

ASSEMBLY BILL NO. 349—ASSEMBLYMEN GOLDWATER, PARNELL, GIBBONS, DE BRAGA, BACHE, ANDERSON, ARBERRY, BUCKLEY, CLABORN, COLLINS, DINI, FREEMAN, GIUNCHIGLIANI, LEE, LESLIE, MANENDO, MCCLAIN, MORTENSON, NEIGHBORS, OCEGUERA, PARKS, PERKINS, PRICE, SMITH AND WILLIAMS

MARCH 13, 2001

Referred to Select Committee on Energy

SUMMARY—Creates fund for energy assistance to be administered by bureau of consumer protection within office of attorney general. (BDR 58-1264)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the regulation of public utilities; creating the fund for energy assistance to be administered by the bureau of consumer protection within the office of the attorney general; setting forth the formula for determining the qualification of a household to receive assistance from the fund; providing an exception; setting forth the sources of money to be used to operate the fund; transferring the administration of certain federal programs for low-income energy assistance from the welfare division of the department of human resources to the bureau of consumer protection; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 703.147 is hereby amended to read as follows:
2 703.147 1. The public utilities commission regulatory fund is hereby
3 created as a special revenue fund. All money collected by the commission
4 pursuant to law must be deposited in the state treasury for credit to the
5 fund. Money collected for ~~the~~ :
6 (a) *The* use of the consumer's advocate ; and
7 (b) *The fund for energy assistance created pursuant to section 11 of*
8 *this act,*
9 must be transferred pursuant to the provisions of subsection 8 of NRS
10 704.035.
11 2. Money in the *public utilities commission regulatory* fund which
12 belongs to the commission may be used only to defray the costs of:
13 (a) Maintaining staff and equipment to regulate adequately public
14 utilities and other persons subject to the jurisdiction of the commission.



- 1 (b) Participating in all rate cases involving those persons.
2 (c) Audits, inspections, investigations, publication of notices, reports
3 and retaining consultants connected with that regulation and participation.
4 (d) The salaries, travel expenses and subsistence allowances of the
5 members of the commission.
6 3. All claims against the *public utilities commission regulatory* fund
7 must be paid as other claims against the state are paid.
8 4. The commission must furnish upon request a statement showing the
9 balance remaining in the *public utilities commission regulatory* fund as of
10 the close of the preceding fiscal year.
11 **Sec. 2.** Chapter 704 of NRS is hereby amended by adding thereto the
12 provisions set forth as sections 3 to 16, inclusive, of this act.
13 **Sec. 3.** *As used in sections 3 to 16, inclusive, of this act, unless the*
14 *context otherwise requires, the words and terms defined in sections 4 to*
15 *10, inclusive, of this act have the meanings ascribed to them in those*
16 *sections.*
17 **Sec. 4.** *“Annual household income” means the combined annual*
18 *incomes of the occupants of a dwelling for which assistance from the*
19 *fund is requested.*
20 **Sec. 5.** *“Bureau” means the bureau of consumer protection created*
21 *within the office of the attorney general pursuant to NRS 228.310.*
22 **Sec. 6.** *“Consumer’s advocate” means the executive head of the*
23 *bureau or his designee.*
24 **Sec. 7.** *“Dwelling” means a structure or the part of a structure that*
25 *is occupied as, or designed or intended for, occupancy as a residence by*
26 *one person who maintains a household or by two or more persons who*
27 *maintain a common household.*
28 **Sec. 8.** *“Eligible household” means a household that is eligible to*
29 *receive assistance from the fund, as determined pursuant to section 12 of*
30 *this act.*
31 **Sec. 9.** *“Federal act” means the Low-Income Home Energy*
32 *Assistance Program, established pursuant to 42 U.S.C. §§ 8621 et seq.,*
33 *and any other federal law providing for or applicable to the provision to*
34 *low-income families in this state of financial assistance to offset the cost*
35 *of gas and electric service.*
36 **Sec. 10.** *“Fund” means the fund for energy assistance created*
37 *pursuant to section 11 of this act.*
38 **Sec. 11.** 1. *There is hereby created as a special revenue fund in the*
39 *state treasury the fund for energy assistance, to be administered by the*
40 *bureau. All money received for the use of the fund pursuant to*
41 *paragraph (c) of subsection 2 of NRS 704.033 or from any other source*
42 *must be deposited in the fund.*
43 2. *The interest and income earned on the money in the fund, after*
44 *deducting any applicable charges, must be credited to the fund. All*
45 *claims against the fund must be paid as other claims against the state are*
46 *paid.*
47 3. *The money in the fund may be used only to:*
48 (a) *Pay necessary administrative costs; and*



1 (b) Assist eligible households and households whose eligibility is
2 waived by the consumer's advocate pursuant to subsection 3 of section 12
3 of this act by supplementing the payments of such households for gas
4 and electric service.

