

# CRS Report for Congress

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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. The most current Department of Health and Human Services (HHS) data show an estimated 3.9 million households received winter heating/crisis assistance in FY2000. According to the National Energy Assistance Directors Association (which represents state LIHEAP directors), the number of households receiving this assistance in FY2001 may be as high as 5 million. This larger number is consistent with a substantial increase in program funds available for FY2001.

Acting under the authority of the continuing resolutions, HHS has released first quarter FY2003 regular LIHEAP funds at a \$1.4 billion annual funding level. Although the current continuing resolution (P.L. 107-294) extends into the early part of the second FY2003 quarter, as of December 6, 2002, it is not clear whether additional funds will be available for release in early January. In FY2002, \$1.7 billion in regular LIHEAP funds were appropriated along with \$300 million in contingency funds. The President's FY2003 budget proposes to cut regular LIHEAP funding to \$1.4 billion but also requests \$300 million in contingency funds.

On August 9, the Administration released \$100 million in LIHEAP emergency contingency funds to meet energy needs in states most affected by the severe summer heat. Funds were allocated to 33 states and the District of Columbia based on the severity of the heat and number of low-income households in those jurisdictions. A total of \$300 million in LIHEAP contingency funds remain available for distribution. These funds were appropriated in FY2001 (P.L. 107-20) and are "available until expended."

The President's FY2003 budget states a desire to revise the formula used to allocate LIHEAP funds and an April 2002 Senate floor colloquy (between Senators Landrieu and Kennedy) included a promise to discuss the formula in the next LIHEAP reauthorization debate. This report provides background on LIHEAP and will be updated periodically.

## Recent Developments and Current Issues

**First Quarter FY2003 Funds Released.** HHS has released first quarter FY2003 regular LIHEAP funds based on a \$1.4 billion annual funding level. The continuing resolution permits funding up to the FY2002 funding level but also specifies that no grants should be made that would “impinge on final funding prerogatives” (Section 110, P.L. 107-229). The current continuing resolution (P.L. 107-294) is intended to provide funding for federal programs through January 11. As of December 6, 2002, however, it was not clear whether, or if so, how much, funding would be available for HHS to make second quarter FY2003 grant awards in early January. States may specify what part of their full year allotment they would like to receive in each quarter that grants are made and many states choose to receive 40% or more of their annual LIHEAP grant in the first quarter.<sup>1</sup>

**Contingency Funds Released.** President Bush notified Congress of his intent to release LIHEAP contingency funds on August 8, 2002; one day later HHS released \$100 million to 33 states and the District of Columbia. The funds were distributed to each state whose temperatures between June 23, 2002 and August 3, 2002 were significantly higher than the state’s 30-year average temperature for that time period. Among the 34 jurisdictions that met this criteria, funds were allocated based on the severity of the heat wave and the number of households with incomes below 125% of the federal poverty level.<sup>2</sup>

The August release of \$100 million in LIHEAP contingency funds was made from the \$300 million appropriated for this account as part of FY2002 appropriations (P.L. 107-116). That money was made available for FY2002 use *only* and the remaining \$200 million expired with the end of that fiscal year. Separately, Congress appropriated \$300 million in LIHEAP contingency funds as a part of the FY2001 Supplemental Appropriations (P.L. 107-20). This money was designated as “available until expended” and remains available for release.

**Funding.** The Senate Appropriations Committee voted on July 18, 2002 to maintain FY2003 regular LIHEAP funding at the current year’s \$1.7 billion level (S. 2766), however this legislation died with the close of the 107<sup>th</sup> Congress. In its FY2003 budget the Bush Administration proposes to reduce the FY2003 appropriation for regular LIHEAP funds to \$1.4 billion. Administration budget documents state that the lower request for regular LIHEAP funds was “in response to Department of Energy forecasts of lower fuel costs.” Senate appropriators also approved \$300 million in FY2003 LIHEAP contingency funds (S. 2766). That is the current year appropriation for contingency funds and is also the amount proposed in the President’s FY2003 budget.

**LIHEAP formula.** The President’s FY2003 budget indicates the Administration’s interest in changing the formula used to distribute LIHEAP funds and, in particular, in

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<sup>1</sup> FY2003 first quarter funding levels, by state, are available on the HHS LIHEAP Web page [<http://www.acf.hhs.gov/programs/liheap/funding.htm#FY03>].

<sup>2</sup> For a more detailed explanation of the criteria used to distribute the funds, a list of the qualifying states, and the allocations made to these states, go to [<http://www.acf.dhhs.gov/programs/liheap/im02-17.htm>].

“basing the formula on current home energy expenditures paid by low-income households.” As part of an April floor colloquy, Senator Landrieu – citing the fact that the money is now allocated based on dated assumptions – asked that the LIHEAP formula be revisited; Senator Kennedy, who then chaired the Senate HELP committee charged with reauthorizing LIHEAP in FY2004, promised to hold hearings to address this issue. (See *Congressional Record*, April 16, 2002 S2716-S2717). In June, Representative Shows introduced a bill (H.R. 4898) that sought to change the LIHEAP formula by lowering the current statutory “hold harmless” provision from \$1.975 billion to \$1 billion.

As amended in 1984 (P.L. 98-558), the LIHEAP statute provides that funds be allotted to states based on current home energy expenditures of low-income households. However, it also states that unless regular LIHEAP funds reach \$1.975 billion in any given fiscal year (after FY1985) no state can receive less funds than it would have received under the previous allotment formula. Because regular LIHEAP funds have not exceeded \$1.975 billion since FY1986, the prior formula for allocating funds has generally governed the percentage share of funds states receive. First developed for use in FY1981, that formula relied on then available population, weather, and energy expenditure data and included factors that gave greater weight to states with colder temperatures.

