MISSISSIPPI LEGISLATURE

REGULAR SESSION 2002

To: Public Utilities

By: Representatives Ellis (By Request),
    Scott (80th)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 944

AN ACT TO CREATE NEW SECTION 43-33-151, MISSISSIPPI CODE OF 1972, TO CREATE THE MISSISSIPPI CUSTOMER ENERGY ASSISTANCE PROGRAM (CEAP) FUND FOR THE PURPOSE OF PROMOTING HOME ENERGY AFFORDABILITY, AND TO REQUIRE THE DIVISION OF COMMUNITY SERVICES OF THE DEPARTMENT OF HUMAN SERVICES TO ADMINISTER THE FUND; TO CREATE NEW SECTION 43-33-153, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS RELATING TO THE CEAP FUND; TO CREATE NEW SECTION 43-33-155, MISSISSIPPI CODE OF 1972, TO REQUIRE ELECTRIC AND NATURAL GAS UTILITIES OPTING TO PARTICIPATE IN THE CEAP FUND TO COLLECT A MONTHLY CHARGE FROM RESIDENTIAL CUSTOMERS WHO DO NOT OPT OUT OF PARTICIPATING IN THE CEAP FUND PROGRAM, TO DEFINE PURPOSES FOR WHICH CEAP FUNDS MAY BE USED AND TO REQUIRE THE DEPARTMENT TO ESTABLISH THE MAXIMUM INCOME ELIGIBILITY FOR SERVICES FUNDED WITH CEAP FUNDS; TO CREATE NEW SECTION 43-33-157, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES TO REPORT TO THE LEGISLATURE ON THE OPERATIONS OF THE CEAP FUND; TO CREATE NEW SECTION 43-33-159, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REPEAL OF THIS ACT ON JULY 1, 2004; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 43-33-151, Mississippi Code of 1972:

43-33-151. The Mississippi Customer Energy Assistance Program (CEAP) Fund is created. The purpose of the CEAP Fund is to promote home energy affordability for income-eligible residential electric and natural gas consumers. The Department of Human Services, Division of Community Services, shall administer the fund according to Sections 43-33-151 through 43-33-159 and those rules and regulations adopted by the department for the administration of the fund.

SECTION 2. The following shall be codified as Section 43-33-153, Mississippi Code of 1975:

43-33-153. As used in Sections 43-33-151 through 43-33-159, the following words and phrases the meanings ascribed in this section unless the context clearly indicated otherwise:
(a) "Department" means the Department of Human Services, Division of Community Services.

(b) "Participating distribution electric utility" means an electric public utility, including a municipal electric utility or electric cooperative, affirmatively opting to participate in CEAP and to collect the CEAP charge pursuant to Section 43-33-155.

(c) "Participating distribution natural gas utility" means a natural gas public utility, including a municipal natural gas utility or natural gas cooperative, affirmatively opting to participate in CEAP and to collect the CEAP charge pursuant to Section 43-33-155.

(d) "Fund" or "CEAP Fund" means the Customer Energy Assistance Program (CEAP) Fund.

(e) "Residential accounts" or "residential customers" means residential accounts or residential customers of a participating public utility as those accounts or customers are classified by the rate schedules or service rules of the participating utility.

SECTION 3. The following shall be codified as Section 43-33-155, Mississippi Code of 1972:

43-33-155. (1) (a) Each participating distribution electric utility shall collect a nonbypassable undifferentiated monthly charge of One-tenth of One Cent (1/10 of 1¢) per kilowatt-hour per month, not to exceed One Dollar ($1.00) per month, from each residential account receiving electricity which has not notified the utility of the customer's desire to opt out of the CEAP Fund program.

(b) Each participating distribution natural gas utility shall collect a nonbypassable undifferentiated monthly charge of Three Cents (3¢) per hundred cubic feet per month, not to exceed One Dollar ($1.00) per month, from each residential account receiving natural gas which has not notified the utility of the customer's desire to opt out of the CEAP Fund program.
(c) Participating distribution electric utilities and participating distribution natural gas utilities collecting CEAP charges shall remit all CEAP charge revenues to the State Treasurer, who shall deposit the monies in the CEAP Fund. The treasurer shall make disbursements from this fund in accordance with rules promulgated by the department. The unencumbered or unobligated monies remaining in the fund at the end of any fiscal year will be maintained in the CEAP Fund and will be available for expenditure during subsequent fiscal years until expended for the purposes for which originally collected.

(2) Whether an eligible utility chooses to participate in CEAP or to terminate the utility's participation in CEAP is solely at the discretion of the utility. There is no necessity or requirement for approval by any regulatory authority of the utility's participation or termination of participation in CEAP of any utility decision regarding participation in CEAP or of the billing and collection of the charges required under subsection (1) of utilities participating in CEAP. However, a utility's participation must be pursuant to Sections 43-33-151 through 43-33-159. No responsibility or liability attaches to any decision by a utility to participate, not participate or terminate participation in CEAP.

