) "Board" shall mean the Mississippi Board of
460 Economic Development.

461 **SECTION 7.** Section 17-17-107, Mississippi Code of 1972, is
462 brought forward as follows:

463 17-17-107. Before issuing any revenue bonds hereunder, the
464 governing body of any municipality shall adopt a resolution
465 declaring its intention to so issue, stating the amount of bonds
466 proposed to be issued, the purpose for which the bonds are to be
467 issued, and the date upon which the governing body proposes to
468 direct the issuance of such bonds. Such resolution shall be
469 published once a week for at least three (3) consecutive weeks in
470 at least one (1) newspaper published in the county in which such
471 municipality is located. The first publication of such resolution
472 shall be made not less than twenty-one (21) days prior to the date
473 fixed in such resolution for the issuance of the bonds and the
474 last publication shall be made not more than seven (7) days prior
475 to such date. If no newspaper be published in such county, then
476 such notice shall be given by publishing the resolution for the
477 required time in some newspaper having a general circulation in

478 such county, and, in addition, by posting a copy of such
479 resolution for at least twenty-one (21) days next preceding the
480 date fixed therein at three (3) public places in such county. If
481 twenty percent (20%) or fifteen hundred (1500), whichever is less,
482 of the qualified electors of the municipality shall file a written
483 protest against the issuance of such bonds on or before the date
484 specified in such resolution, then an election on the question of
485 the issuance of such bonds shall be called and held as herein
486 provided. If no such protest be filed, then such bonds may be
487 issued without an election at any time within a period of two (2)
488 years after the date specified in the above-mentioned resolution.
489 However, the governing body of such municipality, in its
490 discretion, may nevertheless call an election on the question of
491 the issuance of the bonds, in which event it shall not be
492 necessary to publish the resolution declaring its intention to
493 issue bonds as herein provided.

494 **SECTION 8.** Section 17-17-203, Mississippi Code of 1972, is
495 brought forward as follows:

496 17-17-203. (1) The Legislature finds that:

497 (a) Over one million five hundred thousand (1,500,000)
498 tons of municipal solid waste are generated in Mississippi each
499 year of which an estimated fifty thousand (50,000) tons is not
500 even collected for disposal;

501 (b) On the average, each Mississippian currently
502 discards approximately four (4) pounds of municipal solid waste
503 each day;

504 (c) There are currently ninety-eight (98) commercial
505 nonhazardous solid waste management facilities in this state;

506 (d) Most of the permitted sanitary landfill capacity
507 will be used within the next ten (10) years;

508 (e) Monthly household collection fees have increased
509 approximately fifteen percent (15%) in the last year. The costs
510 of nonhazardous solid waste management will increase significantly

511 due to decreased landfill capacity and more stringent federal
512 requirements for nonhazardous solid waste management facilities.
513 More stringent federal requirements may force an estimated eighty
514 percent (80%) of the existing permitted facilities to close;

515 (f) Mississippians are spending approximate Fifty-five
516 Million Dollars (\$55,000,000.00) on nonhazardous solid waste
517 management;

518 (g) Inefficient and improper methods of managing
519 nonhazardous solid waste create hazards to the public health,
520 cause pollution of air and water resources, constitute a waste of
521 natural resources, have an adverse effect on land values and
522 create public nuisances;

523 (h) Problems of nonhazardous solid waste management
524 have become a matter statewide in scope and necessitate state
525 action to assist local governments in identifying, financing, and
526 improving methods and processes for more efficient management and
527 collection of nonhazardous solid waste; and

528 (i) The economic and population growth of our state and
529 improvements in the standard of living enjoyed by our population
530 have resulted in a rising tide of unwanted and discarded
531 materials.

532 (2) It is the intent of the Legislature that the provisions
533 of Sections 17-17-201 through 17-17-235 shall:

534 (a) In order to protect the public health, safety and
535 well-being of its citizens and to protect and enhance the quality
536 of its environment, institute and maintain a comprehensive program
537 for state and local solid waste management planning which will
538 assure that solid waste management facilities to meet the needs of
539 the state and its localities, whether publicly or privately
540 operated, are planned, developed and constructed in a timely
541 manner;

542 (b) Reaffirm the state's policy of minimizing the
543 amount of nonhazardous solid waste being generated and managed at

544 facilities in the state and the commitment to reach the state's
545 goal of reducing and minimizing waste generated in Mississippi by
546 a minimum of twenty-five percent (25%) by January 1, 1996;

547 (c) Provide that a county shall have the power and its
548 duty shall be to ensure the availability of adequate permitted
549 management capacity for the nonhazardous solid waste which is
550 generated within its boundaries;

551 (d) Establish that a municipality shall have the power
552 and its duty shall be to assure the proper and adequate
553 collection, transportation and storage of the nonhazardous solid
554 waste generated or present within the area served by such
555 municipality and in cooperation with the county, to assure
556 adequate capacity for the processing and disposal of nonhazardous
557 solid waste generated or present within the area served by such
558 municipality; and

559 (e) Reaffirm that the state shall have the power and
560 its duty shall be to regulate the management of nonhazardous solid
561 waste and ensure that all nonhazardous solid waste management
562 planning results in strategies for environmentally sound
563 nonhazardous solid waste management systems.

564 (3) It is further the intent of the Legislature that, in
565 light of the impending issuance of the Final Subtitle D
566 regulations, the existing laws and regulations with regard to
567 permitted sanitary landfills should be consistently enforced.

568 **SECTION 9.** Section 17-17-205, Mississippi Code of 1972, is
569 brought forward as follows:

570 17-17-205. (a) "Closure" means the ceasing operation of a
571 sanitary landfill and securing the landfill so that it does not
572 pose a significant threat to public health or the environment and
573 includes long-term monitoring and maintenance of the landfill.

