

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 352 Session of  
2007

INTRODUCED BY ROBBINS, SCARNATI, MELLOW, ERICKSON, ORIE, COSTA,  
VANCE, KITCHEN, WAUGH, O'PAKE, M. WHITE, STOUT, WONDERLING,  
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BROWNE, FERLO, GREENLEAF, GORDNER, FONTANA, BRUBAKER, PUNT,  
RAFFERTY, FOLMER, BAKER, PIPPY AND WASHINGTON, MARCH 12, 2007

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
JUNE 2, 2008

## AN ACT

1 Providing for Low-Income Home Energy Assistance Program  
2 eligibility, allocation of funds and resources; imposing  
3 duties on the Department of Public Welfare; and providing for  
4 compliance and fraud prevention procedures AND FOR  
5 PERFORMANCE AUDIT AND ALLOCATION OF APPROPRIATIONS. <—

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Home Energy  
10 Assistance in Time of Need (HEAT ON) Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Budget billing." The proration of an estimated 12-month  
16 projection of the cost of household heating based on weather,  
17 energy costs and occupancy adjusted over time as required for

1 changes in assumptions versus actual experience.

2 "Customer assistance program." A plan or program sponsored  
3 by a public utility for the purpose of providing universal  
4 service and energy conservation, as defined by 66 Pa.C.S. § 2202  
5 (relating to definitions) or 2803 (relating to definitions), in  
6 which customers make monthly payments based on household income  
7 and household size and under which customers must comply with  
8 certain responsibilities and restrictions in order to remain  
9 eligible for the Low-Income Home Energy Assistance Program.

10 "Department." The Department of Public Welfare of the  
11 Commonwealth.

12 "Hardship fund." A fund that provides cash assistance to  
13 utility customers with utility bill payment as defined in 52 Pa.  
14 Code §§ 54.72 (relating to definitions) and 62.2 (relating to  
15 definitions).

16 "Income." The types of income used in determining  
17 eligibility for LIHEAP as provided in the State Plan for the  
18 applicable fiscal year.

19 "Independent charitable organization." An organization  
20 approved as a charitable organization under section 501(c)(3) of  
21 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
22 § 501(c)(3)).

23 "Leveraged resources." Any LIHEAP funding resource as  
24 defined in section 2607A of the Low-Income Home Energy  
25 Assistance Act of 1981 (Public Law 97-35, 42 U.S.C. § 8626a).

26 "Low-Income Home Energy Assistance Program" or "LIHEAP." A  
27 federally funded program that provides financial assistance in  
28 the form of cash and crisis grants to low-income households for  
29 home energy bills and is administered by the Department of  
30 Public Welfare.

1 "Participating energy vendor." An agent or company that  
2 directly distributes home heating energy or services, including  
3 emergency energy or services, in exchange for payment.

4 "Plan year." The Federal LIHEAP fiscal year.

5 "Poverty level." The poverty level published by the United  
6 States Department of Health and Human Services and used by the  
7 Department of Public Welfare in determining eligibility for  
8 LIHEAP.

9 "State Plan." The State Plan for LIHEAP prepared by the  
10 Department of Public Welfare as required by section 2605(c) of  
11 the Low-Income Home Energy Assistance Act of 1981 (Public Law  
12 97-35, 42 U.S.C. § 8624(c)).

13 Section 3. Eligibility.

14 (a) Income eligibility.--Beginning October 1 of the plan  
15 year through April 30 of the following year the department shall  
16 make LIHEAP grants to eligible persons who have a household  
17 income not exceeding ~~the limits for LIHEAP grants established by~~ <—  
18 ~~the department under the State Plan for the applicable fiscal~~  
19 ~~year and whose household income is 150% of the poverty level or~~  
20 ~~less.~~ 150% OF THE POVERTY LEVEL. <—

21 (b) Income verification.--The department shall verify the  
22 income of LIHEAP applicants by requiring income documentation  
23 from applicants. Utilities shall use department verification of  
24 LIHEAP applicant approval as confirmation for enrollment  
25 eligibility in a customer assistance program.

26 (c) Qualifications for LIHEAP.--A notice of termination to a  
27 customer of a public utility shall be sufficient proof of a  
28 crisis for a customer with the requisite income level to receive  
29 a LIHEAP crisis grant from the department or its designee.