**Funding Authorization and GAO Study.** A final agreement on energy legislation (H.R. 4) was not reached before adjournment of the 107<sup>th</sup> Congress. In late July, however, conferees had voted to make certain LIHEAP provisions a part of their final agreement. These included a proposal, passed as part of both the House and the Senate energy bills, that would have raised LIHEAP’s regular funds annual authorization level from \$2 billion to \$3.4 billion and would have extended this funding authorization level through FY2005. The conferees also had agreed to a House proposal that would mandate 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. Senate energy bill conferees, however, had apparently receded from their chamber’s proposal to raise the authorized annual funding level for LIHEAP contingency funds (from \$600 million to \$1 billion) and to allow HHS to reserve \$750,000 in regular LIHEAP funds (instead of the current \$300,000) for technical assistance and training.

**Performance measurement.** The LIHEAP statute provides that states are to use available federal LIHEAP funds to serve households that pay high home energy costs (relative to their low incomes) and that include “vulnerable” members (defined as very young, disabled, or frail elderly individuals). With this legislative mandate in mind, HHS has developed performance goals and measures to enable it to quantify state performance. The initial performance goals are to increase the percent of LIHEAP recipient households having: 1) a member 5 years of age or younger; 2) a member 60 years of age or older; and 3) the lowest incomes and the highest energy costs. Achievement of these goals will be measured using specially developed benefit targeting and burden targeting indexes. The agency is working to establish FY2001 baseline data and intends to measure FY2002

performance. The information generated is intended to help states improve program outreach and management, and to assist HHS in determining how best to offer technical assistance.

## Federal LIHEAP Provisions and Program Operation

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 eligibility standards and grantee responsibility.** 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 for 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. The statute gives priority for aid 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 the program.

**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 FY2000 (most recent year available) an estimated 3.6 million households received assistance with heating payments, 318,000 received cooling aid, 920,000 received winter crisis aid, 88,000 received summer crisis aid, and 91,000 received weatherization assistance. (It is not possible to calculate from these 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 winter heating/crisis benefits declined from 31% in 1983 to an estimated 13% in FY2000. Greater program funding during the 2000-2001 heating

season ( \$855 million in LIHEAP contingency funds were made available to all states) may have allowed the percent of eligible households served in FY2001 to reach 17%. Regular LIHEAP funds appropriated for FY2002 were \$300 million above the regular funds available for FY2002 but because no contingency funds were released during the heating season, state LIHEAP administrators experienced an effective cut in resources.

The most recent available state data compiled by HHS shows an average heating/winter crisis benefit of \$271 in FY2000 (compared to \$237 in FY1999) and an average cooling/summer crisis benefit of \$206 (compared to \$137 in FY1999). The constant (1981) dollar value of average winter/heating crisis benefits declined from \$213 in the first year of the program (FY1981) to a low of \$112 in FY1998; in FY2000 its constant dollar (1981) value was \$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 to \$50 million for these grants, in practice, leveraging incentive grants have been funded at between \$22 million to \$30 million out of the program’s regular fund appropriations. 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 last provided advance appropriations for LIHEAP in the FY2000 appropriations cycle.

**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. Each grantee receives a percentage share of the annual regular LIHEAP funds. If the annual regular federal appropriation is below \$1.975 billion (which has been the case for regular LIHEAP funds since FY1986), 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 (including more current data) would begin to take effect. In either case LIHEAP grants to states may be supplemented with other federal dollars, including: 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. (For more information see CRS Report RS20893, *The Low-Income Home Energy Assistance Program: How are State Allotments Determined?*)

**Contingency Fund Releases.** LIHEAP contingency funds are separately authorized and may be allocated to one or more states based on their needs (as determined by the HHS Secretary). These funds may only be released at the discretion of the Administration and are authorized “to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency.” The term “emergency” is defined in the LIHEAP statute to include: a natural disaster; a significant home energy supply shortage or disruption; significant increases in the cost of home energy, home energy disconnections, participation in public benefit programs, or unemployment; or an “event meeting such criteria as the [HHS] Secretary may determine to be appropriate.” **Table 1** shows a history of LIHEAP funding for each of FY1982-FY2003.

**Table 1. LIHEAP Funding Trends: FY1982-FY2003**

(\$ in thousands)

| Fiscal year | Regular funds President's request | Regular funds authorization level <sup>a</sup> | 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> <sup>b</sup>                       | 1,346,030                   | 595,200                        | 0                           |
| 1994        | 1,507,408                         | <i>ssan</i> <sup>b</sup>                       | 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> <sup>b</sup>                       | 1,100,000                   | 900,000                        | 744,350 <sup>c</sup>        |
| 2001        | 1,400,000                         | <i>ssan</i> <sup>b</sup>                       | 1,400,000                   | 600,000                        | 455,650                     |
| 2002        | 1,400,000                         | 2,000,000                                      | 1,700,000                   | 300,000 <sup>d</sup>           | 100,000 <sup>d</sup>        |
| 2003        | 1,400,000                         | 2,000,000                                      |                             |                                |                             |

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

<sup>a</sup> 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.

<sup>b</sup> Such sums as necessary.

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

<sup>d</sup> With the end of FY2002, \$200 million of the FY2002 appropriated contingency funds expired. Currently there are \$300 million in contingency funds available for appropriation. These funds were appropriated in the FY2001 supplemental (P.L. 107-20) and remain “available until expended.”