

CRS Report for Congress

The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding

Updated January 17, 2008

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Prepared for Members and
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Summary

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 (P.L. 97-35), is a block grant program under which the federal government makes annual grants to states, territories, and tribes to operate home energy assistance programs for low-income households. The LIHEAP statute authorizes two types of funds: regular funds, which are allocated to all states using a statutory formula, and contingency funds, which are allocated to one or more states at the discretion of the Administration.

In the FY2008 Consolidated Appropriations Act (P.L. 110-161), Congress appropriated \$1.98 billion in regular LIHEAP funds, the same amount that was allocated for regular funds in FY2007. For contingency funds, Congress appropriated approximately \$590 million in FY2008. This amount exceeds the FY2007 appropriation of \$181 million by more than \$400 million, and also exceeds the President's FY2008 budget request of \$282 million, as well as the amount in the House and Senate FY2008 conference report (H.Rept. 110-424) for the Labor, Health and Human Services, and Education appropriations bill (H.R. 3043), which would have provided just under \$432 million for FY2008.

The Administration released \$450 million in FY2008 contingency funds to all states, tribes, and territories on January 16, 2008. Of the amount distributed, \$150 million was allocated to all grantees according to their percentage allocation under the LIHEAP block grant formula, \$50 million was allocated to 11 states based on the percentage of low-income households that use heating oil, and the remaining \$250 million was distributed to 26 states on the basis of both the percentage of low-income households that use heating oil, natural gas, or propane for heat, and on the average temperature between November 1, 2006, and March 1, 2007.

Contingency funds were released on two occasions in FY2007. On August 29, 2007, the Department of Health and Human Services (HHS) released \$50 million in contingency funds to twelve states due to severe heat. These states were Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, and Tennessee. On September 27, 2007, HHS released the remainder of the FY2007 contingency funds — \$131 million. Of the \$131 million, \$106 million went to all states, tribes, and territories for anticipated winter heating costs, while the remaining \$25 million went to seven states based on heating oil usage and average 2006-2007 winter temperature. These states were Alaska, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

In the 110th Congress, two bills have been introduced that would appropriate an additional \$1 billion in LIHEAP contingency funds. Both bills, H.R. 4275 and S. 2405, are entitled the Keeping Americans Warm Act. In addition, a number of bills have been introduced that would provide additional funds for LIHEAP through various means, including penalties collected from energy suppliers and profits from carbon allowance trading.

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The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding

Introduction

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35, is a block grant program under which the federal government gives states, territories, and tribes annual grants to operate home energy assistance programs for low-income households. The LIHEAP statute provides for two types of program funding: regular funds and contingency funds. Regular funds are allotted to states according to methods prescribed by the LIHEAP statute.¹ The second type of LIHEAP funding, called contingency funds, may be released and allotted to one or more states at the discretion of the President and the Secretary of Health and Human Services (HHS).

The first section of this report describes appropriations of LIHEAP funds for FY2008 and FY2007. It also discusses current issues and legislation related to LIHEAP. The second section of this report discusses LIHEAP rules, including household eligibility and how funds may be used, and presents the most recent data available from HHS regarding household characteristics and benefit levels. Finally, the third section discusses how each category of LIHEAP funds is distributed to states, as well as a breakdown of funds to the states during the last several fiscal years.

Recent Developments

FY2008 LIHEAP Funding

On December 26, 2007, the President signed the FY2008 Consolidated Appropriations Act (P.L. 110-161). The funding bill provides a total of approximately \$2.57 billion for LIHEAP (see Division G of P.L. 110-161). Of this amount, \$1.98 billion is for regular funds, the same amount appropriated in FY2007; \$590 million is allocated for contingency funds.² The regular fund appropriation

¹ See Section 2604(a)-(d) of the Low Income Home Energy Assistance Act (Title XXVI of P.L. 97-35), as amended. The section is codified at 42 U.S.C. §8623(a)-(d).

