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The Low-Income Home Energy Assistance Program (LIHEAP)

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Summary

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35 and currently authorized through FY2004, is a block grant program under which the federal government gives states and other jurisdictions annual grants to operate home energy assistance programs for low-income households. On January 2, 2002 the Department of Health and Human Services (HHS) made second quarter LIHEAP allocations to states, which brought to \$1.125 billion the total in regular FY2002 LIHEAP money distributed this fiscal year. The money was provided under the continuing funding resolutions and assumed the FY2001 regular funds appropriation of \$1.4 billion. However, for FY2002 Congress ultimately appropriated \$1.7 billion in regular LIHEAP funds (P.L. 107-116) and, prior to its third quarter allocation of regular funds, HHS plans to make a separate distribution of funds to increase all earlier allocations to this higher appropriation level.

In addition to the regular FY2002 LIHEAP funds P.L. 107-116 provided \$300 million in LIHEAP contingency funds. Combined with \$300 million in contingency funds still available from an earlier appropriation (P.L. 107-20), a total of \$600 million is now available for LIHEAP contingency expenditure. By statute, these funds may only be released at the Administration's discretion. The Senate has called for a release of some LIHEAP contingency funds (See S.Amdt. 2050 to H.R. 3061) and the conference agreement to the FY2002 Labor-HHS-Education Appropriations Act also encourages their release. In the House, Representative Solis introduced H.Res. 300 in November, which also calls for a release of LIHEAP contingency funds.

The most recent national LIHEAP data (FY1999) show an estimated 3.6 million households received winter heating/crisis assistance (additional families received summer aid). The total number of households that received assistance in FY2001 may be as high as 5 million. This more current number is reported by the National Energy Assistance Directors Association (which represents state LIHEAP directors) and is consistent with a substantial increase in program spending tied to the release of contingency funds in late CY2000. This report provides background on LIHEAP and will be updated periodically.

Recent Developments. On January 2 HHS released second quarter FY2002 LIHEAP funds in the amount of \$364 million. Combined with the \$761 million released for first quarter allotments, this brought LIHEAP FY2002 distributions to \$1.125 billion. This money was released under the continuing resolutions that provided funding for the government before enactment of the regular FY2002 appropriation acts. Because of this, allocations to the states were based on the FY2001 regular funding level of \$1.4 billion. However, on January 10, 2002 President Bush signed the FY2002 Labor-HHS-Education Appropriations Act (H.R. 3061, P.L. 107-116), which provides \$1.7 billion in regular LIHEAP funding. HHS intends shortly to distribute additional LIHEAP grant money to bring each state's first and second quarter allotments up to the full FY2002 funding level.

The FY2002 Labor-HHS-Education Appropriations Act (P.L. 107-116) also includes \$300 million in LIHEAP contingency funds. Combined with the \$300 million in contingency funds that were appropriated as a part of the FY2001 Supplemental Appropriations Act (P.L. 107-20), the total amount of LIHEAP contingency funds available for expenditure, as of January 10, 2002, is \$600 million.

On October 31, 2001 the Senate adopted a sense of the Senate amendment as part of its Labor-HHS-Education appropriations bill (S.Amdt. 2050 to H.R. 3061), which called on the President to release the \$300 million in then available LIHEAP contingency funds. The amendment states that many households have not yet paid for last year's exceptionally high heating bills, that Congress appropriated the available LIHEAP contingency funds in July as a way to respond to this still unmet need (see H.Rept. 107-148), and that the call for energy assistance will likely increase this winter due to a slowing economy and rising unemployment. The December 18 conference agreement accompanying the FY2002 Labor-HHS-Education Appropriations Act (H.R. 3061) incorporated these ideas and "encourage[s] the Administration to release funds to reduce the energy burden on low income households throughout the nation." The report cites a rise in the official unemployment rate and notes that the LIHEAP contingency fund was designed to meet the additional home energy assistance needs that result from a natural disaster or other emergency, "which include a significant increase in the cost of home energy, a significant increase in home energy disconnections or a significant increase in unemployment, layoffs, or the number of households applying for unemployment benefits." (See H.Rept. 107-342, the conference report accompanying H.R. 3061, p. 103. See also P.L. 97-35, Sec. 2603 (1), as amended.)