5 **Sec. 12.** 1. Except as otherwise provided in subsection 3 or the
6 regulations adopted by the consumer's advocate pursuant to section 16 of
7 this act, to be eligible for assistance from the fund, a household must:

8 (a) Submit an application for assistance on a form prescribed by the
9 bureau; and

10 (b) Satisfy both of the following criteria:

11 (1) The annual income of the household is 200 percent or less of
12 the federally designated level signifying poverty; and

13 (2) The annual payments of the household for gas and electric
14 service, expressed as a percentage of the annual income of the
15 household, exceed the median percentage of household income spent on
16 gas and electric service statewide.

17 2. In determining the annual household income of an applicant
18 pursuant to subsection 1, the consumer's advocate shall exclude from the
19 calculation the greater of:

20 (a) The value of any food stamps that the applicant or a member of his
21 household received pursuant to the Food Stamp Act of 1977, 7 U.S.C. §§
22 2011 et seq., as amended, during the year immediately preceding his
23 application for assistance; or

24 (b) If the applicant or a member of his household is receiving
25 coverage pursuant to Medicare Part B, 42 U.S.C. §§ 1395j et seq., the
26 value of the cost of such coverage during the year immediately preceding
27 his application for assistance.

28 3. The consumer's advocate may waive the requirements for
29 eligibility set forth in paragraph (b) of subsection 1 upon the written
30 request of an applicant if the circumstances of the applicant's household
31 have changed as a result of:

32 (a) Illness;

33 (b) Disability; or

34 (c) Extreme financial hardship based upon a significant reduction of
35 income, when considering the applicant's current financial
36 circumstances.

37 An applicant shall include with his request for a waiver all medical and
38 financial documents that support his request.

39 4. If an applicant qualifies for assistance from the fund pursuant to
40 this section, the amount of assistance to be provided from the fund to the
41 applicant's household must be determined as set forth in section 13 of
42 this act.

43 **Sec. 13.** 1. Except as otherwise provided in this section, in
44 determining the amount of assistance to be provided from the fund to an
45 eligible household, the consumer's advocate shall perform the following
46 calculations:

47 (a) A calculation of the annual cost of gas and electric service that an
48 eligible household should be required to pay. This calculation is
49 performed by multiplying an eligible household's annual household



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1 *income by the median percentage of household income spent on gas and*
2 *electric service statewide.*

3 *(b) A calculation of an eligible household's adjusted annual cost for*
4 *gas and electric service. This calculation is performed by obtaining from*
5 *the utility or utilities that provide gas and electric service to the eligible*
6 *household the projected annual cost to the household for gas and electric*
7 *service and subtracting from that projected annual cost the amount of*
8 *any benefit that the household receives pursuant to the federal act.*

9 *(c) A calculation of the fixed annual credit that an eligible household*
10 *is entitled to receive from the fund. This calculation is performed by*
11 *subtracting the annual cost of gas and electric service that the eligible*
12 *household should be required to pay, as determined pursuant to*
13 *paragraph (a), from the eligible household's adjusted annual cost for gas*
14 *and electric service, as determined pursuant to paragraph (b).*

15 *2. The fixed annual credit that an eligible household is entitled to*
16 *receive from the fund, as determined pursuant to paragraph (c) of*
17 *subsection 1, must be limited as follows:*

18 *(a) If the annual income of the household is less than 125 percent of*
19 *the federally designated level signifying poverty, the household is entitled*
20 *to receive from the fund the lesser of:*

21 *(1) The full amount of the fixed annual credit calculated pursuant*
22 *to paragraph (c) of subsection 1; or*

23 *(2) An amount of credit sufficient to reduce the household's*
24 *adjusted annual cost for gas and electric service by 25 percent.*

25 *(b) If the annual income of the household is 125 percent or more but*
26 *less than 200 percent of the federally designated level signifying poverty,*
27 *the household is entitled to receive from the fund the lesser of:*

28 *(1) The full amount of the fixed annual credit calculated pursuant*
29 *to paragraph (c) of subsection 1; or*

30 *(2) An amount of credit sufficient to reduce the household's*
31 *adjusted annual cost for gas and electric service by 15 percent.*