574 (b) "Label" means a molded, imprinted or raised symbol on or
575 near the bottom of a plastic container or bottle.

576 (c) "Local government" means a county or a municipality
577 within the State of Mississippi.

578 (d) "Municipal solid waste" means any nonhazardous solid
579 waste resulting from the operation of residential, commercial,
580 governmental, industrial or institutional establishments except
581 oil field exploration and production wastes and sewage sludge.

582 (e) "Owner" or "operator" means any person, corporation,
583 county, municipality or group of counties or municipalities acting
584 jointly operating a sanitary landfill or having any interest in
585 the land whereon a sanitary landfill is or has been located.

586 (f) "Plastic" means any material made of polymeric organic
587 compounds and additives that can be shaped by flow.

588 (g) "Plastic bottle" means a plastic container intended for
589 single use that:

- 590 (i) Has a neck smaller than the body of the container;
- 591 (ii) Is designed for a screw-top, snap cap or other
592 closure; and
- 593 (iii) Has a capacity of not less than sixteen (16)
594 fluid ounces or more than five (5) gallons.

595 (h) "Rigid plastic container" means any formed or molded
596 container intended for single use, composed predominately of
597 plastic resin, that has a relatively inflexible finite shape or
598 form with a capacity of not less than eight (8) ounces or more
599 than five (5) gallons. This term does not include a plastic
600 bottle.

601 **SECTION 10.** Section 17-17-207, Mississippi Code of 1972, is
602 brought forward as follows:

603 17-17-207. (1) This section and any rules or regulations
604 adopted hereunder shall be interpreted to conform with nationwide
605 plastics industry standards.

606 (2) A person may not manufacture or distribute a plastic
607 bottle or rigid plastic container unless the appropriate symbol
608 indicating the plastic resin used to produce the bottle or

609 container is molded into or imprinted on the bottom or near the
610 bottom of the bottle or container. A plastic bottle or rigid
611 container with a base cup or other component of a material
612 different from the basic material used in making the bottle or
613 container shall bear the symbol indicating its basic material.

614 (3) The symbols used under this section must consist of a
615 number placed within a triangle of arrows and of letters placed
616 below the triangle of arrows. The triangle must be equilateral,
617 formed by three (3) arrows with the apex of each point of the
618 triangle at the midpoint of each arrow, rounded with a short
619 radius. The arrowhead of each arrow must be at the midpoint of
620 each side of the triangle with a short gap separating the
621 arrowhead from the base of the adjacent arrow. The triangle
622 formed by the arrows must depict a clockwise path around the
623 number.

624 (4) The numbers, letters of the symbols and the plastic
625 resins represented by the symbols are:

626 (a) 1 and PETE, representing polyethylene
627 terephthalate;

628 (b) 2 and HDPE, representing high density polyethylene;

629 (c) 3 and V, representing vinyl;

630 (d) 4 and LDPE, representing low density polyethylene;

631 (e) 5 and PP, representing polypropylene;

632 (f) 6 and PS, representing polystyrene;

633 (g) 7 and OTHER, representing all other resins,

634 including layered plastics of a combination of materials.

635 (5) The department shall:

636 (a) Maintain a list of the symbols; and

637 (b) Provide a copy of that list to any person on
638 request.

639 **SECTION 11.** Section 17-17-209, Mississippi Code of 1972, is
640 brought forward as follows:

641 17-17-209. Sections 17-17-201 through 17-17-235 shall not be
642 construed to allow any municipality, county or other political
643 subdivision to impose a ban, deposit or tax on plastic containers
644 and bottles.

645 **SECTION 12.** Section 17-17-213, Mississippi Code of 1972, is
646 brought forward as follows:

647 17-17-213. (1) Not later than October 1, 1991, the
648 Commission on Environmental Quality shall promulgate rules and
649 regulations establishing standards for the production of compost.
650 The commission may modify, repeal, make exceptions to and grant
651 exceptions and variances from such rules and regulations. Such
652 rules and regulations shall include, but not be limited to, the
653 following:

654 (a) Requirements necessary to produce hygienically safe
655 compost products for varying applications.

656 (b) A classification scheme for compost based on the
657 types of waste composted, including at least one (1) type
658 containing only yard trash; the maturity of the compost, including
659 at least three (3) degrees of decomposition for fresh, semimature
660 and mature; and the levels of organic and inorganic constituents
661 in the compost. This scheme shall address:

662 (i) Methods for measurement of the compost
663 maturity;

664 (ii) Particle sizes;

665 (iii) Moisture content; and

666 (iv) Average levels of organic and inorganic
667 constituents, including heavy metals, for such classes of compost
668 as the Commission on Environmental Quality establishes, and the
669 analytical methods to determine those levels.

670 (2) Not later than January 1, 1992, the Commission on
671 Environmental Quality shall promulgate rules and regulations
672 prescribing the allowable uses and application rates of compost
673 based, at a minimum, on the following criteria:

674 (a) The total quantity of organic and inorganic
675 constituents, including heavy metals, allowed to be applied
676 through the addition of compost to the soil per acre per year.

677 (b) The allowable uses of compost based on maturity and
678 type of compost.

679 **SECTION 13.** Section 17-17-217, Mississippi Code of 1972, is
680 brought forward as follows:

681 17-17-217. (1) There is created in the State Treasury a
682 fund designated as the Environmental Protection Trust Fund, to be
683 administered by the executive director of the department.

684 (2) The Commission on Environmental Quality shall promulgate
685 rules and regulations for the administration of the fund and for a
686 system of priorities for any related projects or programs eligible
687 for funding from the fund.

688 (3) The commission may utilize any funds in the
689 Environmental Protection Fund for defraying the costs of the
690 Department of Environmental Quality for administering the
691 nonhazardous waste program, including the development of the state
692 nonhazardous solid waste management plan as authorized by law.
693 The commission may also use the fund to accomplish the purposes of
694 the multimedia pollution prevention program created under Section
695 49-31-11.

