MISSISSIPPI LEGISLATURE REGULAR SESSION 2004

By: Representative Rogers (61st)

To: Military Affairs; Appropriations

HOUSE BILL NO. 1450

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Administrative costs for managing the IHP Program.

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

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

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

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

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

(i) Administrative costs of the Hazard Mitigation Program.

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

(k) Administrative costs of the Disaster Reservist Program.

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

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

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

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

(5) Whenever the director determines that funds are immediately needed in the Disaster Assistance Trust Fund to provide for disaster assistance under this article, he shall notify the Executive Director of the Department of Finance and Administration of his determination and shall requisition the amount of funds from the Working Cash-Stabilization Fund that are needed in the trust fund, which shall be subject to the limitations set forth below in this subsection. At the same time he makes the requisition, the director shall notify the Lieutenant Governor, the Speaker of the House of Representatives and the respective Chairmen of the Senate Appropriations Committee, the Senate Finance Committee, the House Appropriations Committee and the House Ways and Means Committee of his determination of the need for the funds and the amount that he has requisitioned. Upon receipt of such a requisition from the director, the Executive Director of the Department of Finance and Administration shall ascertain if the amount requisitioned is available in the Working Cash-Stabilization Reserve Fund and is within the limitations set forth below in this subsection and, if it is, he shall transfer that amount from the Working Cash-Stabilization Reserve Fund to the trust fund. If the amount requisitioned is more than the amount available in the Working Cash-Stabilization Fund or above the limitations set forth below in this subsection, the executive director shall transfer the amount that is available within the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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