² P.L. 110-161 contained an across the board rescission of 1.747% that reduced the stated amounts appropriated for most Departments of Labor, Health and Human Services, and
(continued...)

exceeds the President's FY2008 budget request of \$1.5 billion by \$480 million and his contingency fund request of \$282 million by approximately \$308 million. The regular fund appropriation in P.L. 110-161 is the same amount that was requested in the conference agreement for the FY2008 Departments of Labor, Health and Human Services, and Education Appropriations bill (H.R. 3043, H.Rept. 110-424), which was vetoed by the President on November 13, 2007. For contingency funds, however, the Consolidated Appropriations Act provides \$158 million more than would have been provided in the House and Senate conference agreement, which would have appropriated just under \$432 million. The House-passed version of H.R. 3043 contained \$682 million for contingency funds, while the Senate's substitute version of H.R. 3043 would have provided the same level appropriated in FY2007 — \$181 million. (For information on how regular funds are distributed to the states, see CRS Report RS21605, *LIHEAP: Estimated Allocations*, by Libby Perl.)

FY2007 LIHEAP Funding

For FY2007, Congress appropriated \$1.98 billion in regular funds and \$181 million in contingency funds for LIHEAP through a year-long continuing resolution (P.L. 110-5). This is the same amount that was appropriated for LIHEAP in the FY2006 Departments of Labor, Health and Human Services, and Education Appropriations Act (P.L. 109-149) as reduced by a 1% across-the-board rescission (P.L. 109-148). The total amount appropriated in FY2007 exceeded the President's budget request of \$1.782 billion by \$380 million. Prior to the enactment of the year-long continuing resolution, the House Appropriations Committee would have provided \$1.93 billion in regular LIHEAP funds and \$181 million in contingency funds in the Departments of Labor, Health and Human Services, and Education Appropriations Act (H.R. 5647). The Senate Appropriations Committee would have provided \$1.98 billion in regular LIHEAP funds and \$181 million in contingency funds in its version of the spending bill (S. 3708). Prior to enactment of P.L. 110-5 on February 15, 2007, three continuing resolutions provided funding for LIHEAP.³

Three FY2007 supplemental appropriations bills, each entitled the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, attempted to provide additional funds for LIHEAP. The first bill (H.R. 1591), introduced on March 20, 2007, would have provided \$400 million for LIHEAP, \$200 million for regular funds and \$200 million for contingency funds. The Senate's version of the supplemental appropriations bill (S. 965), introduced on March 22, 2006, would have provided \$640 million for LIHEAP, \$320 million in regular funds and \$320 million in contingency funds. However, in conference with the House, the LIHEAP provisions in H.R. 1591 prevailed. On May 1, 2007, the

² (...continued)

Education programs. See P.L. 110-161, Division G, Section 528. After application of the rescission, \$1.98 billion is available for regular funds and \$590 million for contingency funds. Prior to application of the rescission, the stated appropriations levels in P.L. 110-161 are \$2.015 billion for LIHEAP regular funds and \$596 million to contingency funds. Of the amount appropriated for contingency funds, \$250 million is designated as emergency spending; the rescission does not apply to the \$250 million in emergency funds.

³ These were P.L. 109-289, P.L. 109-369, and P.L. 109-383.

President vetoed H.R. 1591, and the House failed to override the veto. On May 8, 2007, another supplemental appropriations bill was introduced in the House (H.R. 2206). Like H.R. 1591, it would have provided \$400 million for LIHEAP, dividing the amount equally between regular and contingency funds. However, on May 24, funds for LIHEAP were removed from H.R. 2206 in conference with the Senate.

Table 1. Final FY2006, FY2007, and FY2008 LIHEAP Funding

	Regular		Contingency	Total
	State Formula Grants	Set-Asides (Approximately \$300,000 for technical assistance, which is permanently authorized in the statute)		
Final FY2006 Appropriation^a				
P.L. 109-149	1.98 billion	— 27.225 million — leveraging incentive fund	181 million	2.161 billion
P.L. 109-204 ^b	500 million	None	500 million	1.000 billion
Total	2.48 billion	— 27.225 million — leveraging incentive fund	681 million	3.161 billion
Final FY2007 Appropriation				
P.L. 110-5	1.98 billion	— 27.225 million — leveraging incentive fund	181 million	2.161 billion
FY2008 Proposed Funding				
President's Request	1.50 billion	— 27.225 million — leveraging incentive fund	282 million	1.782 billion
H.R. 3043 (House-Passed)	1.98 billion	Not specified	682 million	2.662 billion
H.R. 3043 (Senate Substitute)	1.98 billion	Not specified	181 million	2.161 billion
H.Rept. 110-424 (Conference Report)	1.98 billion	Not specified	432 million	2.412 billion
Final FY2008 Funding				
P.L. 110-161 ^c	1.98 billion	— 26.749 million — leveraging incentive fund	590 million	2.570 billion