Representative Solis introduced H.Res. 300 on November 29, 2001, which states a sense of the House of Representatives that the President should immediately release LIHEAP contingency funds to states to ease the financial burdens of low-income families facing unemployment due to the September 11 terrorist attacks, related concerns, and a worsening economy. The resolution was referred to committees on December 10, 2001 and as of January 10, 2001 had 101 bipartisan co-sponsors.

On October 30 the Senate Health, Education, Labor and Pensions Committee held a hearing on LIHEAP. Members called on the Administration to immediately release the then available \$300 million in contingency funds. HHS Assistant Secretary for Children and Families, Wade Horn, testified that the Administration had requested supplemental contingency LIHEAP funds for FY2001 to ensure that money would be available to meet summer cooling assistance needs. He added that because the funds appropriated in July (P.L. 107-20) were not needed for cooling they were now potentially available for heating

assistance. While he pointed out that less harsh weather and lower fuel prices are expected this winter, Assistant Secretary Horn also stated that the Administration is monitoring receipt of various forms of public assistance (including Temporary Assistance to Needy Families and Food Stamps) to evaluate any increases that might suggest a need to release LIHEAP contingency funds. (The statutory definition of “emergency” includes significant increases in certain public benefit programs. See P.L. 97-35, Sec. 2603 (1), as amended.)

Other witnesses, representing state and community energy assistance groups, and utility companies, reported a shortfall in funds for low-income energy assistance as well as an increased demand for this assistance. Two witnesses said that a lack of timely and consistent LIHEAP funding prevented professional planning for the program including use of cost-saving measures, such as purchase of lower-priced fuel in the summer months.

Pending Legislation. On August 2, 2001 the House passed the Securing America’s Future Energy Act of 2001 (SAFE Act, H.R. 4). The bill would raise the regular grant funding authorization from the current \$2 billion to \$3.4 billion for each fiscal year through FY2005. The SAFE Act also calls for a General Accounting Office (GAO) study to determine: to what extent LIHEAP and other government energy subsidies encourage or discourage energy conservation; to what extent education could increase conservation in low-income households who opt to receive supplemental income instead of LIHEAP; the benefit in energy efficiency and savings that can be achieved through annual maintenance of heating and cooling appliances in the homes of those receiving LIHEAP; and the energy conservation loss that results from structural, health, or environmental inadequacies in buildings that receive LIHEAP weatherization assistance.

In July 2001 conferees were appointed to settle differences in bankruptcy reform legislation (H.R. 333) passed by the House and Senate. The Senate version includes a provision that would reauthorize LIHEAP through FY2005 and set its annual funding authorization at \$3.4 billion. The House bill did not include LIHEAP-related language.

In March 2001 Representative Maloney of New York introduced H.R. 962 to amend the Mineral Leasing Act by directing 5% of the royalties and other payments received by the United States from onshore federal oil and gas development to LIHEAP. In May 2001 Senator Schumer introduced similar legislation in the Senate (S. 922). Also in May the National Energy Policy Development Group, led by Vice President Cheney, released its report and recommends that the Secretaries of Interior and HHS propose legislation to bolster LIHEAP funding by using a portion of oil and gas royalty payments for the program. The national energy policy report further proposes redirecting royalties to fund LIHEAP, whenever crude oil and natural gas prices exceed a set trigger price. In the late 1980s money from oil price overcharge settlements (related to oil companies’ price control violations) were a significant source of LIHEAP funds that were distributed to states by the Department of Energy. However, most of these settlements have been completed and this is no longer an important or ongoing funding source for the program.

Federal Standards and Grantee Responsibilities. LIHEAP is a federally-funded block grant program that helps ease the energy cost burden of low-income households. Federal requirements are minimal and leave most important program decisions to the states, the District of Columbia, U.S. territories and commonwealths, and Indian tribes and tribal organizations (collectively referred to as grantees) who receive

federal funds. The federal government (HHS) may not dictate how grantees implement "assurances" that they will comply with general federal guidelines.

