

117TH CONGRESS
2D SESSION

S. 3535

To amend the Low-Income Home Energy Assistance Act of 1981 to increase the availability of heating and cooling assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2022

Mr. MARKEY (for himself, Mrs. GILLIBRAND, Ms. WARREN, Mr. BLUMENTHAL, Mr. BOOKER, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Low-Income Home Energy Assistance Act of 1981 to increase the availability of heating and cooling assistance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Heating and Cooling
5 Relief Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that:

8 (1) Energy remains unaffordable for low-income
9 households. Nationally, low-income households spend

1 a larger portion of their income on home energy
2 costs than other households. The average low-income
3 household's energy burden is 3 times that of other
4 households. The report for the Household Pulse Sur-
5 vey of the Bureau of the Census, issued on Decem-
6 ber 22, 2021, noted that, for families with incomes
7 of less than \$35,000 a year, about 51 percent said
8 that they reduced or went without basic household
9 necessities, such as medicine or food, in order to pay
10 an energy bill, for at least one month in the last
11 year.

12 (2) The Low-Income Housing Energy Assist-
13 ance Program was authorized by Congress to reduce
14 home energy burdens with heating and cooling as-
15 sistance. In 2019, only 16 percent of income-eligible
16 households received a subsidy under the program.

17 (3) Climate change is fueling increasingly in-
18 tense winter storms and extreme temperatures.

19 (4) Heat waves are increasingly common as cli-
20 mate change accelerates, and now occur more often
21 in major cities across the United States. The aver-
22 age heat wave season across 50 cities is approxi-
23 mately 47 days longer now than it was in the 1960s.
24 As a result, the Federal Government should provide
25 further cooling assistance for communities in need.

1 (5) The loss of home energy service due to high
2 energy burdens is one of the primary reasons for
3 homelessness, especially for families with children.
4 In some housing contexts, loss of home energy serv-
5 ice is a grounds for eviction.

6 (6) The Federal Government should expand and
7 update the Low-Income Home Energy Assistance
8 Program, as part of a robust Federal social safety
9 net, to—

10 (A) protect families against unaffordable
11 home energy bills and home energy shutoffs, by
12 providing sufficient funding and imposing regu-
13 lations where necessary;

14 (B) ensure all low- and moderate-income
15 families have access to affordable home cooling
16 powered by renewable energy, which will enable
17 households to adapt to rising temperatures due
18 to climate change and promote climate resil-
19 iency;

20 (C) enhance outreach—

21 (i) by including nontraditional part-
22 ners, including home energy suppliers,
23 local educational agencies, and entities car-
24 rying out other programs for low-income
25 people, to assist with signups; and

1 (ii) by adding stronger provisions for
 2 presumed eligibility and waiving docu-
 3 mentation requirements for eligibility; and
 4 (D) further Federal efforts to weatherize
 5 housing for low- and moderate-income house-
 6 holds, to help families struggling to pay their
 7 home energy bills and to meet national clean
 8 energy goals.

9 **SEC. 3. FUNDING.**

10 Section 2602 of the Low-Income Home Energy As-
 11 sistance Act of 1981 (42 U.S.C. 8621) is amended—

12 (1) in subsection (b)—

13 (A) by striking “section 2607A)” and in-
 14 serting “section 2604(f), 2607A, 2607B, or
 15 2607C)”;

16 (B) by striking “\$2,000,000,000” and all
 17 that follows and inserting “\$400,000,000,000
 18 for the period of fiscal years 2022 through
 19 2031.”;

20 (2) in subsection (e), by inserting “, or arising,
 21 for purposes of section 2604(e)(2), from a major
 22 disaster or emergency, as defined in section
 23 2604(e)(2)(A)” before the period at the end; and

24 (3) by adding at the end the following:

1 “(f) There is authorized to be appropriated to carry
 2 out section 2604(f), \$1,000,000,000 for each of fiscal
 3 years 2022 through 2031.

4 “(g) There is authorized to be appropriated to carry
 5 out section 2607C, including making grants under that
 6 section, \$1,000,000,000 for each of fiscal years 2022
 7 through 2031.”.

