

By: Senator(s) Browning

To: Appropriations

SENATE BILL NO. 2986

1 AN ACT TO AMEND SECTION 27-104-13, MISSISSIPPI CODE OF 1972,  
 2 TO EXEMPT THE LOCAL GOVERNMENTS SOLID WASTE ASSISTANCE FUND, THE  
 3 ENVIRONMENTAL PROTECTION TRUST FUND, AND THE MISSISSIPPI  
 4 NONHAZARDOUS SOLID WASTE CORRECTIVE ACTION TRUST FUND FROM ANY  
 5 SPECIAL FUND TRANSFERS AUTHORIZED BY THE DEPARTMENT OF FINANCE AND  
 6 ADMINISTRATION OR THE LEGISLATURE; TO AMEND SECTIONS 17-17-65,  
 7 17-17-425 AND 17-17-63, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT  
 8 MONIES ALLOCATED TO THE SAID FUNDS SHALL BE CONSIDERED ENCUMBERED  
 9 AND PLEDGED BY THE STATE FOR THE EXCLUSIVE USE OF THE COUNTIES;  
 10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 27-104-13, Mississippi Code of 1972, is  
 13 amended as follows:

14 27-104-13. (1) The State Fiscal Officer shall have the  
 15 right to disapprove or reduce and revise such estimates of general  
 16 funds and state-source special funds for any general fund or  
 17 special fund agency, and for the "administration and other  
 18 expenses" budget of the State Highway Department, in an amount not  
 19 to exceed five percent (5%) if he finds that funds will not be  
 20 available within the period for which the budget is drawn, or if  
 21 he finds that the requested expenditures, or any part thereof, are  
 22 not authorized by law, and such action shall be reported to the  
 23 Legislative Budget Office. The State Fiscal Officer may, upon his  
 24 determination of need based upon a finding that funds will not be  
 25 available within the period for which the budget is drawn,  
 26 transfer funds as provided in Section 27-103-203, from the Working  
 27 Cash-Stabilization Reserve Fund to the General Fund to supplement  
 28 the general fund revenue. In the event that the estimates of  
 29 general funds and state-source special funds of all general fund  
 30 and special fund agencies, and of the "administration and other  
 31 expenses" budget of the State Highway Department, have been

32 reduced by five percent (5%), additional reductions may be made  
33 but shall consist of a uniform percentage reduction of general  
34 funds and state-source special funds to all general fund and  
35 special fund agencies, and to the "administration and other  
36 expenses" budget of the State Highway Department. Any  
37 state-source special funds reduced under the provisions of this  
38 section shall be transferred to the State General Fund upon  
39 requisitions for warrants signed by the respective agency head and  
40 said transfer shall be made within a reasonable period to be  
41 determined by the State Fiscal Officer.

42       (2) For the purpose of this section, "state-source special  
43 funds" shall be construed to mean any special funds in any agency  
44 derived from any source, but shall not include the following  
45 special funds: special funds derived from federal sources, from  
46 local or regional political subdivisions, or from donations;  
47 special funds held in a fiduciary capacity for the benefit of  
48 specific persons or classes of persons; self-generated special  
49 funds of the state institutions of higher learning or the state  
50 junior colleges; special funds of Mississippi Industries for the  
51 Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat  
52 Harrison Waterway District, Pearl River Basin Development  
53 District, Pearl River Valley Water Management District, Tombigbee  
54 River Valley Water Management District, Yellow Creek Watershed  
55 Authority, or Coast Coliseum Commission; special funds of the  
56 Department of Wildlife, Fisheries and Parks derived from the  
57 issuance of hunting or fishing licenses; and special funds  
58 generated by agencies whose primary function includes the  
59 establishment of standards and the issuance of licenses for the  
60 practice of a profession within the State of Mississippi.