Source: Congressional Research Service on the basis of P.L. 109-148, P.L. 109-149, P.L. 109-171, P.L. 109-204, P.L. 110-5, P.L. 110-161, the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF) *FY2008 Justification of Estimates for Appropriations Committees*, House Appropriations Subcommittee Table, H.R. 3043, and H.Rept. 110-424.

- a. Under the Department of Defense Appropriations Act (P.L. 109-148), discretionary spending in FY2006 was reduced by 1% through an across-the-board rescission. The amounts in P.L. 109-149 include the rescission.
- b. The funds made available for FY2006 in P.L. 109-204 were originally appropriated for FY2007 in the Deficit Reduction Act of 2005, P.L. 109-171. Congress shifted the funds to FY2006 in P.L. 109-204.
- c. Amounts for Department of Labor, Health and Human Services, and Education programs were subject to a 1.747% rescission. See P.L. 110-161, Division G, Section 528. Amounts in this table represent the amounts available after the rescission.

Distribution of LIHEAP Contingency Funds

Congress appropriated just over \$590 million in LIHEAP contingency funds for FY2008 to be released at the discretion of HHS to states according to their energy needs. On January 16, 2008, the Administration announced the release of \$450 million to all states, tribes, and territories. The total amount was distributed in three ways. (For the amount of funds distributed to each state, see **Table 4**.)

- \$150 million was distributed to all states tribes and territories on the basis of the percentage of funds that each receives under the block grant formula.⁴
- \$50 million was distributed to 11 states where the percentage of low-income households that use heating oil is 20% or more. The allocations were based on the percentage of funds each state receives under the LIHEAP block grant formula, weighted by the percentage of low-income heating oil users in the state. The states that received a portion of the \$50 million distribution were Alaska, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.
- \$250 million was distributed to 26 states where at least 60% of low-income households use either heating oil, natural gas, or propane for heat, and the average temperature between November 1, 2006, and March 1, 2007, was 39° Fahrenheit or lower. Funds were distributed on the basis of the percentage of funds each state receives under the block grant formula, weighted by the percentage of low-income households using heating oil, natural gas, or propane to heat their homes. Each of the states that received funds under the \$50 million distribution, with the exception of Delaware, received a portion of the \$250 million distribution. The remaining states that received funds were Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Utah, Wisconsin, and Wyoming.

Approximately \$140 million in FY2008 contingency funds remain available for distribution through the end of the fiscal year, at which point they will expire if not distributed. In addition, \$20 million in contingency funds from the FY2005 appropriations law (P.L. 108-447) remain available until expended.

In FY2007, Congress appropriated \$181 million in LIHEAP contingency funds, and HHS released the total amount through two separate distributions. First, on August 29, 2007, HHS announced that it would release \$50 million in contingency funds to twelve states that experienced severe heat during the month of August. These twelve states were Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, and Tennessee. The distribution was based on two factors involving cooling degree days. A cooling

⁴ Each grantee received the percentage of funds they receive under the “old” LIHEAP formula. For a discussion of the formula, see the section “Funds and Their Distribution” later in this report.

degree day measures the extent to which a day's average temperature rises above 65°F. For example, a day with an average temperature of 80° F results in a measure of 15 cooling degree days. States qualified for contingency funds if they experienced at least 341 cooling degree days during the three-week period ending August 25, 2007, *and* if they experienced 61 or more excess cooling degree days compared to their 30-year norm for the same time period. Fund distributions were weighted on the basis of the number of low-income households in each state.