8 **SEC. 4. DEFINITIONS.**

9 Section 2603 of the Low-Income Home Energy As-
 10 sistance Act of 1981 (42 U.S.C. 8622) is amended—

11 (1) by redesignating paragraphs (4) through
 12 (6), (7) through (10), and (11), as paragraphs (5)
 13 through (7), (9) through (12), and (14), respec-
 14 tively;

15 (2) by inserting after paragraph (3) the fol-
 16 lowing:

17 “(4) The term ‘HEAP coordinator’ means an
 18 employee—

19 “(A) who administers a program funded
 20 under section 2602(b); and

21 “(B) whose salary is paid, partly or wholly,
 22 with funds made available under that section.”;

23 (3) by inserting after paragraph (7), as so re-
 24 designated, the following:

1 “(8) The term ‘local coordinating agency’
 2 means any local organization or local office that re-
 3 ceives funds under section 2602(b) to perform cus-
 4 tomer intake, or approval of benefits, on behalf of
 5 the State agency.”; and

6 (4) by inserting after paragraph (12), as so re-
 7 designated, the following:

8 “(13) The term ‘State agency’ means any State
 9 agency that administers the program funded under
 10 section 2602(b).”.

11 **SEC. 5. EMERGENCIES.**

12 Section 2604(e) of the Low-Income Home Energy
 13 Assistance Act of 1981 (42 U.S.C. 8623(e)) is amended—

14 (1) by striking “(e)” and inserting “(e)(1)”;
 15 and

16 (2) by adding at the end the following:

17 “(2)(A) In this paragraph:

18 “(i) The term ‘covered household’ means an eli-
 19 gible household in an area where the President, or
 20 the Secretary, as the case may be, has declared a
 21 major disaster or emergency.

22 “(ii) The term ‘major disaster or emergency’
 23 means—

24 “(I) a major disaster or emergency de-
 25 clared under section 401 or 501, respectively, of

1 the Robert T. Stafford Disaster Relief and
2 Emergency Assistance Act (42 U.S.C. 5170,
3 5191); or

4 “(II) a public health emergency declared
5 under section 319 of the Public Health Service
6 Act (42 U.S.C. 247d).

7 “(B) Upon a declaration described in subparagraph
8 (A) for an area, the Secretary and the Administrator of
9 the Federal Emergency Management Agency shall, to the
10 extent practicable, provide heating or cooling assistance
11 to covered households in that area.

12 “(C) In particular, in the event of a major disaster
13 or other emergency due to a period of extreme heat (as
14 described in section 2604(f)(1)) or cold in an area, the
15 Secretary and the Administrator shall, to the extent prac-
16 ticable, provide cooling or heating assistance to covered
17 households in that area.”.

18 **SEC. 6. ADDITIONAL COOLING ASSISTANCE FOR HEAT**
19 **WAVES.**

20 Section 2604 of the Low-Income Home Energy As-
21 sistance Act of 1981 (42 U.S.C. 8623) is amended by add-
22 ing at the end the following:

23 “(f)(1) In this subsection:

1 “(A) The term ‘additional cooling assistance’
2 means cooling assistance provided under this sub-
3 section.

4 “(B) The term ‘extreme heat’ means heat that
5 exceeds local climatological norms in terms of any 1
6 or more of the following:

7 “(i) Duration.

8 “(ii) Intensity.

9 “(iii) Season length.

10 “(iv) Frequency.

11 “(C) The term ‘heat’ means any 1 or more of
12 the parameters associated with increasing human
13 temperature, such as air temperature, humidity,
14 solar exposure, and low wind speed.

15 “(D) The term ‘heat event’ means an occur-
16 rence of extreme heat that may have heat-health im-
17 plications.

18 “(E) The term ‘heat-health’ means health ef-
19 fects to humans from heat, during or outside of heat
20 events, including from vulnerability and exposure, or
21 the risk of such effects.

22 “(2) From funds made available under section
23 2602(f), the Secretary may provide grants to eligible enti-
24 ties, which shall be States, territories, or Indian Tribes,
25 for additional cooling assistance for heat events.

1 “(3) The Secretary shall determine an allocation plan
 2 for providing eligible entities with funding through the
 3 grants to help eligible households respond to heat events.

4 “(4) To receive assistance under this subsection, an
 5 eligible entity shall provide assurances to the Secretary
 6 that—

7 “(A) the eligible entity will not preclude a
 8 household that receives heating assistance under this
 9 title during a calendar year, on the basis of obtain-
 10 ing that assistance, from receiving cooling assistance
 11 under this title during that year; and

12 “(B) the eligible entity will not require a house-
 13 hold to indicate that a household member has a
 14 medical need for cooling assistance under this title,
 15 to be eligible for that assistance.

16 “(5) A eligible entity that receives additional cooling
 17 assistance may use the assistance for purposes for which
 18 cooling assistance is available under the program funded
 19 under section 2602(b), including for providing energy-effi-
 20 cient air conditioners, and other equipment needed for
 21 home cooling, to eligible households.”.