61       (3) Effective upon passage of this act, and effective in  
62 each fiscal year thereafter, the following funds: (a) the Local  
63 Governments Solid Waste Assistance Fund created in Section  
64 17-17-65; (b) the Environmental Protection Trust Fund created in

65 Section 17-17-425, and (c) the Mississippi Nonhazardous Solid  
66 Waste Correction Action Trust Fund, shall be exempt from any  
67 transfer of special funds into the State General Fund or the  
68 Budget Contingency Fund created in Section 27-103-301, which is  
69 directed or authorized by the Department of Finance and  
70 Administration under authority of this section or by general act  
71 of the Legislature.

72 **SECTION 2.** Section 17-17-65, Mississippi Code of 1972, is  
73 amended as follows:

74 17-17-65. (1) There is created in the State Treasury a fund  
75 designated as the Local Governments Solid Waste Assistance Fund,  
76 referred to in this section as "fund," to be administered by the  
77 executive director of the department. The monies in the fund that  
78 are required to be allocated to the counties shall be considered  
79 encumbered and pledged for the exclusive use of the counties in  
80 accordance with the provisions of this section and may not be  
81 transferred, expended or used for any other purpose.

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

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

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

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

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

96 (e) Distribution and use as grants to regional solid  
97 waste management authorities, counties and municipalities for

98 implementation of household hazardous waste collection programs,  
99 in accordance with Sections 17-17-439 through 17-17-445. The  
100 grants shall not exceed seventy-five percent (75%) of eligible  
101 project costs as established by the commission; and

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

105 (3) The commission shall earmark ten percent (10%) of the  
106 amount deposited in the fund annually to be used to make grants to  
107 counties, municipalities, regional solid waste management  
108 authorities or multicounty entities to assist in defraying the  
109 cost of preparing solid waste management plans required by Section  
110 17-17-227. The commission shall award these grants according to  
111 the merit of grant proposals received by the commission and the  
112 level of need and timeliness of the requirement for the county or  
113 regional solid waste management authority to update its solid  
114 waste management plan.

115 (4) If a person is found to be responsible for creating an  
116 unauthorized dump, the grantee shall make a reasonable effort to  
117 require that person to clean up the property before expending any  
118 monies from the fund to clean up the property. If the grantee is  
119 unable to locate the person responsible for creating the dump, or  
120 if the grantee determines that person is financially or otherwise  
121 incapable of cleaning up the property, the grantee may use the  
122 monies from the fund to clean up the property and shall make a  
123 reasonable effort to recover from the responsible person any funds  
124 expended.

125 (5) (a) Of monies annually deposited in the fund and any  
126 balance remaining in the fund, the commission shall annually  
127 allocate monies as follows:

128 (i) One-half (1/2) of the deposited funds and  
129 remaining balance shall be allocated to each county based on the

130 percentage of state aid road mileage as established by the  
131 Mississippi Department of Transportation State Aid road formula.

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

135 (b) The department shall notify the president of the  
136 board of supervisors of each county in writing of the amount  
137 allocated under paragraph (a)(i) of this subsection and that  
138 additional funds are available on a competitive basis as provided  
139 under paragraph (a)(ii) of this subsection.

140 (c) Upon receipt of a scope of work and cost proposal  
141 acceptable to the commission, the commission shall award a grant  
142 to a county up to the allocated amount for that county under  
143 paragraph (a)(i) of this subsection. The commission may award  
144 additional grant funds from monies available under paragraph  
145 (a)(ii) of this subsection based upon the acceptable scope of work  
146 and cost proposal.

147 (d) The commission may award grants to a regional solid  
148 waste management authority or other multicounty entity upon  
149 submission of a consolidated scope of work and cost proposal  
150 acceptable to the commission and authorized by the member  
151 counties. Upon submission of a scope of work and cost proposal,  
152 the commission may award grants to municipalities from monies  
153 available under paragraph (a)(ii) of this subsection.

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

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

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

162 (8) The fund shall be treated as a special trust fund.  
163 Interest earned on the principal in the fund shall be credited by  
164 the department to the fund.

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

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

171 (11) The commission may consolidate any grant provided under  
172 this section with any grant provided under the waste tire  
173 management program or the right-way-to-throw-away program. Funds  
174 provided through any consolidated grant shall be used in  
175 accordance with the program under which the funds are provided.