696 (4) Expenditures may be made from the fund upon requisition
697 by the executive director of the department.

698 (5) The fund shall be treated as a special trust fund.
699 Interest earned on the principal in the fund shall be credited by
700 the department to the fund.

701 (6) The fund may receive monies from any available public or
702 private source, including, but not limited to, collection of fees,
703 interest, grants, taxes, public and private donations, petroleum
704 violation escrow funds or refunds, and appropriated funds.

705 **SECTION 14.** Section 17-17-219, Mississippi Code of 1972, is
706 brought forward as follows:

707 17-17-219. (1) Before July 15 of each year the operator of
708 a commercial nonhazardous solid waste management facility managing
709 municipal solid waste shall file with the State Tax Commission and
710 the department a statement, verified by oath, showing the total
711 amounts of nonhazardous solid waste managed at the facility during
712 the preceding calendar year, and shall at the same time pay to the
713 State Tax Commission One Dollar (\$1.00) per ton of municipal solid
714 waste generated and managed in the state by landfilling or
715 incineration, including waste-to-energy management. The fee shall
716 not be levied upon rubbish which is collected and disposed
717 separately from residential or household waste and which is not
718 managed for compensation. For ash and sludges which contain a
719 significant amount of water, the fee may be calculated on a dry
720 ton basis.

721 (2) (a) Before July 15 of each year, the operator of a
722 commercial nonhazardous solid waste management facility managing
723 municipal solid waste shall file with the State Tax Commission and
724 the department a statement, verified by oath, showing the total
725 amounts of solid waste received from out of state and managed at
726 the facility during the preceding calendar year.

727 (b) Before July 15 of each year, the operator of a
728 commercial nonhazardous solid waste management facility managing
729 municipal solid waste located in this state shall pay to the State
730 Tax Commission an amount equal to the greater of the per-ton fee
731 imposed on the management of out-of-state nonhazardous solid waste
732 by the state from which the nonhazardous solid waste originated or
733 the per-ton fee, if any, imposed on the management of nonhazardous
734 solid waste by this state. The sum shall be based on the total
735 amounts of nonhazardous solid waste managed at the facility during
736 the preceding calendar year and shall be paid to the State Tax
737 Commission at the same time that reports are filed under
738 subsection (2)(a) of this section.

739 (3) Except as provided in subsection (6) of this section,
740 all monies received by the State Tax Commission as provided in
741 this chapter shall be allocated as follows:

742 (a) Fifty percent (50%) shall be remitted to the
743 Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund;
744 and

745 (b) Fifty percent (50%) shall be remitted to the
746 Environmental Protection Trust Fund.

747 (4) All administrative provisions of the Mississippi Sales
748 Tax Law, including those which fix damages, penalties and interest
749 for nonpayment of taxes and for noncompliance with the provisions
750 of such chapter, and all other duties and requirements imposed
751 upon taxpayers, shall apply to all persons liable for fees under
752 the provisions of this chapter, and the Tax Commissioner shall
753 exercise all the power and authority and perform all the duties
754 with respect to taxpayers under this chapter as are provided in
755 the Mississippi Sales Tax Law except where there is a conflict,
756 then the provisions of this chapter shall control.

757 (5) (a) The operator of a commercial nonhazardous solid
758 waste management facility managing municipal solid waste shall
759 keep an accurate written daily record of deliveries of solid waste
760 to the facility as required by the department, including, but not
761 limited to, the name of the hauler, the source of the waste, the
762 types of waste received and the weight of solid waste measured in
763 tons received at the facility. A copy of these records shall be
764 maintained at the site by the operator and shall be made available
765 to the department for inspection upon request.

766 (b) The operator shall file with the department
767 annually, on such forms as the department may prescribe, a report
768 providing aggregate information on the types, amounts and sources
769 of waste received at the facility during the preceding calendar
770 year. The State Tax Commission and the department shall share
771 information provided under this section.

772 (6) When the unobligated balance in the Mississippi
773 Nonhazardous Solid Waste Corrective Action Trust Fund reaches or
774 exceeds Three Million Five Hundred Thousand Dollars
775 (\$3,500,000.00), the department shall pay funds allocated under
776 Section 17-17-219(3)(a) to the Local Governments Solid Waste
777 Assistance Fund created under Section 17-17-65 on the next
778 scheduled payment date. After July 1, 2000, the department may
779 transfer any unobligated balance in the Mississippi Nonhazardous
780 Solid Waste Corrective Action Trust Fund exceeding Three Million
781 Five Hundred Thousand Dollars (\$3,500,000.00) to the Local
782 Governments Solid Waste Assistance Fund. When the unobligated
783 balance is reduced below Two Million Dollars (\$2,000,000.00), the
784 department shall reduce payments to the Local Governments Solid
785 Waste Assistance Fund to two-thirds (2/3) of the funds allocated
786 under Section 17-17-219(3)(a) and shall pay the remaining
787 one-third (1/3) of the funds allocated under Section
788 17-17-219(3)(a) to the Mississippi Nonhazardous Solid Waste
789 Corrective Action Trust Fund until the time as that fund balance
790 reaches or exceeds Three Million Five Hundred Thousand Dollars
791 (\$3,500,000.00).

792 **SECTION 15.** Section 17-17-221, Mississippi Code of 1972, is
793 brought forward as follows:

794 17-17-221. (1) The department may develop a state
795 nonhazardous solid waste management plan. The state nonhazardous
796 solid waste management plan shall utilize the information,
797 conclusions and recommendations of the approved local nonhazardous
798 solid waste management plans.

