

By: Senator(s) Carmichael, King

To: Veterans and Military Affairs

SENATE BILL NO. 3031

1 AN ACT TO AMEND SECTION 33-15-305, MISSISSIPPI CODE OF 1972,  
2 TO DEFINE THE TERMS "GOVERNOR'S AUTHORIZED REPRESENTATIVE" AND  
3 "PROJECT WORKSHEET"; TO AMEND SECTION 33-15-307, MISSISSIPPI CODE  
4 OF 1972, TO ALLOW THE DISASTER ASSISTANCE TRUST FUND TO BE USED  
5 FOR MEETING THE STATE COST-SHARE OF THE INDIVIDUALS AND HOUSEHOLDS  
6 ASSISTANCE PROGRAM AND TO REIMBURSE ACTUAL COSTS INCURRED BY  
7 REGIONAL RESPONSE TEAMS; TO AMEND SECTIONS 33-15-311, 33-15-313  
8 AND 33-15-317, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;  
9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 33-15-305, Mississippi Code of 1972, is  
12 amended as follows:

13 33-15-305. The following terms shall have the meanings  
14 ascribed in this section, unless the context requires otherwise:

15 (a) "Director" means the Director of the Mississippi  
16 Emergency Management Agency.

17 (b) "Disaster" means a fire, flood, storm, tornado,  
18 hurricane, earthquake or other similar public calamity affecting  
19 homeland security resulting directly from man-made, technological  
20 or natural causes.

21 (c) "Local agency" means any municipality, county or  
22 special district.

23 (d) "Local emergency" means the existence of conditions  
24 of disaster or extreme peril to the safety of persons and property  
25 within a county or municipality proclaimed by the local governing  
26 body in accordance with Section 33-15-17(d).

27 (e) "Governor's authorized representative" means the  
28 primary and alternate emergency management official designated by  
29 the Governor to administer federal assistance programs on behalf  
30 of the state and local governments and other grant or loan

31 recipients and is responsible for the state compliance with the  
32 FEMA-State Agreement.

33 (f) "Project" means the repair or restoration, or both,  
34 other than normal maintenance, or the replacement of public real  
35 property of a local agency or a state agency, including, but not  
36 limited to, buildings, schools, levees, flood control works,  
37 channels, irrigation works, city streets, county roads, bridges  
38 and other public works, including those facilities used for  
39 recreation purposes, that are damaged or destroyed by a disaster.

40 (g) "Project application" means the written application  
41 made by a state or local agency to the director for federal and  
42 state financial assistance, which shall include all damage to  
43 public property that resulted from a disaster within the  
44 jurisdiction of the agency making application.

45 (h) "Project worksheet" means the appropriate federal  
46 form that must be used to prepare each eligible public assistance  
47 project identifying the scope of work and a quantitative estimate  
48 for the eligible work.

49 (i) "Regional response team" means the local government  
50 regional response teams, the state response team and the capitol  
51 complex response team.

52 (j) "State agency" means any agency, department,  
53 commission, board, institution or special district of the state.

54 (k) "State of emergency" means the existence of  
55 conditions of disaster or extreme peril to the safety of persons  
56 or property within the state declared by the Governor in  
57 accordance with Section 33-15-11(b)(16).

58 (l) "Trust fund" means the Disaster Assistance Trust  
59 Fund.

60 **SECTION 2.** Section 33-15-307, Mississippi Code of 1972, is  
61 amended as follows:

62 33-15-307. (1) The provisions of this article shall be  
63 invoked only pursuant to a state of emergency declared by the

64 Governor or an emergency or major disaster declared by the  
65 President, or pursuant to an executive order of the Governor, or  
66 administrative order of the director, in order to provide state or  
67 local government resources and personnel in compliance with the  
68 provisions of the Emergency Management Assistance Compact, Section  
69 45-18-1 et seq., or in nondeclared times for administrative and  
70 training costs associated with state disaster response and  
71 recovery programs. Each declaration shall cite the cause for the  
72 declaration and define the area eligible for assistance and the  
73 type of assistance to be provided.

74 (2) The Disaster Assistance Trust Fund is created as a  
75 special fund in the State Treasury into which shall be paid any  
76 funds appropriated or otherwise made available by the Legislature  
77 for disaster assistance, any funds transferred from the Working  
78 Cash-Stabilization Reserve Fund as provided under subsection (5)  
79 of this section, any income from investment of the funds in the  
80 trust fund, and federal reimbursement for administrative costs for  
81 management of the Individuals and Households Program (IHP), the  
82 Public Assistance Program, the Hazard Mitigation Program and  
83 Disaster Reservist Program.

84 (3) Income from investment of the funds in the trust fund,  
85 and all other funds deposited therein pursuant to law, shall be  
86 available for expenditure, transfer and allocation pursuant to  
87 this article.