Federal law limits eligibility to households with incomes up to 150% of the federal poverty income guidelines (or, if higher, 60% of the state median income). States may adopt lower income limits, but no household with income below 110% of the poverty guidelines may be excluded. States may separately choose to make eligible for LIHEAP assistance any household or households where at least one member is a recipient of Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, or certain needs-tested veteran's programs. Within these limits, grantees decide which, if any, assistance categories to include, what income limits to use, and whether to impose *other* eligibility tests. They may grant priority to households with the greatest energy needs or cost burdens, especially those that include disabled or frail elderly individuals or young children. Federal standards require grantees to treat owners and renters "equitably," to adjust benefits for household income and home energy costs, and to have a system of "crisis intervention" assistance for those in immediate need. LIHEAP assistance does not reduce eligibility or benefits under other aid programs. Federal rules also require outreach activities, coordination with the Department of Energy's weatherization program, annual audits and appropriate fiscal controls, and fair hearings for those aggrieved. Grantees decide the mix and dollar range of benefits, choose how benefits are provided, and decide what agencies will administer program components.

Participation and Benefits. Funds are available for four types of energy assistance to eligible households: help paying heating or cooling bills, low-cost weatherization projects (limited to 15% of allotment unless grantee has waiver for up to 25%), services to reduce need for energy assistance (limited to 5% of allotment), and assistance with energy-related emergencies. According to an HHS analysis of data from the Census Bureau's March 1999 Current Population Survey, approximately 24% of LIHEAP recipients are households that do not receive any other public assistance through TANF, Supplemental Security Income, Food Stamps or subsidized housing and some 35% are elderly households.

HHS uses state data to estimate participation levels. For FY1999 (most recent year available) an estimated 3.3 million households received assistance with heating payments, 533,000 received cooling aid, 757,000 received winter crisis aid, 315,000 received summer crisis aid, and 84,000 received weatherization assistance. (It is not possible to calculate from this data a single number of households aided because any one household may have received multiple kinds of assistance.) The percentage of federally eligible households receiving LIHEAP benefits declined from 28% in 1982 to 12% in FY1999. Due to greater program funding (\$856 million in LIHEAP contingency funds were released between late September 2000 and December 2000) the percent of eligible households served is expected to have risen in FY2001 and may have reached 17%.

In FY1999, HHS data show an average heating/winter crisis benefit of \$352 and an average cooling/summer crisis benefit of \$140.

Authorization. In 1998, P.L. 105-285 reauthorized LIHEAP, without major program changes and set annual funding authorization for FY2002-FY2004 at \$2 billion. In 1994 (P.L. 103-252), Congress stipulated that LIHEAP benefits and outreach activities target households with the greatest home energy *needs* (and costs), enacted a separate and permanent contingency funding authorization of \$600 million each fiscal year and allowed

those funds to be allocated to one or more states at the discretion of the HHS secretary. The 1994 law also established the “Residential Energy Assistance Challenge” (REACH) grant program to increase efficiency of energy usage among low-income families and reduce their vulnerability to homelessness, and other health and safety risks due to high energy costs. Other significant amendments to the program were authorized in 1990 under P.L. 101-501. That act created the Incentive Program for Leveraging Non-Federal Resources, which offers supplemental grants to states that win reduced energy rates for low-income households. Although the statute provides for separate funding authorization of between \$30 million - \$50 million for these grants, in practice, leveraging incentive grants have been funded at between \$22 million - \$30 million out of the program’s regular fund appropriations. The 1990 revisions (P.L. 101-501) also authorized a July to June program year (or forward) funding of LIHEAP to allow state program directors to plan for the fall/winter heating season with knowledge of available money. This program year language was subsequently removed although the statute now states that money appropriated in a given fiscal year is to be made available for obligation in the following fiscal year. Congress has in some past years made advance appropriations for LIHEAP.

Funding. The LIHEAP statute authorizes regular appropriations, which are allocated to all states based on a statutory formula, and contingency funds, which are allocated to one or more states at the discretion of the Administration. The FY2002 Labor-HHS-Education Appropriations Act (P.L. 107-116) increased the regular LIHEAP appropriation to \$1.7 billion and also makes an additional \$300 million available in contingency funds. Although regular LIHEAP funding was held at \$1.4 billion last year, the release of significant LIHEAP contingency funds to all states (between late September and December 2000) caused a substantial 1-year increase in LIHEAP program funding and state program directors saw an effective total program funding level of \$2.25 billion.