799 (2) If developed, the state nonhazardous solid waste
800 management plan shall include, at a minimum, the following:

801 (a) An identification and analysis of the amounts and
802 types of municipal solid waste from all sources which is generated
803 in the state or transported into the state for management;

804 (b) An inventory and evaluation of all existing and
805 planned municipal solid waste management facilities, including
806 their permit status and the remaining capacity of existing
807 facilities;

808 (c) An inventory of open and unauthorized dumps and a
809 strategy for closing such sites;

810 (d) A strategy for achieving the twenty-five percent
811 (25%) waste reduction goal through source reduction, recycling or
812 other waste reduction technologies;

813 (e) A projection, using acceptable averaging methods,
814 of municipal solid waste generated annually by each county over
815 the next twenty (20) years and an evaluation of the adequacy of
816 existing capacity to handle the anticipated projected volume and
817 composition of waste;

818 (f) Information, conclusions and recommendations in
819 local nonhazardous solid waste management plans for future
820 facilities;

821 (g) A description of public education and information
822 programs on the management of municipal solid waste; and

823 (h) A determination of the adequacy of programs for the
824 management of yard wastes, tires, lead acid batteries, household
825 hazardous wastes and white goods.

826 (3) The department shall update the plan as needed.

827 **SECTION 16.** Section 17-17-227, Mississippi Code of 1972, is
828 brought forward as follows:

829 17-17-227. (1) Each county, in cooperation with
830 municipalities within the county, shall prepare, adopt and submit
831 to the commission for review and approval a local nonhazardous
832 solid waste management plan for the county. Each local
833 nonhazardous solid waste management plan shall include, at a
834 minimum, the following:

835 (a) An inventory of the sources, composition and
836 quantities by weight or volume of municipal solid waste annually

837 generated within the county, and the source, composition and
838 quantity by weight or volume of municipal solid waste currently
839 transported into the county for management;

840 (b) An inventory of all existing facilities where
841 municipal solid waste is currently being managed, including the
842 environmental suitability and operational history of each
843 facility, and the remaining available permitted capacity for each
844 facility;

845 (c) An inventory of existing solid waste collection
846 systems and transfer stations within the county. The inventory
847 shall identify the entities engaging in municipal solid waste
848 collection within the county;

849 (d) A strategy for achieving a twenty-five percent
850 (25%) waste reduction goal through source reduction, recycling or
851 other waste reduction technologies;

852 (e) A projection, using acceptable averaging methods,
853 of municipal solid waste generated within the boundaries of the
854 county over the next twenty (20) years;

855 (f) An identification of the additional municipal solid
856 waste management facilities, including an evaluation of
857 alternative management technologies, and the amount of additional
858 capacity needed to manage the quantities projected in paragraph
859 (e);

860 (g) An estimation of development, construction,
861 operational, closure and post-closure costs, including a proposed
862 method for financing those costs;

863 (h) A plan for meeting any projected capacity
864 shortfall, including a schedule and methodology for attaining the
865 required capacity; and

866 (i) Any other information the commission may require.

867 (2) Each local nonhazardous solid waste management plan may
868 include:

869 (a) The preferred site or alternative sites for the
870 construction of any additional municipal solid waste management
871 facilities needed to properly manage the quantities of municipal
872 solid waste projected for the service areas covered by the plan,
873 including the factors which provided the basis for identifying the
874 preferred or alternative sites; and

875 (b) The method of implementation of the plan with
876 regard to the person who will apply for and acquire the permit for
877 any planned additional facilities and the person who will own or
878 operate any of the facilities.

879 (3) Each municipality shall cooperate with the county in
880 planning for the management of municipal solid waste generated
881 within its boundaries or the area served by that municipality.
882 The governing authority of any municipality which does not desire
883 to be included in the local nonhazardous solid waste management
884 plan shall adopt a resolution stating its intent not to be
885 included in the county plan. The resolution shall be provided to
886 the board of supervisors and the commission. Any municipality
887 resolving not to be included in a county waste plan shall prepare
888 a local nonhazardous solid waste management plan in accordance
889 with this section.

890 (4) The board of supervisors of any county may enter into
891 interlocal agreements with one or more counties as provided by law
892 to form a regional solid waste management authority or other
893 district to provide for the management of municipal solid waste
894 for all participating counties. For purposes of Section 17-17-221
895 through Section 17-17-227, a local nonhazardous solid waste
896 management plan prepared, adopted, submitted and implemented by
897 the regional solid waste management authority or other district is
898 sufficient to satisfy the planning requirements for the counties
899 and municipalities within the boundaries of the authority or
900 district.

901 (5) (a) Upon completion of its local nonhazardous solid
902 waste management plan, the board of supervisors of the county
903 shall publish in at least one (1) newspaper as defined in Section
904 13-3-31, having general circulation within the county a public
905 notice that describes the plan, specifies the location where it is
906 available for review, and establishes a period of thirty (30) days
907 for comments concerning the plan and a mechanism for submitting
908 those comments. The board of supervisors shall also notify the
909 board of supervisors of adjacent counties of the plan and shall
910 make it available for review by the board of supervisors of each
911 adjacent county. During the comment period, the board of
912 supervisors of the county shall conduct at least one (1) public
913 hearing concerning the plan. The board of supervisors of the
914 county shall publish twice in at least one (1) newspaper as
915 defined in Section 13-3-31, having general circulation within the
916 county, a notice conspicuously displayed containing the time and
917 place of the hearing and the location where the plan is available
918 for review.

919 (b) After the public hearing, the board of supervisors
920 of the county may modify the plan based upon the public's
921 comments. Within ninety (90) days after the public hearing, each
922 board of supervisors shall approve a local nonhazardous solid
923 waste management plan by resolution.

924 (c) A regional solid waste management authority or
925 other district shall declare the plan to be approved as the
926 authority's or district's solid waste management plan upon written
927 notification, including a copy of the resolution, that the board
928 of supervisors of each county forming the authority or district
929 has approved the plan.