The remaining \$131 million in contingency funds was released on September 27, 2007. Of the \$131 million, just over \$106 million went to all states, tribes, and territories for anticipated winter heating needs. The funds were allocated based on each grantee's share of block grant funds. The remaining \$25 million was allocated to seven states according to the percentage of low-income households that use heating oil and according to average temperature. States qualified if at least 30% of low-income households use heating oil and if the average temperature between October 1, 2006, and March 31, 2007 was at or below 47° F. The seven states that received funds were Alaska, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. (See **Table 4** at the end of this report for the total amount of contingency funds allocated to each state.) **Table 2** shows recent federal funding levels for LIHEAP, including the amount of contingency funds released.

Table 2. Recent LIHEAP Funding

(dollars in millions; sums may not equal totals due to rounding)

Fiscal Year	Funds Appropriated		Contingency Funds Distributed ^a			Total Funds Distributed ^b	
	Regular ^c	Contingency	To All States	To Some States	Subtotal	Subtotal (To All States)	Total
2002	1,700	300	0	100	100	1,700	1,800
2003	1,788	0	200	0	200	1,988	1,988
2004	1,789	99	40	59	99	1,829	1,889
2005	1,885	298	250	27	277	2,135	2,162
2006	2,480	681	100	580	680	2,580	3,160
2007	1,980	181	106	75	181	2,086	2,161
2008	1,980	590	150	300	450	2,130	2,430

Source: Tables prepared by the Congressional Research Service (CRS).

- The amount of contingency funds appropriated in a fiscal year may differ from the amount of contingency funds that are distributed in that fiscal year for two reasons: First, the LIHEAP statute gives the Administration discretion to release (or not release) any of the available contingency funding. Further, these funds, as directed by Congress in its appropriations language, may be available for release in one or more years.
- Regular funds, all of which are included in both of the Total Funds Distributed columns, include all regular funding distributed by formula to the states, the tribes, and the District of Columbia, as well as set-asides for the territories, leveraging incentive grants, REACH grants, and technical assistance (with total set-asides of approximately \$30 million). The "Subtotal to all states" column includes all regular funds plus any contingency funds that were distributed to all states; the "Total" column includes all regular funds plus any contingency funds that were distributed to one or more states.
- Regular LIHEAP funds are made available to states on a quarterly basis (October, January, April, and July). However, states may specify what percentage of their total allotment they wish to receive in each quarter, and many states receive all, or the great majority of, their LIHEAP funds in the first two quarterly disbursements.

LIHEAP Legislation in the 110th Congress

Bills that would affect aspects of LIHEAP have been introduced in the 110th Congress.

- Two bills, H.R. 4275 and S. 2405, both entitled the Keeping Americans Warm Act, would appropriate \$1 billion for LIHEAP contingency funds in addition to amounts otherwise appropriated.
- The LIHEAP Equity Act (H.R. 153), would mandate that no more than 50% of the funding provided under LIHEAP be made available for heating purposes.
- S. 669, the LIHEAP Emergency Reform Act, concerns contingency funds. The bill would allow a state governor to apply to the Secretary of Health and Human Services for certification that there is an emergency in his or her state (as defined by the LIHEAP statute), and for an allotment of contingency funds in response to the emergency.
- The Home Energy Assistance Targeted for Seniors Act (H.R. 2984) would rename LIHEAP the “Low Income and Senior Home Energy Assistance Act” and make eligible for benefits households with incomes at or below state median income, as long as at least 50% of the household’s income was attributable to persons age 65 and older. (Currently households may not have incomes above 60% of state median income and still be eligible for LIHEAP.)
- The Federal Price Gouging Prevention Act (H.R. 1252) would make it illegal to charge excessive prices for various types of fuel if an “energy emergency” is declared by the President. The illegal practices would include selling oil, gasoline, natural gas, or petroleum at unconscionably excessive prices; intentionally reporting false price information; or manipulating the market. Penalties imposed for violations of these provisions would be used to provide LIHEAP assistance. On May 23, 2007, the bill bypassed committee consideration and went straight to the House floor, where it passed under suspension of the rules.
- Two other bills would similarly use penalties imposed on energy providers to fund LIHEAP. The Federal Energy Price Protection Act (H.R. 2460) would penalize oil, gas, and petroleum suppliers for price gouging with the fees going to LIHEAP, while the Clean, Reliable, Efficient and Secure Energy Act of 2007 (S. 1602) would give a portion of penalties collected from energy suppliers to LIHEAP.
- The Low Carbon Economy Act (S. 1766) would set greenhouse gas emissions targets for entities such as natural gas processing plants, electric power plants, and refineries. Under the program, these

regulated entities would trade allowances that entitle them to emit a certain amount of greenhouse gases. A portion of the proceeds from the auction of these allowances would be allocated to fund LIHEAP.