30 (d) Energy vendor participation.--As a condition of

<—

1 receiving LIHEAP funds, all participating energy vendors must  
2 provide eligible applicants budget billing over 12 months. IN  
3 THE EVENT A BUDGET CUSTOMER OF A DELIVERABLE FUEL VENDOR NOT  
4 REGULATED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION ACCEPTS  
5 LIHEAP FUNDS BUT FAILS TO ADHERE TO AN EXISTING VENDOR BUDGET  
6 AGREEMENT, THE VENDOR MAY TERMINATE THE BUDGET AGREEMENT AND  
7 REQUIRE PREDELIVERY PAYMENT FOR ENERGY FOR THE BALANCE OF THE  
8 PROGRAM YEAR. PARTICIPATION BY A DELIVERABLE FUEL CUSTOMER IN A  
9 BUDGET OR AUTOMATIC DELIVERY PLAN SHALL NOT DISQUALIFY THE  
10 CUSTOMER FROM RECEIVING LIHEAP CRISIS BENEFITS. The department  
11 shall require all participating energy vendors to establish an  
12 annual outreach plan component for all prior year LIHEAP  
13 recipients to receive current year LIHEAP application  
14 notification.

15 (e) Notice of eligibility.--The department shall work with  
16 all participating energy vendors in verifying an applicant's  
17 eligibility for any energy assistance, including, but not  
18 limited to, customer assistance programs and hardship funds.

19 (f) Nondiscrimination.--The department shall not  
20 discriminate in any aspect of Federal LIHEAP funding resource  
21 administration on the basis of energy type used as the primary  
22 source of home heating. Households using regulated utility  
23 services for home heating shall receive full and timely crisis  
24 and cash grants in accordance with 66 Pa.C.S. § 1406 (relating  
25 to termination of utility service).

26 Section 4. Allocation of funds.

27 (a) General rule.--The department shall implement the State  
28 Plan to utilize available funds to assist eligible households to  
29 meet the costs of home heating energy and shall make payments  
30 only as specified in an approved State Plan or as otherwise

1 provided by law. THE DEPARTMENT SHALL NOT SEEK TO ALTER ENERGY <—  
2 PRICING OF ANY FUEL TYPE NOR ATTEMPT TO NEGOTIATE OR CONDITION  
3 PARTICIPATION OF ANY ENERGY VENDOR IN THE LIHEAP PROGRAM BASED  
4 ON THE VENDOR'S ENERGY PRICING.

5 (b) Allocation.--The annual LIHEAP fiscal year projected  
6 budget shall conform to Federal guidelines in effect at the time  
7 and shall utilize allocated Federal funds as follows:

8 (1) Cash benefits - not less than ~~66%~~ 65% of available <—  
9 funds.

10 (2) Crisis benefits - not less than ~~14%~~ 10% of available <—  
11 funds. THE FOLLOWING APPLIES: <—

12 (I) THE STATE LIHEAP BUDGET SHALL BALANCE ANNUAL  
13 CRISIS FUNDING TO MEET THE NEEDS OF ALL ELIGIBLE  
14 APPLICANTS REGARDLESS OF FUEL TYPE. HOWEVER, TO ASSURE  
15 FUNDING TAKES INTO ACCOUNT HOUSEHOLD SELF-STORAGE OF  
16 DELIVERABLE FUELS VERSUS ON-DEMAND UTILITY SERVICE, THE  
17 DEPARTMENT SHALL BUDGET AN ALLOCATION OF CRISIS FUNDS FOR  
18 DELIVERABLE FUEL CUSTOMERS. THE BUDGET ALLOCATION SHALL  
19 BE GUIDED BY THE AVERAGE OF THE COMPARABLE PERCENTAGE OF  
20 CRISIS FUNDS PAID TO DELIVERABLE FUEL VENDORS OR  
21 CUSTOMERS FOR THE PRIOR THREE LIHEAP FISCAL YEARS  
22 ADJUSTED TO REFLECT THE AVERAGE NUMBER OF HOUSEHOLDS  
23 SERVED OVER THE THREE-YEAR PERIOD TO DETERMINE THE  
24 AVERAGE CRISIS AWARD AMOUNT TO APPLICANTS.

25 (II) TO ASSURE CRISIS FUNDS ARE AVAILABLE IN THE  
26 EVENT OF EXTREME WEATHER IN JANUARY AND FEBRUARY, THE  
27 STATE LIHEAP BUDGET SHALL INCLUDE A PROVISION TO RETAIN  
28 5% OF FUNDS DEDICATED TO CRISIS BENEFITS FOR APPLICANTS  
29 AFTER MID-JANUARY OF EACH YEAR.

30 (3) Weatherization - not less than 15% of available

1 funds.

2 (4) Administrative and planning costs - not more than 5% <—  
3 10% of available funds. <—

4 (c) Adjustments.--Adjustments within spending guideline  
5 maximums shall be made as needed, but shall not exceed 100% of  
6 available Federal funds in any fiscal year.