930 (6) Upon ratification of the plan, the governing body of the
931 county, authority or district shall submit it to the commission
932 for review and approval in accordance with Section 17-17-225. The
933 commission shall, by order, approve or disapprove the plan within

934 one hundred eighty (180) days after its submission. The
935 commission shall include with an order disapproving a plan a
936 statement outlining the deficiencies in the plan and directing the
937 governing body of the county, authority or district to submit,
938 within one hundred twenty (120) days after issuance of the order,
939 a revised plan that remedies those deficiencies. If the governing
940 body of the county, authority or district, by resolution, requests
941 an extension of the time for submission of a revised plan, the
942 commission may, for good cause shown, grant one (1) extension for
943 a period of not more than sixty (60) additional days.

944 (7) After approval of the plan or revised plan by the
945 commission, the governing body of the county, authority or
946 district shall implement the plan in compliance with the
947 implementation schedule contained in the approved plan.

948 (8) The governing body of the county, authority or district
949 shall annually review implementation of the approved plan. The
950 commission may require the governing body of each local government
951 or authority to revise the local nonhazardous solid waste
952 management plan as necessary, but not more than once every five
953 (5) years.

954 (9) If the commission finds that the governing body of a
955 county, authority or district has failed to submit a local
956 nonhazardous solid waste management plan, obtain approval of its
957 local nonhazardous solid waste management plan or materially fails
958 to implement its local nonhazardous solid waste management plan,
959 the commission shall issue an order in accordance with Section
960 17-17-29, to the governing body of the county, authority or
961 district.

962 (10) The commission may, by regulation, adopt an alternative
963 procedure to the procedure described in this section for the
964 preparation, adoption, submission, review and approval of minor
965 modifications of an approved local nonhazardous solid waste
966 management plan. For purposes of this section, minor

967 modifications may include administrative changes or the addition
968 of any noncommercial nonhazardous solid waste management facility.

969 (11) The executive director of the department shall maintain
970 a copy of all local nonhazardous solid waste management plans that
971 the commission has approved and any orders issued by the
972 commission.

973 (12) If a public notice required in subsection (5) was
974 published in a newspaper as defined in Section 13-3-31, having
975 general circulation within the county but was not published in a
976 daily newspaper of general circulation as required by subsection
977 (5) before April 20, 1993, the commission shall not disapprove the
978 plan for failure to publish the notice in a daily newspaper. Any
979 plan disapproved for that reason by the commission shall be deemed
980 approved after remedying any other deficiencies in the plan.

981 **SECTION 17.** Section 17-17-231, Mississippi Code of 1972, is
982 brought forward as follows:

983 17-17-231. (1) The Commission on Environmental Quality may
984 adopt rules and regulations governing municipal solid waste
985 landfills that accept household wastes, but any rules and
986 regulations for such landfills shall, except for the adoption of
987 criteria and standards to be considered in the location of such
988 facilities, be no more stringent or extensive in scope, coverage
989 and effect than Subtitle D regulations promulgated by the United
990 States Environmental Protection Agency.

991 (2) If Subtitle D regulations do not provide a standard,
992 criteria or guidance addressing matters relating to landfills, the
993 commission may promulgate rules and regulations to address these
994 matters in accordance with the Mississippi Administrative
995 Procedures Law when the commission determines that such rules and
996 regulation are necessary to protect human health, welfare or the
997 environment.

998 (3) Nothing in this section shall prohibit the commission by
999 order or the Permit Board in the issuance or modification of a

1000 permit from placing additional requirements on a landfill on a
1001 case by case basis in order to prevent, abate, control or correct
1002 groundwater contamination, public endangerment or as otherwise
1003 determined necessary to protect human health, welfare or the
1004 environment.

1005 **SECTION 18.** Section 49-31-9, Mississippi Code of 1972, is
1006 brought forward as follows:

1007 49-31-9. For purposes of this chapter the following terms
1008 shall have the meanings ascribed to them in this section or in
1009 Section 17-17-3 unless the context clearly indicates otherwise:

1010 (a) "Department" means the Department of Environmental
1011 Quality.

1012 (b) "EPCRA" means the Emergency Planning and Community
1013 Right-To-Know Act, Public Law 99-499, as amended.

1014 (c) "Facility operator" means an operator of a facility
1015 required to file a report of toxic chemical releases under Section
1016 313 of EPCRA.

1017 (d) "Generator" means any person whose act or process
1018 produces waste.

1019 (e) "Multimedia" means all environmental media
1020 including, but not limited to air, water and land.

1021 (f) "Pollution prevention" means any action taken by
1022 business, industry, government or individual consumers to conserve
1023 natural resources while providing and using needed products in a
1024 manner that prevents or reduces the generation, disposal or
1025 release of pollutants to the environment. Pollution prevention
1026 does not include dewatering, dilution or evaporation before
1027 handling, release, storage, treatment or disposal of hazardous
1028 waste.

1029 (g) "Recovered materials" means those materials having
1030 known recycling potential, which can be feasibly recycled and have
1031 been diverted or removed from the waste stream for sale, use or
1032 reuse, by separation, collection or processing.

1033 (h) "Recyclable materials" means those materials which
1034 are reasonably capable of being recycled and which would otherwise
1035 be processed or disposed of as waste.

1036 (i) "Recycling" means the use, reuse or reclamation of
1037 a waste. Recycling does not include the burning of waste as a
1038 fuel for the recovery of energy or the use of waste treatment
1039 technologies.

1040 (j) "Waste" means sewage, industrial wastes, oil field
1041 wastes, and all other liquid, gaseous, solid or other substances
1042 which may pollute the lands, waters or air of the state.