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

181 (13) The commission shall not provide any funds under this  
182 section to any grantee with an inadequate garbage or rubbish  
183 collection or disposal system as required under Section 19-5-17 or  
184 21-19-1.

185 **SECTION 3.** Section 17-17-425, Mississippi Code of 1972, is  
186 amended as follows:

187 17-17-425. (1) Beginning July 1, 1995, monies allocated to  
188 the Environmental Protection Trust Fund from waste tire fees shall  
189 be accounted for in a waste tire account and shall be utilized for  
190 the following purposes:

191 (a) Not more than sixty percent (60%) shall be utilized  
192 for making grants to counties, municipalities or regional solid  
193 waste management authorities: (i) for providing a waste tire  
194 collection program for small quantity waste tire generators as

195 provided in Section 17-17-409; (ii) for use in cleanup of small  
196 scattered unauthorized waste tire dumps not abated under Section  
197 17-17-419; (iii) for matching funds for employment of a solid  
198 waste enforcement officer as provided in Section 17-17-65; and  
199 (iv) for purchase of products derived from Mississippi waste  
200 tires;

201 (b) Not more than five percent (5%) shall be utilized  
202 by the department for abatement of unauthorized waste tire dumps  
203 as provided in Section 17-17-419;

204 (c) Not more than fifteen percent (15%) shall be  
205 utilized (i) to provide incentive grants to persons that will  
206 manufacture products from waste tires, use recovered rubber from  
207 waste tires or use waste tires as a fuel or fuel supplement,  
208 (ii) to provide funding for research and demonstration projects  
209 directly related to solving solid waste problems resulting from  
210 waste tires, including the use of innovative technologies for the  
211 processing of waste tires, (iii) to provide an incentive  
212 reimbursement to end users for the costs of using waste tires or  
213 waste tire derived materials where those tires originate in the  
214 State of Mississippi, if the commission determines an incentive is  
215 necessary to promote market development. The commission may  
216 determine legitimate end uses that may be eligible for  
217 reimbursement and an acceptable rate of reimbursement; and

218 (d) Not more than twenty percent (20%) shall be  
219 utilized by the department to pay the costs of administering these  
220 funds and the waste tire management program required under  
221 Sections 17-17-405, 17-17-407, 17-17-411, 17-17-413, 17-17-419 and  
222 17-17-423.

223 The monies in the fund that are required to be allocated to  
224 the counties shall be considered encumbered and pledged for the  
225 exclusive use of the counties in accordance with the provisions of  
226 this section, and may not be transferred, expended or used for any  
227 other purpose.

228           (2) To provide for the maximum effective use of funds in the  
229 waste tire account, the commission, upon determination that unused  
230 funds are available in a particular program as described above,  
231 may reallocate funds between the programs described in paragraphs  
232 (a) through (c) of subsection (1) to exceed the percentage  
233 thresholds.

234           (3) The commission may consolidate any grant provided under  
235 this section with any grant provided under the local governments  
236 solid waste assistance program or the Right-Way-To-Throw-Away  
237 Program. Funds provided through any consolidated grant shall be  
238 used in accordance with the program under which the funds are  
239 provided.

240           (4) The commission shall establish a statewide plan for the  
241 use of monies received under Sections 17-17-401 through 17-17-427  
242 and shall adopt regulations for administering this fund. The  
243 regulations shall include eligibility requirements for persons  
244 requesting incentive grants and funding for research and  
245 demonstration projects. No incentive grant or research and  
246 demonstration project funding may be awarded for an activity which  
247 receives less than seventy-five percent (75%) of its waste tires  
248 from Mississippi waste tires sites, retailers or residents. The  
249 commission may consider requests for funding from applicants who  
250 do not meet this requirement contingent upon the applicant  
251 demonstrating that the activity does or will accept Mississippi  
252 tires and that the award of the requested funding would be in the  
253 best interest of the State of Mississippi. The burden of proof  
254 shall be on the applicant to show that eligibility requirements  
255 have been met.