Each grantee receives a percentage share of the annual federal LIHEAP funds. If the annual regular federal appropriation is below \$1.975 billion (which has been the case for regular LIHEAP funds since FY1987), states receive the same percentage share that they received in FY1984. The formula that determined the FY1984 percentage shares considered data available at that time pertaining to: heating degree days squared, total residential energy expenditures, home heating costs, number of low-income households, and other factors. If the annual regular appropriation were to exceed \$1.975 billion, a different formula for calculating states’ percentage shares would begin to take effect.¹ In either case regular federal grants to states may be supplemented with: contingency funds, leveraging incentive and REACH grants, funds left over from the previous fiscal year, and rarely (if ever) used authority to transfer funds from other federal block grants.

Emergency Fund Releases. Contingency funds may be dispersed by the President in response to a natural disaster or other emergency. The funds may be allocated to one or more states based on their needs (as determined by the HHS secretary). President Clinton drew on FY2000 and FY2001 appropriations to release a total of \$856 million in contingency funds between September and December 2000. These funds were provided to assist low-income households with higher than normal winter heating bills. All states received some of this money, but the allocation of funds (based on a formula similar but not identical to regular allotments) was weighted toward states with a greater

¹ For more information see CRS Report RS20893, *The Low-Income Home Energy Assistance Program: How are State Allotments Determined?*

percentage of low-income households facing significant heating oil, natural gas, and propane price increase. LIHEAP contingency funding is also used in other crisis situations. For instance, in August 2000, President Clinton released \$2.6 million in emergency LIHEAP funds to Southern California, for low-income households experiencing substantially higher electricity rates. Likewise, most of the summer releases of FY2000 emergency funds targeted warmer states and were intended to help low-income families cool their homes during extreme summer heat. Alaska, on the other hand, received emergency funding during the summer of 2000 to allow families in native Alaskan villages to buy heating oil for the coming winter after a poor salmon run (for the fourth year in a row) resulted in a lack of cash for this purpose.

Table 1 shows a history of LIHEAP funding, including Presidential requests, the authorization level, the regular fund appropriations, contingency/emergency fund appropriations and contingency/emergency funds dispersed for each of FY1982-FY2002.

Table 1. LIHEAP Funding Trends: FY1982-FY2002

(\$ in thousands)

Fiscal year	Regular funds President's request	Regular funds authorization level ^a	Regular funds appropriation	Contingency funds appropriated	Contingency funds dispersed
1982	\$1,400,000	\$1,875,000	\$1,875,000		
1983	1,300,000	1,875,000	1,975,000		
1984	1,300,000	1,875,000	2,075,000		
1985	1,875,000	2,140,000	2,100,000		
1986	2,097,765	2,275,000	2,100,000		
1987	2,097,642	2,050,000	1,825,000		
1988	1,237,000	2,132,000	1,531,840		
1989	1,187,000	2,218,000	1,383,200		
1990	1,100,000	2,307,000	1,443,000		
1991	1,050,000	2,150,000	1,415,055	195,180	195,180
1992	1,025,000	2,230,000	1,500,000	300,000	0
1993	1,065,000	<i>ssan</i> ^b	1,346,030	595,200	0
1994	1,507,408	<i>ssan</i> ^b	1,437,402	600,000	300,000
1995	1,475,000	2,000,000	1,319,202	600,000	100,000
1996	1,319,204	2,000,000	900,000	180,000	180,000
1997	1,000,000	2,000,000	1,000,000	420,000	215,000
1998	1,000,000	2,000,000	1,000,000	300,000	160,000
1999	1,300,000	2,000,000	1,100,000	300,000	175,299
2000	1,400,000	<i>ssan</i> ^b	1,100,000	900,000	744,350 ^c
2001	1,400,000	<i>ssan</i> ^b	1,400,000	600,000	455,650 ^d
2002	1,400,000	2,000,000	1,700,000	300,000 ^d	

Source: Table prepared by the Congressional Research Service (CRS) based on HHS Budget Justifications.

^a Amounts listed are for *regular* funding only. In 1994 Congress enacted a permanent \$600 million annual authorization for contingency funding. Prior to 1994 contingency funds were sometimes available.

^b Such sums as necessary.

^c President Clinton released \$400 million of these FY2000 contingency funds in late September 2000 making it effectively available to states in FY2001.

^d There are a total of \$600 million in contingency funds available for release as of January 10, 2002. Half were appropriated by P.L. 107-20 (FY2001 Supplemental Appropriations Act) and half were appropriated by P.L. 107-116 (FY2002 Labor-HHS-Education Appropriations Act).