1043 (k) "Waste minimization" means the reduction, to the
1044 extent feasible, of waste that is generated or subsequently
1045 treated, stored or disposed of. It includes any source reduction
1046 or recycling activity undertaken by a generator or facility
1047 operator that results in either (i) the reduction of total volume
1048 or quantity of waste, or (ii) the reduction of toxicity or other
1049 characteristics of hazardous waste, or both, so long as the
1050 reduction does not result in the displacement of pollutants from
1051 one medium to another and is consistent with the goal of
1052 minimizing present and future threats to human health and the
1053 environment.

1054 **SECTION 19.** Section 49-31-11, Mississippi Code of 1972, is
1055 brought forward as follows:

1056 49-31-11 (1) There is hereby created in the Department of
1057 Environmental Quality, the Mississippi Multimedia Pollution
1058 Prevention Program, herein referred to as "program," for the
1059 following purposes:

1060 (a) To compile, organize and make available for
1061 distribution information on pollution prevention and recycling
1062 technologies and procedures;

1063 (b) To sponsor and conduct conferences and workshops on
1064 pollution prevention and recycling;

1065 (c) To facilitate and promote the transfer of pollution
1066 prevention and recycling technologies and procedures among
1067 business, industry, academic institutions and governmental
1068 entities;

1069 (d) To provide funds, as may be appropriated or
1070 otherwise made available therefor, to business, industry,
1071 academic institutions, private organizations and governmental
1072 entities:

1073 (i) To conduct demonstration or pilot programs
1074 utilizing innovative pollution prevention and recycling
1075 technologies and procedures;

1076 (ii) To defray costs of basic and applied research
1077 on pollution prevention and recycling; and

1078 (iii) To subsidize costs of conducting pollution
1079 prevention potential analyses and studies, and developing,
1080 purchasing and implementing pollution prevention and recycling
1081 technologies and procedures or for other related purposes;

1082 (e) To develop the necessary programs, information and
1083 materials:

1084 (i) To collect data to assist in establishing
1085 program priorities and evaluation of the progress of pollution
1086 prevention and recycling;

1087 (ii) To train business, industry, academic
1088 institutions and governmental entities to promote and provide
1089 information about pollution prevention and recycling practices and
1090 their applicability; and

1091 (iii) To establish and implement waste exchange
1092 programs;

1093 (f) To increase public education and public awareness
1094 of waste management issues;

1095 (g) To provide pollution prevention and recycling
1096 technical assistance to industries, businesses and local
1097 governments; and

1098 (h) To participate in state, federal and industrial
1099 networks of individuals and groups actively involved in pollution
1100 prevention and recycling activities and promotion.

1101 (2) The Commission on Environmental Quality may adopt,
1102 modify, repeal and promulgate, after due notice and hearing, and
1103 where not otherwise prohibited by federal or state law, to make
1104 exceptions to and grant exemptions and variances from, and to
1105 enforce rules and regulations implementing or effectuating the
1106 powers and duties of the commission under this chapter.

1107 (3) The Commission on Environmental Quality shall promote
1108 pollution prevention, recycling, reuse of wastes, in lieu of
1109 treatment and disposal of such wastes.

1110 **SECTION 20.** Section 49-31-13, Mississippi Code of 1972, is
1111 brought forward as follows:

1112 49-31-13. (1) By July 1, 1996, the department shall
1113 complete a comprehensive study of the status of pollution
1114 prevention and recycling activities in Mississippi. The study
1115 shall address, but not be limited to, the following:

1116 (a) The types and quantities of wastes generated in the
1117 state, the existing system for management of wastes, and pollution
1118 prevention and recycling efforts to date in the state;

1119 (b) The advisability, feasibility and potential impacts
1120 of waste stream reduction through statutory restraints;

1121 (c) The identification of key business, industry,
1122 academic institutions and governmental entities which should
1123 receive priorities in technical assistance;

1124 (d) The establishment of the program priorities,
1125 objectives, missions and goals for pollution prevention and
1126 recycling in the state, including a methodology for assessing the
1127 efficiency and effectiveness of the program in attaining program
1128 goals and objectives;

1129 (e) The development of a methodology to assess progress
1130 in minimizing waste, preventing pollution and recycling in the
1131 state; and

1132 (f) Any other information deemed necessary by the
1133 department to carry out the purposes of this chapter.

1134 (2) The study shall be updated not less than once every five
1135 (5) years.

1136 **SECTION 21.** Section 49-31-15, Mississippi Code of 1972, is
1137 brought forward as follows:

1138 49-31-15. It shall be the duty of each state agency, the
1139 judicial branch of state government, the state institutions of
1140 higher learning and community colleges by July 1, 1992, to:

1141 (a) Establish a program, in cooperation with the
1142 Department of Environmental Quality and the Department of Finance
1143 and Administration, for the collection of recyclable materials as
1144 determined by the Department of Environmental Quality, generated
1145 in state offices throughout the state.

1146 (b) Provide procedures for collecting and storing
1147 recyclable materials, containers for storing recyclable materials
1148 and contractual arrangements with buyers of recyclable materials.

1149 (c) Evaluate the amount of recyclable materials
1150 recycled and make all necessary modifications to the recycling
1151 program to ensure that recyclable materials, as determined by the
1152 Department of Environmental Quality, are effectively and
1153 practically recycled.

1154 (d) Establish and implement, in cooperation with the
1155 Department of Environmental Quality and the Department of Finance
1156 and Administration, a source reduction program for materials, as
1157 determined by the Department of Environmental Quality, used in the
1158 course of agency operations. The program shall be designed and
1159 implemented to achieve the maximum feasible source reduction of
1160 waste as a result of agency operations.