32 *3. The consumer's advocate may, by regulation, set forth alternate*
33 *calculations to be used in determining the amount of assistance to be*
34 *provided to a household from the fund if the consumer's advocate has*
35 *waived the requirements for eligibility for that household pursuant to*
36 *subsection 3 of section 12 of this act.*

37 **Sec. 14.** *At least annually, the commission, in consultation with the*
38 *consumer's advocate, shall determine the amount of the assessment*
39 *authorized pursuant to paragraph (c) of subsection 2 of NRS 704.033*
40 *that is necessary to provide money in an amount sufficient to operate the*
41 *fund.*

42 **Sec. 15.** *The consumer's advocate shall administer the provisions of*
43 *the federal act at the state level and is authorized to take all action*
44 *necessary to secure for the residents of this state the benefits of the*
45 *federal act.*

46 **Sec. 16.** *The consumer's advocate shall adopt such regulations as he*
47 *determines are necessary to carry out the provisions of sections 3 to 16,*
48 *inclusive, of this act. The regulations adopted by the consumer's*
49 *advocate must set forth, without limitation:*



1 *1. Procedures setting forth the manner in which households may*
2 *apply to the consumer's advocate to receive assistance from the fund;*

3 *2. Procedures pursuant to which the consumer's advocate may*
4 *automatically enroll certain households to receive assistance from the*
5 *fund if the consumer's advocate has determined that those households*
6 *are eligible to receive assistance from the fund because of the*
7 *participation of those households in certain programs of federal*
8 *assistance;*

9 *3. Procedures pursuant to which the consumer's advocate will, on an*
10 *annual basis, reassess a household's eligibility to receive assistance from*
11 *the fund and, if necessary, adjust the level of assistance from the fund*
12 *that the household is eligible to receive; and*

13 *4. That, except for emergencies and cases of extreme financial*
14 *hardship, the credit that a household is entitled to receive from the fund*
15 *in any one year must be fixed and not increased, so as to provide an*
16 *incentive to conserve gas and electricity.*

17 **Sec. 17.** NRS 704.033 is hereby amended to read as follows:

18 704.033 1. The commission shall levy and collect an annual
19 assessment from all public utilities subject to the jurisdiction of the
20 commission.

21 2. Except as otherwise provided in subsection 3, the annual assessment
22 must be:

23 (a) For the use of the commission, not more than 3.50 mills; ~~and~~

24 (b) For the use of the consumer's advocate of the bureau of consumer
25 protection in the office of the attorney general, not more than 0.75 mills ~~+~~
26 *; and*

27 *(c) For the fund for energy assistance created pursuant to section 11*
28 *of this act, not more than 5.75 mills,*

29 on each dollar of gross operating revenue derived from the intrastate
30 operations of such utilities in the State of Nevada, except that the minimum
31 assessment in any 1 year must be \$10. The total annual assessment must be
32 not more than ~~4.25~~ *10* mills.

33 3. For railroads the total annual assessment must be the amount levied
34 for the use of the commission pursuant to paragraph (a) of subsection 2.
35 The ~~levy~~ *levies* for the use of the consumer's advocate *and for the fund*
36 *for energy assistance* must not be assessed against railroads.

37 4. The gross operating revenue of the utilities must be determined for
38 the preceding calendar year. In the case of:

39 (a) Telephone utilities, except as *otherwise* provided in paragraph (c),
40 the revenue shall be deemed to be all intrastate revenues that are
41 considered by the commission for the purpose of establishing rates.

42 (b) Railroads, the revenue shall be deemed to be the revenue received
43 only from freight and passenger intrastate movements.

44 (c) All public utilities, the revenue does not include the proceeds of any
45 commodity, energy or service furnished to another public utility for resale.

46 **Sec. 18.** NRS 704.035 is hereby amended to read as follows:

47 704.035 1. On or before June 1 of each year, the commission shall
48 mail revenue report forms to all public utilities under its jurisdiction, to the
49 address of those utilities on file with the commission. The revenue report



1 form serves as notice of the commission's intent to assess the utilities, but
2 failure to notify any utility does not invalidate the assessment with respect
3 thereto.

4 2. Each public utility subject to the provisions of NRS 704.033 shall
5 complete the revenue report referred to in subsection 1, compute the
6 assessment and return the completed revenue report to the commission
7 accompanied by payment of the assessment and any penalty due, pursuant
8 to the provisions of subsection 5.