- America's Climate Security Act (S. 2191) is like S. 1766 in that it would set up a system under which regulated entities would trade allowances to emit greenhouse gases. During the years 2012 to 2050, a portion of proceeds from the auctions (20%) would be allocated to an Energy Assistance Fund, of which 50% would be available to the LIHEAP program. On December 5, 2007, the Senate Committee on Environment and Public Works reported S. 2191.
- Another bill, the Energy Security and Corporate Accountability Act (S. 1238) would not affect LIHEAP, but would create a program for LIHEAP-eligible households called the Low-Income Transportation Energy Assistance Fund.

Report to Congress on Preventing Loss of Life Because of Extreme Indoor Air Temperatures

The Energy Policy Act of 2005 (P.L. 109-58) required HHS to report to Congress on how LIHEAP "could be used more effectively to prevent loss of life from extreme temperatures." On February 15, 2007, HHS released a report in which it summarized state recommendations for ways to use LIHEAP funds to prevent heat- and cold-related deaths due to indoor air temperature.⁵ Recommendations were in five categories:

- Education and outreach;
- Weatherization and energy-related home repairs;
- Special assistance for vulnerable populations;
- Partnerships with other social services programs and energy providers; and
- Research on the needs of, and best practices for helping, vulnerable households.

Program Rules and Benefits

Federal LIHEAP requirements are minimal and leave most important program decisions to the states, the District of Columbia, the territories, 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.

⁵ U.S. Department of Health and Human Services, Administration for Children and Families, *Low Income Home Energy Assistance Program Report to Congress on: Preventing Loss of Life Due to Extreme Indoor Temperatures*, February 15, 2007.

Federal Eligibility Standards and Grantee Responsibility

Federal law limits LIHEAP eligibility to households with incomes up to 150% of the federal poverty income guidelines (or, if greater, 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 considered ineligible. States may separately choose to make eligible for LIHEAP assistance any household of which at least one member is a recipient of Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, or certain needs-tested veterans' programs. LIHEAP assistance does not reduce eligibility or benefits under other aid 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 individuals, frail older 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. The LIHEAP definition of "energy crisis" leaves room for each state to define the term slightly differently, although generally, crisis assistance is provided to households that are in danger of losing their heating or cooling due to problems with equipment, receipt of a utility shutoff notice, or exhaustion of a fuel supply.⁶ Federal rules also require outreach activities, coordination with the Department of Energy's Weatherization Assistance 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.⁷

Kinds of Energy Assistance Available

Funds are available for four types of energy assistance to eligible households:

- help paying heating or cooling bills;
- low-cost weatherization projects (e.g., window replacement or other home-energy related repair; limited to 15% of allotment unless a grantee has a waiver for up to 25%);
- services to reduce need for energy assistance (e.g., needs assessment, counseling on how to reduce energy consumption; limited to 5% of allotment); and
- help with energy-related emergencies (winter or summer crisis aid).

⁶ The LIHEAP statute defines an energy crisis as "weather-related and supply shortage emergencies and other household energy-related emergencies." 42 U.S.C. §8622(3). For the state definitions of "crisis" see the HHS LIHEAP Networker FY2007 compilation of definitions, available at [<http://www.liheap.ncat.org/tables/FY2007/CrisisDef2007.doc>].

⁷ Information regarding state LIHEAP program characteristics and contacts is available at [<http://www.liheap.ncat.org/sp.htm>].