1161 **SECTION 22.** Section 49-31-17, Mississippi Code of 1972, is
1162 amended as follows:

1163 49-31-17. (1) The Mississippi Development Authority shall
1164 assist and actively promote the recycling industry in the state.
1165 Assistance and promotion of the recycling industry shall include,
1166 but is not limited to:

1167 (a) Identification and analysis, in cooperation with
1168 the Department of Environmental Quality, of components of the
1169 state's recycling industry and present and potential markets for
1170 recyclable materials in the state or other states;

1171 (b) Provision of information on the availability and
1172 benefits of using recycled materials to business, industry,
1173 academic institutions and governmental entities within the state;

1174 (c) Distribution of any material prepared in
1175 implementing this section to business, industry, academic
1176 institutions, governmental entities and the general public upon
1177 request; and

1178 (d) Active promotion of the present markets and
1179 development of the potential markets of recyclable materials
1180 through the resources of the Mississippi Development Authority.

1181 (2) By July 1, 1991, the Mississippi Development Authority
1182 shall prepare a report assessing the recycling industry and
1183 recyclable materials markets in the state.

1184 (3) (a) There is created a fourteen-member Recycling Market
1185 Development Council to be appointed as follows:

1186 (i) Five (5) members appointed by the Governor
1187 representing the paper, glass, aluminum, plastic, and ferrous and
1188 nonferrous metal industries, and trade associations which are
1189 active in recycling;

1190 (ii) One (1) member appointed by the Governor
1191 representing a statewide, chartered public interest group;

1192 (iii) One (1) member who is an elected city
1193 official to be appointed by the Governor;

1194 (iv) One (1) member who is an elected member of a
1195 county governing authority to be appointed by the Governor;

1196 (v) One (1) member designated by the Speaker of
1197 the House of Representatives;

1198 (vi) One (1) member designated by the President of
1199 the Senate;

1200 (vii) One (1) member appointed by the Governor
1201 representing the private recycling industry; and

1202 (viii) One (1) representative each from the
1203 Department of Finance and Administration, the Department of
1204 Environmental Quality and the Mississippi Development Authority.

1205 (b) The chair of the council shall be elected by the
1206 membership. The council shall adopt operating procedures and
1207 shall meet on the call of the chair or on the call of a majority
1208 of the members. A majority of the members shall constitute a
1209 quorum to do business. The Mississippi Development Authority
1210 shall provide the necessary staff, administrative facilities and
1211 services to the council.

1212 (c) The members shall be appointed by September 1,
1213 1991, and the council shall convene by October 1, 1991.

1214 (4) The council shall determine what actions, if any, are
1215 needed to facilitate the development and expansion of markets for
1216 materials and products recovered from solid waste in the state and
1217 shall prepare a report with recommendations to the Governor and
1218 the Legislature. The report shall be due on January 1, 1993, and
1219 shall include, at a minimum, the following:

1220 (a) A description and analysis of the state's existing
1221 recycling industry, the types and estimated amounts of recovered
1222 materials being separated or reprocessed;

1223 (b) An analysis of the projected long-term capacity of
1224 existing markets to absorb materials generated by source
1225 separation, recovery or recycling programs;

1226 (c) An analysis of potential markets in the state, in
1227 other states or in foreign countries for source-separated or
1228 recovered materials or products from the state;

1229 (d) An analysis of institutional, economic and
1230 technical barriers to the use of source-separated or recovered
1231 materials or products;

1232 (e) Recommendations for actions which may be taken to
1233 increase demand for source-separated and recovered materials or
1234 products;

1235 (f) Recommendations for actions which may be taken to
1236 increase the incentives for private individuals and for business
1237 and industry to source-separate and recover materials;

1238 (g) Recommendations on categories of materials which
1239 should be source-separated and recovered in the state, given
1240 existing and potential markets for such materials;

1241 (h) Recommendations for a public education program to
1242 be implemented by the Department of Environmental Quality to
1243 provide information to the public and to business and industry on
1244 the benefits of source separation, recovery and recycling and on
1245 the availability of those materials or products;

1246 (i) A study of methods of source separation, recycling
1247 and disposal of household waste; and

1248 (j) A study of packaging reduction.

1249 (5) Following its initial report, the council shall submit
1250 to the Governor and to the Legislature by the end of each calendar
1251 year an annual report on recycling activities within the state
1252 which shall, at a minimum, include the following:

1253 (a) Any revisions which the council determines are
1254 necessary to its initial report;

1255 (b) An analysis of changes that have occurred with
1256 markets for recovered materials since the last report;

1257 (c) Any other recommendations to facilitate the
1258 development of markets for source-separated and recovered
1259 materials in the state.

1260 (6) Subsections (3), (4) and (5) of this section shall stand
1261 repealed on January 31, 1996.

1262 **SECTION 23.** Section 49-31-19, Mississippi Code of 1972, is
1263 brought forward as follows:

1264 49-31-19. (1) On or before July 1, 1991, the Department of
1265 Education is directed to develop curriculum, including materials
1266 and resource guides, for a waste minimization awareness program at
1267 the elementary and secondary levels of education.

1268 (2) In order to orient students and their families to the
1269 minimization of waste and to encourage the participation of
1270 schools, communities and families in waste minimization programs,
1271 the school board of each school district in the state shall
1272 provide a program of student instruction in the minimization of
1273 waste materials on or before September 1, 1992. The instruction
1274 shall be provided at both the elementary and secondary levels of
1275 education.

1276 **SECTION 24.** Section 49-31-21, Mississippi Code of 1972, is
1277 brought forward as follows:

1278 49-31-21. (1) No later than January 1, 1992, the department
1279 shall require waste minimization plans to be provided by each
1280 generator of hazardous waste who is regulated as a large quantity
1281 generator or a small quantity generator under Mississippi
1282 hazardous waste management regulations and each facility operator
1283 required to file a report under Section 313 of EPCRA. The
1284 generators and facility operators shall provide a plan for each
1285 site where waste is generated or chemicals are released.