256           (5) For the purpose of establishing a statewide plan for the  
257 use of monies received under Sections 17-17-401 through 17-17-427  
258 and proposing regulations for administering this fund, including  
259 eligibility requirements and application priorities, the  
260 commission shall create an advisory council consisting of members



261 of the tire industry, the general public, the department and the  
262 Mississippi Development Authority.

263 (6) The department shall provide technical assistance, upon  
264 written request, to a municipality, county or group of counties  
265 desiring assistance in applying for waste tire grants or choosing  
266 a method of waste tire management which would be an eligible use  
267 of the grant funds.

268 (7) Subject to the authority of the commission in subsection  
269 (2) of this section, monies existing in the waste tire account of  
270 the Environmental Protection Trust Fund on July 1, 1995, shall  
271 remain in the account as previously allocated but those monies  
272 which have been allocated for incentive grants or research and  
273 demonstration awards shall be combined as described in subsection  
274 (1)(c) of this section.

275 **SECTION 4.** Section 17-17-63, Mississippi Code of 1972, is  
276 amended as follows:

277 17-17-63. (1) There is created in the State Treasury a fund  
278 designated as the Mississippi Nonhazardous Solid Waste Corrective  
279 Action Trust Fund for the purpose of providing funds for  
280 emergency, preventive or corrective actions which may be required  
281 or determined necessary by the department of any nonhazardous  
282 solid waste disposal facility that received in whole or in part  
283 household waste and closed before the effective date of Title 40  
284 of the Code of Federal Regulations, Section 258.

285 (2) The trust fund shall be administered by the executive  
286 director. The commission shall promulgate rules and regulations  
287 for the administration of the fund and for a system of priorities  
288 for related projects eligible for funding. Only the facilities  
289 meeting the criteria in subsection (1) are eligible for funding.  
290 The monies in the fund that are required to be allocated to the  
291 counties shall be considered encumbered and pledged for the  
292 exclusive use of the counties in accordance with the provisions of

293 this section, and may not be transferred, expended or used for any  
294 other purpose.

295 (3) The commission may escalate, expend or utilize funds in  
296 the trust fund for the following purposes:

297 (a) To take whatever emergency action is necessary or  
298 appropriate to assure that the public health or safety is not  
299 threatened whenever there is a release or substantial threat of a  
300 release of contaminants from any source within the permitted area  
301 of an eligible facility;

302 (b) To take preventive or corrective actions where the  
303 release of contaminants from any source within the permitted area  
304 of an eligible facility which presents an actual or potential  
305 threat to human health or the environment including, but not  
306 limited to, closure and post-closure care of an eligible facility;  
307 and

308 (c) To take any actions as may be necessary to monitor  
309 and provide post-closure care of any eligible facility, including  
310 preventive and corrective actions, without regard to identity or  
311 solvency of the owner thereof.

312 (4) The fund may not be used to pay for the normal costs of  
313 closure and post-closure care of an eligible facility or where no  
314 release or substantial threat of a release of contaminants has  
315 been found by the commission.

316 (5) Expenditures may be made from the fund upon requisition  
317 by the executive director.

318 (6) The fund shall be treated as a special trust fund.  
319 Interest earned on the principal in the fund shall be credited by  
320 the department to the fund, unless funds allocated under Section  
321 17-17-219(3)(a)(i) are being paid to the Local Governments Solid  
322 Waste Assistance Fund. If those funds are being paid to the Local  
323 Governments Solid Waste Assistance Fund, the department shall  
324 credit the earned interest to the Local Governments Solid Waste  
325 Assistance Fund.

326           (7) The fund may receive monies from any available public or  
327 private source, including, but not limited to, collection of fees,  
328 interest, grants, taxes, public and private donations, petroleum  
329 violation escrow funds or refunds and appropriated funds.

330           (8) The department shall transfer any balance in the fund on  
331 July 1, 1997, in excess of Five Million Dollars (\$5,000,000.00) to  
332 the Local Governments Solid Waste Assistance Fund.

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