(3) (a) Once an eligible utility opts to participate in CEAP, the billing of the charge pursuant to subsection (1) will begin with the first billing cycle of the prospective billing month after the utility has provided conspicuous notice to each of its customers of the charge to be collected unless the customer notifies the utility of the customer's desire not to participate in the CEAP Fund program. The notice must be provided to all residential customers of the participating utility, with instructions on how the customer may opt out of participating in the CEAP Fund program, with no less than three (3) billings preceding the billing cycle in which the utility intends to begin
collecting the CEAP changes. Customers may opt out of participating in the CEAP Fund program at any time.

(b) When a utility terminates its participation in CEAP, after notifying the department, the termination will be effective after the end of the billing month that the utility designates as the final month of the utility’s participation, which end of the month must be prospective from the date on which the utility makes its decision to terminate its participation.

(4) The department shall distribute funds from the CEAP Fund pursuant to the rules adopted by the department, which rules must include the purposes for which funds will be distributed, including, but not necessarily limited to:

(a) Energy efficiency measures allowed by the U.S. Department of Energy under the federal Weatherization Assistance Program, 42 USCS, Section 6861, et seq., or its successor;

(b) Home water conservation measures;

(c) Incidental housing repairs determined by the department to be necessary to ensure the viability of energy efficiency investments or the health and safety of residential customers;

(d) To provide, directly or indirectly, training and technical assistance to local agencies delivering CEAP services;

(e) Electric and natural gas bill affordability assistance; and

(f) Program administrative costs; however, no more than ten percent (10%) of the total CEAP Fund may be expended on program administrative costs in any given year, with no more than twenty percent (20%) of this ten percent (10%) being retained for use by the department and the balance being made available to the local administering agencies for the purposes of Sections 43-33-151 through 43-33-157. The department’s rules must provide that the distribution of funds from the CEAP Fund must be for the
purpose of making natural gas and electric utility bills more affordable to income eligible customers.

(5) The department may reserve from the funds collected in any fiscal year an amount not to exceed ten percent (10%) to provide, directly or indirectly, training and technical assistance to local agencies delivering CEAP services. This training and technical assistance may include providing information concerning conservation practices to income eligible customers. The department shall administer the CEAP Fund energy efficiency programs by contracting with the local grantees of the Department of Energy Weatherization Assistance Program or its successor and shall administer the CEAP Fund bill affordability assistance programs by contracting with the local grantees of the Low Income Home Energy Assistance Program (LIHEAP). The department may reserve up to ten percent (10%) of CEAP funds allocated for bill affordability purposes for contracts to other local nonprofit community-based organizations with demonstrated effectiveness in administering emergency energy assistance for low-income customers.

(6) The department shall prescribe, by rule, a maximum income eligibility for receipt of services funded by the CEAP Fund which maximum income eligibility may not exceed one hundred and seventy-five percent (175%) of the federal poverty guideline, as determined annually by the U.S. Department of Health and Human Services. However, the department may, define, by rule, households participating in means-tested state or federal programs with similar eligibility guidelines, including, but not limited to, Food Stamps, Temporary Assistance to Needy Families and Supplemental Security Income, as eligible for assistance through the CEAP Fund. The department may define other low-income populations with particular physical or economic vulnerability to weather conditions or energy supply interruptions as eligible for assistance from the CEAP Fund.
(7) An eligible residential customer may receive one or more of the forms of assistance available from the CEAP Fund and may not be required to participate in the state or federal energy assistance or weatherization assistance programs as a condition of participating in the CEAP Fund programs.

(8) The residential customers of each participating distribution electric utility and participating distribution natural gas utility are eligible for assistance from the CEAP Fund in an aggregate amount that equals each specific utility's pro rata share of the total contributions to the CEAP Fund. Services funded through the CEAP Fund will be provided without consideration of whether or not the residential customer is or has been a contributor under the CEAP program, if the customer receiving assistance is a customer of a participating distribution electric utility or participating distribution natural gas utility collecting the CEAP charge from its residential customers.

SECTION 4. The following shall be codified as Section 43-33-157, Mississippi Code of 1972:

43-33-157. (1) The department shall monitor and evaluate the provision of services funded from the CEAP Fund in order to ensure the effective provision of assistance for low-income persons.

(2) The department shall deliver to the Legislature an annual report that must include, for each fiscal year in which the CEAP Fund operates, the following:

(i) The number of households eligible to participate in the CEAP Fund;

(ii) The number of households that participated in the CEAP Fund in the preceding year;

(iii) Program revenues, expenditures, and benefits provided; and

(iv) A description of the program activities.
(3) In order to prepare the report required under subsection (2) of this section, the department shall establish annual reporting requirements for participating utilities collected and remitted to the State Treasurer.

(4) Beginning in 2005 and every third year thereafter, the department shall report to the Legislature the results of the department's monitoring and evaluation.

SECTION 5. The following shall be codified as Section 43-33-159, Mississippi Code of 1972:


SECTION 6. This act shall take effect and be in force from and after July 1, 2002.