7 Section 5. Leveraged resources.

8 (a) Procedure.--The department shall utilize all programs  
9 and resources to maximize Federal LIHEAP funding by establishing  
10 a procedure for each plan year in accordance with the following:

11 (1) The department shall provide for certification of  
12 the sources and amount of all leverageable resources from  
13 public and private sector records for the applicable plan  
14 year and inclusion of the data in the State Plan.

15 (2) The department shall use all of the following in the  
16 application for the incentive program for leveraging non-  
17 Federal resources and request for approval of such for  
18 additional leveraged Federal LIHEAP funding:

19 (i) Customer assistance program-related and recorded  
20 resources in application.

21 (ii) Discounts or credits for monthly billing and  
22 arrearage forgiveness provided through utilities'  
23 customer assistance programs. Sources for leveraged  
24 resources shall include reduced utility residential  
25 tariff rates, utility operating funds, waived late  
26 payment charges, security deposit fees and reconnection  
27 fees which shall be documented by the Pennsylvania Public  
28 Utility Commission as sources of leveraged resources.

29 (iii) Cash grant assistance from any nongovernmental  
30 source and utility credits for LIHEAP recipients to

1 assist in the payment of:

2 (A) Home heating costs.

3 (B) The repair of home heating equipment and/or  
4 excavation costs to repair gas lines.

5 (C) Home weatherization materials and  
6 installation.

7 ~~(iv) Private nonutility fuel vendor donations,~~ <—  
8 ~~hardship funds and other social service agencies' and~~  
9 ~~utility companies' resources.~~

10 (IV) THE VALUE OF PRIVATE NONUTILITY DELIVERED FUEL <—  
11 VENDOR BULK FUEL DONATIONS, AS REPORTED TO THE DEPARTMENT  
12 BY PRIVATE NONUTILITY FUEL VENDORS, HARDSHIP FUNDS AND  
13 OTHER SOCIAL SERVICE AGENCIES AND UTILITY COMPANY  
14 RESOURCES.

15 (v) Community-based independent charitable  
16 organization cash grants.

17 (vi) Donations or in-kind contributions provided by  
18 rural electric cooperatives and independent charitable  
19 organizations. The source of funds includes:

20 (A) Cooperative member and director  
21 contributions.

22 (B) Electric cooperative matching funds.

23 (C) Funds from a federation of independent  
24 charitable organizations.

25 (D) Heating system materials and supplies  
26 donated by building and supply companies to LIHEAP  
27 recipients.

28 (VII) PROGRAMS ADMINISTERED BY MUNICIPALITIES THAT <—  
29 PROVIDE HOME HEATING ASSISTANCE TO LOW-INCOME HOUSEHOLDS.

30 ~~(vii)~~ (VIII) Any other resource not prohibited by <—

1 Federal law.

2 (b) Allocation of grant funds.--Any leveraging incentive  
3 grant award shall be used to maintain or increase benefits to  
4 LIHEAP households.

5 Section 6. Public participation and legislative oversight.

6 In accordance with section 2605(b)(12) of the Low-Income Home  
7 Energy Assistance Act of 1981 (Public Law 97-35, 42 U.S.C. §  
8 8624(b)(12)), the department shall provide for timely public  
9 participation in the development of a State Plan as follows:

10 (1) In accordance with section 2605(a)(2) of the Low-  
11 Income Home Energy Assistance Act of 1981 (42 U.S.C. §  
12 8624(a)(2)), public hearings on each fiscal year LIHEAP  
13 proposed State Plan shall be held as scheduled by the  
14 Secretary of Public Welfare.

15 (2) (i) A LIHEAP advisory committee shall advise the  
16 Secretary of Public Welfare on the administration of the  
17 LIHEAP block grant, including a review of the proposed  
18 plan and recommendations on the final plan.

19 (ii) Members of the advisory committee shall be  
20 appointed by the Secretary of Public Welfare and  
21 represent the following:

22 (A) Consumer and advocacy interests.

23 (B) Participating energy vendors.

24 (C) Other concerned citizens of this  
25 Commonwealth.

26 (iii) ~~The~~ IN ADDITION TO THE MEMBERS PROVIDED FOR IN <—  
27 SUBPARAGRAPH (II), THE advisory committee shall include:

28 (A) The chairman and the minority chairman of  
29 the Consumer Protection and Professional Licensure  
30 Committee of the Senate or their designees.



1 (B) The chairman and the minority chairman of  
2 the Public Health and Welfare Committee of the Senate  
3 or their designees.

4 (C) The chairman and the minority chairman of  
5 the Consumer Affairs Committee of the House of  
6 Representatives or their designees.