Use of Funds

The majority of LIHEAP funding is used to offset home heating costs. In FY2004, the most recent year for which data regarding total obligations are available, approximately 55.4% of all LIHEAP funds were used to provide heating assistance; all states (including the District of Columbia) provided some heating assistance.⁸ Nearly all states also offered crisis assistance, most of which is used for heating needs. In FY2004, 16.5% of LIHEAP funds were used to provide crisis assistance in 46 states. Five of these 46 states provided summer as well as winter crisis assistance, and one state — Hawaii — provided only summer crisis assistance.⁹ Also in FY2004, 2.9% of funds were used for cooling aid (offered by 13 states); 11.3% of total LIHEAP funds were used for weatherization services (provided by 45 states); 8.7% of available funds were used for administration and planning purposes (51 states), and 1% of the FY2004 funds were used to offer services to reduce the need for energy assistance (provided by 22 states).¹⁰

Households Served

When the LIHEAP program began in FY1983, approximately 6.8 million households received heating or winter crisis assistance (or both), representing 31% of federally eligible households. Since that time, the number of households receiving assistance declined generally until FY2000, reaching a low of 3.6 million recipients in FY1999. After FY2000, the number of recipient households began increasing again. In FY2005, the most recent year for which information related to the broad heating and cooling categories is available, it is estimated that 5.3 million households received this LIHEAP assistance.¹¹ (See **Table 3**.) The same trend can be seen in the percentage of federally eligible households that receive funds. By FY1999, the number of federally eligible households receiving LIHEAP heating or winter crisis assistance had dropped from 31% to 12%. In FY2005, 15% of federally eligible households received assistance. The number of households receiving cooling assistance reached its high point in FY2002, with more than half a million recipients. In FY2005, approximately 400,000 households received cooling or summer crisis assistance.¹²

The most recently available information that further breaks down the number of households assisted by the type of assistance they received comes from FY2004,

⁸ Based on state-reported total LIHEAP obligations for FY2004 (including federal and any supplemental non-federal funding) of \$1.949 billion. U.S. Department of Health and Human Services, Administration for Children and Families, *Low Income Home Energy Assistance Program Report to Congress for Fiscal Year 2004*, May 25, 2007, p. 14 (hereafter *FY2004 LIHEAP Report to Congress*).

⁹ *Ibid.*, Table C-3, p. 55.

¹⁰ *Ibid.*, p. 14.

¹¹ U.S. Department of Health and Human Services, Administration for Children and Families, *FY2005 LIHEAP Home Energy Notebook*, May 2007, p. 28 (hereafter *FY2005 LIHEAP Home Energy Notebook*).

¹² *Ibid.*, p. 29.

a year in which 5.0 million households were estimated to have received LIHEAP heating or winter crisis assistance, and 400,000 to have received cooling or summer crisis aid. (Because many households may receive more than one kind of LIHEAP assistance, some households may be represented in more than one category.) States reported that approximately 4.6 million households received assistance with heating payments; 308,000 received cooling aid; approximately 1.1 million received winter or year-round crisis aid; 88,000 received summer crisis aid; and 112,000 received weatherization assistance.¹³

HHS estimates that of all households receiving LIHEAP heating assistance, about 32% had at least one member 60 years of age or older; about 32% had at least one disabled member; and some 22% included at least one child five years of age or younger.¹⁴

Benefit Levels

The constant dollar value of LIHEAP heating and winter crisis benefits has declined, generally, from the program's beginning, as has the portion of home heating bills covered by LIHEAP. In FY1983, the average heating and winter crisis benefit, measured in constant 1981 dollars, was \$209. By FY1998, it had declined to \$117, and although the value of benefits went up from FY1999 through FY2001, it declined again thereafter, and in FY2005 the average constant dollar benefit was \$140.¹⁵ (See **Table 3.**) In addition, the LIHEAP heating and winter crisis benefit now covers a smaller portion of home heating bills than in earlier years, 8% in FY2005 compared to 18% in FY1983.¹⁶

The constant dollar value of the cooling and summer crisis benefit, which is available to a more limited number of households in far fewer states, had largely risen from the program's beginning until FY2002. In FY1983, the constant dollar value of LIHEAP cooling benefits (in 1981 dollars) was \$57. By FY2000 and FY2001, the average benefit had reached \$107. However, by FY2004 and FY2005, the average cooling or summer crisis benefit had declined to \$91.¹⁷

Apart from federal funding levels, a variety of factors help determine to what extent LIHEAP is able to meet its stated goal of assisting low-income households in meeting their home energy needs.¹⁸ These include the following:

¹³ *FY2004 LIHEAP Report to Congress*, p. 18.