88 (4) The Disaster Assistance Trust Fund shall be used only  
89 for the following purposes:

90 (a) The state's portion of the cost share for public  
91 assistance under a major disaster declaration.

92 (b) The state's cost share of the Individuals and  
93 Households Program (IHP) pursuant to Section 33-15-209(1) under a  
94 major disaster declared by the President.

95 (c) Administrative costs for managing the IHP Program.

96 (d) Administrative costs for managing the Public  
97 Assistance Program.

98 (e) The State Temporary Housing Program pursuant to  
99 Section 33-15-217 under a state of emergency declared by the  
100 Governor.

101 (f) Out-of-pocket expenses, including travel, per diem,  
102 overtime and other similar expenses, of state or local agencies  
103 when so tasked by the Governor or the director for emergency  
104 response under the provisions of Section 33-15-11(b)(7) and  
105 current executive orders. This includes actual emergency response  
106 and recovery activities, and applies to mobilization and  
107 deployment of state or local agencies to another state under the  
108 provisions of the Emergency Management Assistance Compact.

109 (g) Costs incurred as a result of state active duty for  
110 the Mississippi National Guard when so tasked by the Governor to  
111 provide support to other agencies and local governments in a major  
112 disaster or emergency situation, or when tasked by the Governor to  
113 provide support to another state under the provisions of the  
114 Emergency Management Assistance Compact.

115 (h) The state's portion of the cost share for hazard  
116 mitigation under a major disaster declaration.

117 (i) Administrative costs of the Hazard Mitigation  
118 Program.

119 (j) Costs incurred as a result of the implementation of  
120 the Disaster Reservist Program under a major disaster declaration.

121 (k) Administrative costs of the Disaster Reservist  
122 Program.

123 (l) Costs incurred as a result of the implementation of  
124 public assistance, and/or individual assistance, and/or Disaster  
125 Reservist Program, and/or hazard mitigation, and/or temporary  
126 housing under a Governor's state of emergency.

127 (m) The state's portion of the cost share for public  
128 assistance under a major disaster declaration for tornado or other

129 storm damage to public facilities and infrastructure occurring on  
130 November 10, 2002, as provided in Sections 1 through 16 of Chapter  
131 3, Third Extraordinary Session 2002.

132 (n) Actual costs, including personnel call-back wages,  
133 base and overtime wages, travel, per diem and other out-of-pocket  
134 expenses incurred by regional response teams as a result of being  
135 mobilized or deployed when so tasked by the Governor pursuant to  
136 Section 33-15-11(b)(7), or by the director for emergency response  
137 pursuant to Section 33-15-15(a).

138 (5) Whenever the director determines that funds are  
139 immediately needed in the Disaster Assistance Trust Fund to  
140 provide for disaster assistance under this article, he shall  
141 notify the Executive Director of the Department of Finance and  
142 Administration of his determination and shall requisition the  
143 amount of funds from the Working Cash-Stabilization Fund that are  
144 needed in the trust fund, which shall be subject to the  
145 limitations set forth below in this subsection. At the same time  
146 he makes the requisition, the director shall notify the Lieutenant  
147 Governor, the Speaker of the House of Representatives and the  
148 respective Chairmen of the Senate Appropriations Committee, the  
149 Senate Finance Committee, the House Appropriations Committee and  
150 the House Ways and Means Committee of his determination of the  
151 need for the funds and the amount that he has requisitioned. Upon  
152 receipt of such a requisition from the director, the Executive  
153 Director of the Department of Finance and Administration shall  
154 ascertain if the amount requisitioned is available in the Working  
155 Cash-Stabilization Reserve Fund and is within the limitations set  
156 forth below in this subsection and, if it is, he shall transfer  
157 that amount from the Working Cash-Stabilization Reserve Fund to  
158 the trust fund. If the amount requisitioned is more than the  
159 amount available in the Working Cash-Stabilization Fund or above  
160 the limitations set forth below in this subsection, the executive  
161 director shall transfer the amount that is available within the

162 limitations. The maximum amount that may be transferred from the  
163 Working Cash-Stabilization Reserve Fund to the trust fund for any  
164 one (1) disaster occurrence shall be Five Hundred Thousand Dollars  
165 (\$500,000.00) and the maximum amount that may be transferred  
166 during any fiscal year shall be One Million Dollars  
167 (\$1,000,000.00).

168 (6) Unexpended state funds in the Disaster Assistance Trust  
169 Fund at the end of a fiscal year shall not lapse into the State  
170 General Fund but shall remain in the trust fund for use under this  
171 article for as long as the funds are needed for the particular  
172 purpose for which they were appropriated, deposited or transferred  
173 into the trust fund. After any state funds in the trust fund are  
174 no longer needed for the particular purpose for which they were  
175 appropriated, deposited or transferred into the trust fund, the  
176 director may use those funds for any other purpose under this  
177 article for which they currently are needed and for which other  
178 funds are not available. If there is no current need for such  
179 funds for any purpose under this article, the funds and the income  
180 earned from the investment of the funds shall be transferred back  
181 to the particular fund or funds in the State Treasury from which  
182 they were appropriated or transferred into the trust fund, upon  
183 certification of the director to the Executive Director of the  
184 Department of Finance and Administration that the funds are not  
185 currently needed; however, if such funds are derived from the  
186 proceeds of general obligation bonds issued by the state, such  
187 excess funds and the income earned from such funds shall be  
188 utilized to pay the debt service on the bonds.