22 **SEC. 7. ELIGIBLE HOUSEHOLDS.**

23 Section 2605 of the Low-Income Home Energy As-
 24 sistance Act of 1981 (42 U.S.C. 8624) is amended—

25 (1) in subsection (b)(2)—

1 (A) in the matter preceding subparagraph
 2 (A), by inserting “, subject to subsection
 3 (c)(1)(A),” after “only”;

4 (B) in subparagraph (B), by striking
 5 “(B)” and all that follows through clause (ii)
 6 and inserting the following:

7 “(B) households with—

8 “(i) incomes which do not exceed the
 9 greater of—

10 “(I) an amount equal to 250 per-
 11 cent of the poverty line that is defined
 12 and revised as described in section
 13 673 of the Community Services Block
 14 Grant Act (42 U.S.C. 9902); or

15 “(II) an amount equal to 80 per-
 16 cent of the State median income; or

17 “(ii) a monthly energy burden of 3
 18 percent or more, as averaged across the
 19 calendar year preceding the determination
 20 under this paragraph,”; and

21 (C) in the matter following subparagraph
 22 (B), by inserting before the semicolon the fol-
 23 lowing: “, and the State may not exclude a
 24 household from eligibility on the basis of citi-

1 zenship of 1 or more of the household mem-
2 bers”;

3 (2) in subsection (c)(1)(A), by striking “assist-
4 ance to be provided under this title, including cri-
5 teria” and inserting “assistance to be provided
6 under this title, including—

7 “(i) certifying that the State and local
8 coordinating agencies in the State—

9 “(I) will allow applicants for the
10 assistance, to the greatest extent pos-
11 sible, to self-attest that the applicants
12 meet the criteria in this title for an el-
13 igible household; and

14 “(II) will not require the appli-
15 cants to submit proof of income, citi-
16 zenship, or need, to establish status as
17 an eligible household; and

18 “(ii) describing criteria”;

19 (3) in subsection (f), by adding at the end the
20 following:

21 “(3) For purposes of section 401(c), and the remain-
22 der of title IV, of the Personal Responsibility and Work
23 Opportunity Reconciliation of 1996 (8 U.S.C. 1611(a),
24 1601 et seq.) assistance under this title should not be con-
25 sidered to be a Federal public benefit.”; and

1 (4) in subsection (j), by striking “the State may
2 apply” and inserting “the State may, subject to sub-
3 section (c)(1)(A)(i), apply”.

4 **SEC. 8. CONDITIONS FOR FUNDING.**

5 Section 2605 of the Low-Income Home Energy As-
6 sistance Act of 1981 (42 U.S.C. 8624) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (1)(C), by inserting be-
9 fore the semicolon the following: “, using toxin-
10 free materials that do not contain asthmagens
11 or respiratory sensitizers, giving priority in the
12 use of those funds, to the greatest extent prac-
13 ticable, to supporting emergency home repairs
14 that foster energy efficiency, decarbonization,
15 and climate resilience, including through bene-
16 ficial electrification of heating and cooling”;

17 (B) in paragraph (7)—

18 (i) in subparagraph (C), by striking
19 “and” at the end; and

20 (ii) by adding at the end the fol-
21 lowing:

22 “(E) ensure that—

23 “(i) the home energy supplier will not
24 charge late fees for any payment, by a
25 household receiving assistance through the

1 program funded under section 2602(b),
2 during the period beginning 6 months be-
3 fore and ending 6 months after a date on
4 which the supplier receives funds through
5 the program for the household; and

6 “(ii) if the supplier receives funds
7 through the program for such a household
8 and charged such late fees during that pe-
9 riod, the supplier shall refund the fees to
10 the household not later than 7 days after
11 the date the supplier receives the funds;

12 “(F) ensure that the home energy supplier
13 will not shut off home energy from a household
14 that received assistance through the program
15 funded under section 2602(b), within the 1-year
16 period beginning on the date the household re-
17 ceived the assistance;

18 “(G) ensure that the home energy supplier,
19 in return for receiving assistance through the
20 program funded under section 2602(b)—

21 “(i) will provide to the State data on
22 households that have not paid their home
23 energy bills, to enable the State and the
24 supplier to carry out coordinated outreach
25 concerning assistance available through the

1 program funded under section 2602(b);
2 and

3 “(ii) will, when sending a notice of
4 late payments to such households, include
5 information on such assistance, on how to
6 access such assistance through the HEAP
7 program, and on eligibility criteria for the
8 program; and

9 “(H) ensure that the home energy supplier
10 will, not later than 2 years after the date of en-
11 actment of the Heating and Cooling Relief Act,
12 in return for receiving assistance under the pro-
13 gram funded under section 2602(b) and
14 through a partnership with the State, offer per-
15 centage of income payment plans;” and