¹⁴ *Ibid.*, pp. 20-21.

¹⁵ *FY2005 LIHEAP Home Energy Notebook*, p. 30.

¹⁶ *Ibid.*, p. 31.

¹⁷ *Ibid.*, p. 30.

¹⁸ See also CRS Report RS20761, *LIHEAP and Residential Energy Costs*, by Bernard Gelb.

- the cost of energy for a given household (influenced by energy price fluctuations and variation in kinds of fuels used);
- the amount of energy consumed (influenced by severity of the weather, energy efficiency of housing, and expected standards of comfort); and
- the number of eligible households (influenced by population size and health of the economy).

Table 3. LIHEAP Heating/Winter Crisis Aid, Selected Years

	Fiscal Year										
	1983	1990	1993	1998	1999	2000	2001	2002	2003	2004	2005
Households											
Number receiving aid (millions)	6.8	5.8	5.6	3.9	3.6	3.9	4.8	4.4	4.8	5.0	5.3
Number federally eligible (millions)	22.2	25.4	28.4	29.1	29.0	29.4	30.4	32.7	34.5	35.4	34.8
Federally eligible and receiving aid	31%	23%	20%	13%	12%	13%	16%	13%	14%	14%	15%
Benefit Levels											
Average benefit (nominal \$)	\$225	\$209	\$201	\$213	\$237	\$270	\$364	\$291	\$312	\$277	\$304
Average benefit (constant 1981 \$) ^a	\$209	\$147	\$129	\$117	\$128	\$140	\$187	\$147	\$154	\$132	\$140
Costs Offset											
Portion of winter heating bill covered by LIHEAP (for all federally eligible households) ^b	18%	15%	11%	9%	9%	11%	14%	12%	NA ^c	8%	8%
Portion of household income required for home heating (for LIHEAP-recipient households)	Before receiving LIHEAP benefit										
	8.3%	4.5%	4.7%	3.4%	3.3%	3.3%	4.7%	3.6%	4.9%	4.8%	5.6%
	After receiving LIHEAP benefit										
	2.6%	2.0%	2.4%	1.3%	1.1%	1.0%	1.7%	1.3%	NA ^c	2.7%	3.3%

Source: Table compiled by Congressional Research Service (CRS) based on information provided by or included in the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance, *LIHEAP Home Energy Assistance Notebooks* for FY1998, FY2000, FY2001, FY2002, FY2003, FY2004 and FY2005.

- a. The constant dollars are based on the 1981 value of the benefit (using the CPI-U index).
- b. These percentages represent the estimated portion of combined home heating costs for all households federally eligible for LIHEAP that was offset by LIHEAP heating/winter crisis assistance.
- c. HHS did not make FY2003 data for these trends available.

Funds and Their Distribution

The LIHEAP statute authorizes regular funds appropriations, which are allocated to all states based on a statutory formula, and contingency fund appropriations, which are allocated to one or more states at the discretion of the Administration. The statute also authorizes a smaller amount of funds for incentive grants to states that leverage non-federal resources for their energy assistance programs.

Regular Funds

Regular funds are distributed to states according to a three-tier formula in the LIHEAP statute and based on the level of funds appropriated in a given fiscal year.¹⁹ The three-tier formula is the result of changes to the LIHEAP statute in 1984 through the Human Services Reauthorization Act (P.L. 98-558). Prior to the changes in P.L. 98-558, LIHEAP allotments to the states were based largely on home heating needs with minimal consideration of cooling costs, and did not provide for the use of updated data, including population and energy costs. (For more information on the history of the LIHEAP formula, see CRS Report RL33275, *LIHEAP Allocation Rates: Legislative History and Current Law*, by Libby Perl.)