1286 (2) Waste minimization plans for large quantity generators
1287 and for facility operators required to file a report under Section
1288 313 of EPCRA, shall include, at a minimum:

1289 (a) A written policy describing ownership and
1290 management support for pollution prevention and waste minimization
1291 and implementation of the plan;

1292 (b) The scope and objectives of the plan, including the
1293 evaluation of technologies, procedures and personnel training
1294 programs to ensure waste minimization;

1295 (c) An explanation and documentation of waste
1296 minimization efforts completed or in progress before the first
1297 reporting date;

1298 (d) An analysis of waste streams, and identification of
1299 opportunities to eliminate waste generation. The analysis shall
1300 include review of individual processes and facilities and other
1301 activities where wastes may be generated, evaluation of data on
1302 the types, amounts and hazardous and toxic constituents of waste
1303 generated, and potential waste minimization techniques applicable
1304 to those wastes;

1305 (e) An identification of waste management costs;

1306 (f) An identification of employee awareness and
1307 training programs to involve employees in waste minimization
1308 planning and implementation to the maximum extent feasible;

1309 (g) The establishment of performance goals for the
1310 minimization of wastes which shall be expressed in numeric terms,
1311 to the extent practicable.

1312 (3) The department shall develop appropriate, but less
1313 stringent, requirements for waste minimization plans to be
1314 prepared by small quantity generators.

1315 (4) All generators and facility operators required to
1316 prepare a waste minimization plan shall update annually their
1317 waste minimization plan. The annual update shall include at a
1318 minimum:

1319 (a) An analysis and quantification of progress made, if
1320 any, in waste minimization, relative to each performance goal
1321 established under subsection (2)(g) of this section; and

1322 (b) Any amendments to the waste minimization plan and
1323 an explanation of the need for the amendments.

1324 (5) For purposes of this section, a generator or facility
1325 operator shall permit the department or its designee to review the
1326 waste minimization plan.

1327 (6) From the waste minimization plan and each annual update,
1328 the generator or facility operator shall submit to the department
1329 a certified report of the types and quantities of wastes
1330 generated, and the types and quantities of wastes minimized. To
1331 the extent practicable, the department shall coordinate the
1332 submission of this certified report with other reporting
1333 requirements placed on large quantity and small quantity hazardous
1334 waste generators and facility operators.

1335 (7) The certified report shall include a narrative summary
1336 explaining the waste generation and minimization data, a
1337 description of goals and progress made in minimizing the
1338 generation of wastes, and a description of any impediments to the
1339 minimization of wastes.

1340 **SECTION 25.** Section 49-31-25, Mississippi Code of 1972, is
1341 brought forward as follows:

1342 49-31-25. (1) There is imposed upon each large quantity
1343 generator and each small quantity generator that is regulated
1344 under the Mississippi hazardous waste management regulations and
1345 each facility operator, a pollution prevention fee. The fee upon
1346 each large quantity generator and each small quantity generator
1347 shall be measured by the quantity of hazardous waste which that
1348 generator generates annually. The fee upon each facility operator
1349 shall be measured by the quantity of chemicals which each facility
1350 releases annually and reports pursuant to Section 313 of EPCRA.
1351 For a fee payer that is both a large quantity hazardous waste
1352 generator and a facility operator, the fee shall be measured by
1353 adding the quantity of fugitive and stack air emissions reported
1354 under Section 313 of EPCRA plus the quantity of hazardous waste

1355 generated annually. For a fee payer that is both a small quantity
1356 hazardous waste generator and a facility operator, the fee shall
1357 be measured by the quantity of chemicals released as reported
1358 pursuant to Section 313 of EPCRA. The fee shall be assessed in an
1359 amount according to the following schedule:

1360	TONS GENERATED/RELEASED		ANNUAL FEE
1361	0.01	to 9.99	\$ 250.00
1362	10.00	to 99.99	\$ 500.00
1363	100.00	to 999.99	\$ 1,500.00
1364	1,000.00	to 9,999.99	\$ 2,500.00
1365	10,000.00	to 49,999.99	\$ 10,000.00
1366	50,000.00 and above		\$ 50,000.00

1367 The fee shall be due and payable to the department not later
1368 than September 1 of each year, or not later than a date specified
1369 by the department in the invoice which shall be no less than
1370 thirty (30) days following receipt of an invoice from the
1371 department, whichever is later. The fee shall be based on the
1372 quantity of hazardous waste generated and/or chemicals released
1373 during the preceding calendar year. The department shall annually
1374 prepare an invoice for the amount of the pollution prevention fee
1375 due from each generator or facility operator and furnish it to
1376 each generator or facility operator. The proceeds of the fee
1377 shall be deposited into the Environmental Protection Trust Fund
1378 created in Section 17-17-217.

1379 (2) From and after July 1, 1995, the department shall
1380 exclude from the calculation of the pollution prevention fee any
1381 hazardous waste recycled on-site or shipped off-site for recycling
1382 as reported on the Mississippi Annual Hazardous Waste Report or
1383 its equivalent and any chemicals recycled on-site or shipped
1384 off-site for recycling as reported under Section 313 of EPCRA.
1385 The hazardous waste generator or the facility operator shall
1386 submit any information the department deems necessary to
1387 substantiate that the hazardous waste or chemicals were recycled.

1388 (3) At the discretion of the commission, a generator or
1389 facility operator shall be liable for a penalty not to exceed
1390 three (3) times the amount of the fee due and payable for failure
1391 to pay the fee on or before the due date, plus the amount
1392 necessary to reimburse the cost of collection.

1393 (4) From and after July 1, 1995, the department shall
1394 exclude from any calculation of pollution prevention fee any
1395 hazardous waste or chemical for which a Title V permit fee is
1396 assessed to the same generator or facility operator.

1397 **SECTION 26.** This act shall take effect and be in force from
1398 and after July 1, 2005.