16 (C) in paragraph (9)—

17 (i) in subparagraph (A)—

18 (I) by striking “10 percent” and
19 inserting “15 percent”; and

20 (II) by striking “and” at the end;

21 and

22 (ii) by adding at the end the fol-
23 lowing:

24 “(C) in planning and administering that
25 program, the State shall use the portion of the

1 amount described in subparagraph (A), that ex-
2 ceeds 10 percent of the funds described in sub-
3 paragraph (A), to expand the State program
4 funded under section 2602(b) so that the State
5 operates the program on a year-round basis;
6 and

7 “(D) in planning and administering that
8 program, the State—

9 “(i) shall make technological changes
10 to allow, not later than 5 years after the
11 date of enactment of the Heating and
12 Cooling Relief Act, for online submission of
13 applications for assistance through that
14 program; and

15 “(ii) shall, to the extent practicable—

16 “(I) conduct outreach activities,
17 including activities to increase enroll-
18 ment as described in subsection (m);

19 “(II) ensure that all HEAP coor-
20 dinators in the State receive wages,
21 for administration funded under sec-
22 tion 2602(b), at not less than the
23 greater of \$15 per hour or the appli-
24 cable Federal, State, or local min-
25 imum wage rate;

1 “(III) conduct training;

2 “(IV) as needed, conduct out-
 3 reach relating to the program funded
 4 under section 2602(b) to rural electric
 5 cooperatives, home energy suppliers
 6 owned by a political subdivision of a
 7 State, such as a municipally owned
 8 electric utility, and home energy sup-
 9 pliers owned by any agency, authority,
 10 corporation, or instrumentality of a
 11 political subdivision of a State; and

12 “(V) explore opportunities for
 13 auto-enrollment of eligible households
 14 into the program funded under section
 15 2602(b), and in the process document
 16 any potential barriers to auto-enroll-
 17 ment that need to be clarified or oth-
 18 erwise addressed at the Federal
 19 level;”;

20 (2) in subsection (c)(1)—

21 (A) in subparagraph (G), by striking
 22 “and” at the end;

23 (B) by redesignating subparagraph (H) as
 24 subparagraph (I); and

1 (C) by inserting after subparagraph (G)
2 the following:

3 “(H) describes how the State will expand
4 the State program funded under section
5 2602(b) so that the State operates the program
6 on a year-round basis in accordance with sub-
7 section (b)(9)(C) and the measures the State
8 has taken so far to carry out this expansion;
9 and”; and

10 (3) by adding at the end the following:

11 “(m) The Secretary shall allow, to the greatest extent
12 possible, the self-attestation, and shall not require the
13 proof, described in subsection (c)(1)(A)(i).

14 “(n) The Secretary shall, by grant or contract, pro-
15 vide for a study that examines the rates of home energy
16 shutoffs and assessments of late fees among eligible house-
17 holds, relative to those rates for households that are not
18 eligible households, over a period of several years.

19 “(o) The Secretary shall provide technical assistance
20 to States to support partnerships described in subsection
21 (b)(7)(H).

22 “(p)(1) The Secretary, in consultation with the Sec-
23 retary of Education, shall issue guidance for use of funds
24 for administrative activities described in subsection (b)(9)
25 to increase, through partnerships with elementary schools,

1 secondary schools, and local educational agencies, enroll-
 2 ment in the program carried out with funds made avail-
 3 able under section 2602(b) among eligible households that
 4 include children and that have high energy burdens.

5 “(2) The Secretary shall issue guidance for use by
 6 States on outreach relating to assistance through the pro-
 7 gram funded under section 2602(b) to high-risk individ-
 8 uals, with relevant medical conditions, that benefit from
 9 the use of medical equipment that requires electricity, in-
 10 cluding a ventilator, an oxygen concentrator, or another
 11 medical device.”.

12 **SEC. 9. WEATHERIZATION.**

13 Section 2605(k) of the Low-Income Home Energy
 14 Assistance Act of 1981 (42 U.S.C. 8624(k)) is amended—

15 (1) in paragraph (1), by striking “15 percent”
 16 and inserting “25 percent”; and

17 (2) in paragraph (2)—

18 (A) in subparagraph (A), in the matter
 19 preceding clause (i)—

20 (i) by striking “subparagraph (B)”
 21 and inserting “subparagraph (C)”; and

22 (ii) by striking “the greater of 25 per-
 23 cent” and inserting “a portion equal to the
 24 greater of 35 percent”;

1 (B) by redesignating subparagraph (B) as
2 subparagraph (C); and

3 (C) by inserting after subparagraph (A)
4 the following:

5 “(B) The State—

6 “(i) shall, to the extent practicable—

7 “(I) use the portion described in sub-
8 paragraph (A) for energy-related home re-
9 pair that reduces dependence on fossil fuel
10 energy sources; and

11 “(II) use the portion to facilitate the
12 use of funds made available under section
13 2602(b) to increase the participation of eli-
14 gible households in community solar pro-
15 grams, or to otherwise increase access to
16 and ownership of distributed renewable en-
17 ergy infrastructure among eligible house-
18 holds; and

19 “(ii) shall if possible give the highest pri-
20 ority to using the portion for home repair that
21 replaces appliances that rely on fossil fuels with
22 appliances that use electric heating or cooling
23 technology, powered by renewable energy.”.

1 **SEC. 10. HOME ENERGY ARREARS.**

2 Section 2605 of the Low-Income Home Energy As-
3 sistance Act of 1981 (42 U.S.C. 8624), as amended by
4 section 8, is further amended by adding at the end the
5 following:

6 “(q)(1) In providing assistance through the program
7 funded under section 2602(b), a State, or any other per-
8 son with which the State makes arrangements to carry
9 out the objectives of this title, shall provide assistance (in
10 addition to any other assistance available) for home energy
11 arrears for any eligible household.

12 “(2) Not later than 1 year after the date of enact-
13 ment of the Heating and Cooling Relief Act, the Secretary
14 shall, in consultation with the Secretary of Energy, issue
15 guidance on best practices for States (including through
16 partnerships with home energy suppliers) to pay for home
17 energy arrears with assistance provided through the pro-
18 gram, including by paying for such arrears at the time
19 of dissemination of that assistance.

20 “(3) To the extent practicable, the Secretary and the
21 Secretary of Energy, shall jointly—

22 “(A) implement a data tracking system to col-
23 lect aggregate data regarding the number of eligible
24 households in arrears and their respective energy
25 burdens and develop recommendations to HEAP co-

1 ordinators on how to minimize energy burdens for
2 the households; and

3 “(B) issue guidance to home energy suppliers
4 with recommendations for working with State agen-
5 cies to address home energy arrears of eligible
6 households.”.

7 **SEC. 11. PROGRAM NAME CHANGE.**

8 (a) LIHEAP.—The Low-Income Home Energy As-
9 sistance Act of 1981 is amended—

10 (1) in section 2607A(b) (42 U.S.C. 8626a(b)),
11 by striking “low-income” the first place it appears;
12 and

13 (2) in section 2607B(e)(2)(B)(ii) (42 U.S.C.
14 8626b(e)(2)(B)(ii)), by striking “Low-Income”.

15 (b) OTHER LAW.—A reference in any other Federal
16 law (other than that Act), Executive order, rule, regula-
17 tion, or delegation of authority, or any document, of or
18 relating to the Low-Income Home Energy Assistance Pro-
19 gram, shall be deemed to refer to the Home Energy As-
20 sistance Program.

21 **SEC. 12. JUST TRANSITION GRANTS.**

22 The Low-Income Home Energy Assistance Act of
23 1981 is amended by inserting after section 2607B (42
24 U.S.C. 8626b) the following:

1 **“SEC. 2607C. HEAP JUST TRANSITION GRANTS.**

2 “(a) GRANT PROGRAM.—The Secretary and the Sec-
3 retary of Energy shall jointly carry out a grant program
4 under this section. In carrying out the program, the Secre-
5 taries shall make grants to States and local governments
6 to support the development and implementation of inter-
7 agency plans to reduce energy burdens for eligible house-
8 holds with high home energy use. The plans shall promote
9 the reduction of those burdens in a manner that supports
10 a just transition away from fossil fuel energy and protects
11 eligible households from the threats of climate change.
12 The Secretaries shall make the grants for a period of 3
13 years.

14 “(b) PREFERENCES.—In making the grants, the Sec-
15 retary shall give a preference to States, and local govern-
16 ments, who set up coordination systems—

17 “(1) to identify eligible households, that are re-
18 cipients of assistance through the program funded
19 under section 2602(b), with high home energy use;
20 and

21 “(2) prioritize those eligible households to re-
22 ceive emergency repair, weatherization, and retrofit
23 assistance that results in decarbonization and reduc-
24 tions in energy use.

25 “(c) REPORT TO CONGRESS.—At the conclusion of
26 the 3-year grant period, the Secretaries shall—

1 “(1) conduct an evaluation of the program’s
2 outcomes; and
3 “(2) prepare and submit to Congress a report
4 containing the results of the evaluation and policy
5 recommendations.”.

○