189 **SECTION 3.** Section 33-15-311, Mississippi Code of 1972, is  
190 amended as follows:

191 33-15-311. (1) The director shall make allocations from the  
192 trust fund in such amounts as he determines to be necessary to  
193 state agencies for out-of-pocket expenditures incurred for  
194 emergency response, preliminary damage assessments, estimates,

195 reports and training of state agency personnel. Allocations also  
196 may be made from the trust fund for the purpose of preparing  
197 project worksheets, estimates and reports as may be necessary to  
198 enable state or local agencies to obtain federal aid for disaster  
199 assistance purposes. The director may make allocations to any  
200 state agency or office from the trust fund or other funds  
201 available therefor in such amounts as are necessary to administer  
202 the provisions of this article.

203 (2) State agencies that are to receive allocations from the  
204 trust fund for carrying out the purposes of this article shall  
205 request the Department of Finance and Administration for  
206 escalations of their budgets as necessary for the expenditure of  
207 the allocated funds, in the same manner as the department  
208 escalates budgets for federal funds under Section 27-104-21(1).

209 **SECTION 4.** Section 33-15-313, Mississippi Code of 1972, is  
210 amended as follows:

211 33-15-313. (1) Subject to the conditions specified in this  
212 section, the director shall allocate funds from the trust fund to  
213 meet the cost of any one or more projects. The completion of all  
214 or part of a project before application for funds under this  
215 article shall not disqualify such project or any part thereof.

216 (2) To be eligible for state and/or federal funding, the  
217 governing body of the local agency must declare a local emergency  
218 within ten (10) days of the disaster occurrence and forward such  
219 declaration to the Governor.

220 (3) A state or local agency shall make application to the  
221 director for state and/or federal financial assistance within  
222 thirty (30) days after the date of the declaration of a major  
223 disaster or emergency declared by the President or a state of  
224 emergency declared by the Governor; however, the director may  
225 extend the time for such filing, but only under unusual  
226 circumstances. No financial aid shall be provided until an  
227 applicant has filed a Notice of Interest and a Request for Federal

228 Assistance and a state and/or federal team has first investigated  
229 and reported upon the proposed work, has estimated the cost of the  
230 work, and has filed a project worksheet thereon with the  
231 Governor's authorized representative and a project application has  
232 been prepared. The estimate of cost of the work may include  
233 expenditures made by the state or local agency for such work  
234 before the making of such estimate. "Unusual circumstances," as  
235 used in this subsection, means unavoidable delays that result from  
236 recurrence of a disaster, prolonged severe weather or other  
237 conditions beyond the control of the applicant. Delays resulting  
238 from administrative procedures are not unusual circumstances that  
239 warrant extensions of time.

240 (4) No funds shall be allocated from the trust fund to a  
241 state or local agency until the agency has indicated in writing  
242 its acceptance of the project application and the cost-sharing  
243 related thereto in such form as the director prescribes. The  
244 project application shall provide for the performance of the work  
245 by the state or local agency, shall provide for the methods of  
246 handling the funds allocated and the matching funds provided by  
247 the local agency, and shall contain such other provisions as are  
248 deemed necessary to ensure completion of the work included in the  
249 project application and the proper expenditures of funds as  
250 provided herein.

251 **SECTION 5.** Section 33-15-317, Mississippi Code of 1972, is  
252 amended as follows:

253 33-15-317. (1) Under procedures prescribed by the director,  
254 a state or local agency may receive an advance of funds to  
255 initiate a project. Such advances shall be limited to not more  
256 than seventy-five percent (75%) of the estimated federal share of  
257 the project under the President's state of emergency, or fifty  
258 percent (50%) of the estimated share of the project under the  
259 Governor's state of emergency.



260           (2) Disaster assistance funds provided from federal sources  
261 under the provisions of PL 93-288 as amended by PL 100-707 and PL  
262 106-390 shall be deposited in the trust fund, and the director  
263 shall make advances or reimbursement therefrom for expenditures  
264 for eligible work or for payment for performance.

265           (3) State and federal contributions for the repair and  
266 restoration of facilities shall be reduced by an amount equal to  
267 the insurance settlement received or an amount equal to the amount  
268 the local agency would have recovered from an insurance settlement  
269 if necessary, adequate and reasonably available insurance had been  
270 maintained.

271           **SECTION 6.** This act shall take effect and be in force from  
272 and after July 1, 2004.