9 3. The assessment is due on July 1 of each year, but may, at the option
10 of the public utility, be paid quarterly on July 1, October 1, January 1 and
11 April 1.

12 4. The assessment computed by the utility is subject to review and
13 audit by the commission, and the amount of the assessment may be
14 adjusted by the commission as a result of the audit and review.

15 5. Any public utility failing to pay the assessment provided for in NRS
16 704.033 on or before August 1, or if paying quarterly, on or before August
17 1, October 1, January 1 or April 1, shall pay, in addition to such
18 assessment, a penalty of 1 percent of the total unpaid balance for each
19 month or portion thereof that the assessment is delinquent, or \$10,
20 whichever is greater, but no penalty may exceed \$1,000 for each
21 delinquent payment.

22 6. When a public utility sells, transfers or conveys substantially all of
23 its assets or certificate of public convenience and necessity, the
24 commission shall determine, levy and collect the accrued assessment for
25 the current year not later than 30 days after the sale, transfer or
26 conveyance, unless the transferee has assumed liability for the assessment.
27 For purposes of this subsection the jurisdiction of the commission over the
28 selling, transferring or conveying public utility continues until it has paid
29 the assessment.

30 7. The commission may bring an appropriate action in its own name
31 for the collection of any assessment and penalty which is not paid as
32 provided in this section.

33 8. The commission shall, on a quarterly basis, transfer to ~~the~~ :

34 (a) *The* account for the consumer's advocate of the bureau of consumer
35 protection in the office of the attorney general that portion of the
36 assessments collected which belongs to the consumer's advocate ~~it~~ ; and

37 (b) *The fund for energy assistance created pursuant to section 11 of*
38 *this act, that portion of the assessments collected which belongs to the*
39 *fund for energy assistance.*

40 **Sec. 19.** NRS 422.050 is hereby amended to read as follows:

41 422.050 1. "Public assistance" includes:

- 42 (a) State supplementary assistance;
43 (b) Temporary assistance for needy families;
44 (c) Medicaid;
45 (d) Food stamp assistance;
46 (e) ~~Low-income home energy assistance;~~

47 ~~(f)~~ The program for child care and development; and

48 ~~(e)~~ (f) Benefits provided pursuant to any other public welfare
49 program administered by the welfare division or the division of health care



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- 1 financing and policy pursuant to such additional federal legislation as is not
2 inconsistent with the purposes of this chapter.
- 3 2. The term does not include the children's health insurance program.
- 4 **Sec. 20.** NRS 422.270 is hereby amended to read as follows:
- 5 422.270 The department shall:
- 6 1. Administer all public welfare programs of this state, including:
- 7 (a) State supplementary assistance;
- 8 (b) Temporary assistance for needy families;
- 9 (c) Medicaid;
- 10 (d) Food stamp assistance;
- 11 (e) ~~Low-income home energy assistance;~~
- 12 ~~(f)~~ The program for child care and development;
- 13 ~~(g)~~ *(f)* The program for the enforcement of child support;
- 14 ~~(h)~~ *(g)* The children's health insurance program; and
- 15 ~~(i)~~ *(h)* Other welfare activities and services provided for by the laws
16 of this state.
- 17 2. Act as the single state agency of the State of Nevada and its political
18 subdivisions in the administration of any federal money granted to the
19 State of Nevada to aid in the furtherance of any of the services and
20 activities set forth in subsection 1.
- 21 3. Cooperate with the Federal Government in adopting state plans, in
22 all matters of mutual concern, including adoption of methods of
23 administration found by the Federal Government to be necessary for the
24 efficient operation of welfare programs, and in increasing the efficiency of
25 welfare programs by prompt and judicious use of new federal grants which
26 will assist the department in carrying out the provisions of this chapter.
- 27 4. Observe and study the changing nature and extent of welfare needs
28 and develop through tests and demonstrations effective ways of meeting
29 those needs and employ or contract for personnel and services supported
30 by legislative appropriations from the state general fund or money from
31 federal or other sources.
- 32 5. Enter into reciprocal agreements with other states relative to public
33 assistance, welfare services and institutional care, when deemed necessary
34 or convenient by the director.
- 35 6. Make such agreements with the Federal Government as may be
36 necessary to carry out the supplemental security income program.
- 37 **Sec. 21.** NRS 422.045 is hereby repealed.
- 38 **Sec. 22.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTION

422.045 "Low-income home energy assistance" defined.

"Low-income home energy assistance" means the program established to assist persons of low income to meet the costs of heating and cooling their homes pursuant to the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§ 8621 et seq.).