7 (D) The chairman and the minority chairman of  
8 the Health and Human Services Committee of the House  
9 of Representatives or their designees.

10 (IV) ONE MEMBER SHALL SERVE AS THE CHAIRMAN OF THE <—  
11 ADVISORY COMMITTEE. THE POSITION OF CHAIRMAN SHALL CHANGE  
12 ANNUALLY AND THE SAME MEMBER SHALL NOT SERVE AS CHAIRMAN  
13 MORE THAN ONCE IN ANY FOUR-YEAR PERIOD. FOR THE PURPOSE  
14 OF SELECTING A CHAIRMAN, THE POSITION SHALL REVOLVE  
15 ANNUALLY AMONG REPRESENTATIVES OF THE CONSUMER AND  
16 ADVOCACY INTERESTS, ENERGY VENDORS, CONCERNED CITIZENS  
17 AND LEGISLATIVE MEMBERS.

18 (3) Copies of the proposed State Plan, including a copy  
19 of public comments received, shall be forwarded to the  
20 chairman and minority chairman of the Consumer Protection and  
21 Professional Licensure Committee of the Senate, the chairman  
22 and minority chairman of the Public Health and Welfare  
23 Committee of the Senate, the chairman and minority chairman  
24 of the Consumer Affairs Committee of the House of  
25 Representatives and the chairman and minority chairman of the  
26 ~~Health~~ HEALTH and Human Services Committee of the House of <—  
27 Representatives for review and comment 60 days prior to final  
28 plan submission to the Department of Health and Human  
29 Services. Copies of the plan shall be available for public  
30 review and comment at all county assistance offices.

1 Section 7. Monitoring and audit.

2 (a) Monitoring.--In accordance with section 2605(b)(10) of  
3 the Low-Income Home Energy Assistance Act of 1981 (Public Law  
4 97-35, 42 U.S.C. § 8624(b)(10)), the department shall ~~provide~~ <—  
5 IMPLEMENT fiscal control and fund accounting procedures to <—  
6 assure the proper disbursement of funds, which include  
7 monitoring payments and an annual audit of State Plan  
8 expenditures.

9 (b) Audit.--In accordance with section 2605(e) of the Low-  
10 Income Home Energy Assistance Act of 1981 (42 U.S.C. § 8624(e)),  
11 the department shall submit annually to a financial and  
12 compliance audit in accordance with the standards of the  
13 Comptroller General of the United States. A copy of the audit  
14 shall be submitted within 30 days after completion of the audit  
15 to the Governor, the Secretary of the Senate and Chief Clerk of  
16 the House of Representatives. The department shall make the  
17 audit report available to the public on a timely basis.

18 (c) Department action.--In the event the department uncovers  
19 any false, misleading or inaccurate statement by applicants,  
20 participating energy vendors, or State employees, the department  
21 shall notify the State Inspector General or appropriate law  
22 enforcement agency.

23 SECTION 8. PERFORMANCE AUDIT AND ALLOCATION. <—

24 (A) PERFORMANCE AUDIT.--THE LEGISLATIVE BUDGET AND FINANCE  
25 COMMITTEE SHALL CONDUCT A PERFORMANCE AUDIT ON THE USE OF THE  
26 LIHEAP WEATHERIZATION ASSISTANCE PROGRAM MONEYS FOR FISCAL YEARS  
27 JULY 1, 2005, THROUGH JUNE 30, 2008, AND SUBMIT TO THE GENERAL  
28 ASSEMBLY A REPORT BASED ON THE AUDIT WITHIN ONE YEAR OF THE  
29 EFFECTIVE DATE OF THIS ACT.

30 (B) ALLOCATION.--COMMENCING WITH FISCAL YEAR 2009-2010, THE

1 ALLOCATION OF LIHEAP MONEYS APPROPRIATED TO THE DEPARTMENT OF  
2 COMMUNITY AND ECONOMIC DEVELOPMENT FOR THE WEATHERIZATION  
3 ASSISTANCE PROGRAM SHALL BE BASED ON THE FINDINGS OF THE AUDIT  
4 PERFORMED PURSUANT TO SUBSECTION (A). ANY MONEY NOT UTILIZED FOR  
5 THE WEATHERIZATION ASSISTANCE PROGRAM AS A RESULT OF THE  
6 ALLOCATION OF LESS THAN 15% OF THE AVAILABLE FUNDS SHALL BE USED  
7 FOR LIHEAP ASSISTANCE GRANTS.

8 Section 8 9. Applicability.

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9 This act shall apply beginning with the ~~2007~~ 2008 plan year.

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10 Section 9 10. Effective date.

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11 This act shall take effect in 60 days.