The new distribution formula provides that in determining state allotments the Department of Health and Human Services shall use “the most recent satisfactory data available” and consider home energy costs of low-income households (not simply all households, as was previously the case). These changes to the calculation of state allotments mean that some states will receive a smaller percentage share of regular funds, while some will receive a larger share. In order to offset the losses to certain states resulting from the formula change, and “prevent severe disruption to programs,”²⁰ Congress implemented two “hold harmless” provisions in P.L. 98-558 to prevent states from losing too much funding. This resulted in the three-tier current law formula, which is described in more detail below.

Tier I. The Tier I formula is used to allocate funds when the total LIHEAP regular fund appropriation is less than \$1.975 billion. Neither hold harmless provision applies at the Tier I level, and HHS allocates funds according to the allotment percentages used under the pre-1984 formula. The old formula is used because the amount of appropriated funds required to trigger the new formula is \$1.975 billion. The LIHEAP statute stipulates that for FY1986 and succeeding years, no state shall receive less money than it would have received in FY1984 had the

¹⁹ States are defined to include the District of Columbia. Indian tribes receive funds out of state allotments that are proportionate to their share of LIHEAP-eligible households in the state. Before state allotments are made, the statute provides that at least one-tenth (but not more than one-half) of 1% of the total appropriation must be set aside for energy assistance in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

²⁰ Report of the Committee on Energy and Commerce (H.Rept. 98-139, Part 2), to accompany H.R. 2439, May 15, 1984, p. 13.

LIHEAP funding in that year been \$1.975 billion.²¹ According to HHS, then, the LIHEAP statute requires use of the old allotment percentages when funding is less than \$1.975 billion.²² Until FY2006, funding levels for LIHEAP only twice exceeded the \$1.975 billion level, in FY1985 and FY1986. Thus, from FY1987 through FY2005, states continued to receive the same allotment percentages they received under the previous LIHEAP formula.

Tier II. For appropriations above \$1.975 billion and up to \$2.25 billion, the Tier II rate applies, and HHS uses the formula enacted in 1984 to calculate state allotments. Under the Tier II formula, a hold harmless *level* applies, and no state may receive less funding than it would have received under the Tier I distribution rate as it was in effect for FY1984, assuming a \$1.975 billion appropriation.²³ State allotment *percentages* may be different, however. To ensure that states receive their hold harmless levels of funding, those states that gain the most funding under the new formula must have their percentage share of funds ratably reduced to bring other states up to the hold harmless level.²⁴

Tier III. The Tier III formula applies to funding levels at or above \$2.25 billion. The Tier III rate uses the Tier II methodology to distribute funds, but adds a second hold-harmless requirement, a hold harmless *rate*. States that would receive less than 1% of a \$2.25 billion appropriation must have their funds allocated using the rate that would have been used at a hypothetical \$2.14 billion appropriation (if this rate is greater than the calculated rate at \$2.25 billion). In both the Tier II and Tier III rates, a state will not be allocated less funds than the state received under the Tier I distribution as it was in effect in FY1984 (had the appropriation level been \$1.975 billion).

Contingency Funds

The statute currently provides an annual authorization of \$600 million for LIHEAP contingency funds (contingency funds are authorized indefinitely).²⁵ Appropriated contingency funds may only be released at the discretion of HHS and may be allocated to one or more states based on their needs. The statute authorizes

²¹ 42 U.S.C. §8623(a)(2)(A).

²² U.S. Department of Health and Human Services, *Low Income Home Energy Assistance Program: Report to Congress for FY1987*, p. 133. The statutory provision that provides for use of the old formula is 42 U.S.C. §8623(a)(3).

²³ Since this language was enacted, Congress further provided that HHS could use regular LIHEAP funds appropriations for Training and Technical Assistance (P.L. 99-425). It also authorized Leveraging Incentive Grants (P.L. 101-501) and the REACH option (P.L. 103-252) — both of which it generally funds out of regular LIHEAP funds. These debits on the regular funds account were not in place for FY1984. Because they affect the level of regular funds available for state grant allotments by a little more than \$25 million, it is possible but not certain that HHS would not implement the newer formula before a regular funds appropriation level of approximately \$2.0028 billion.

²⁴ 42 U.S.C. §8623(a)(3).

²⁵ 42 U.S.C. §8621(e).

the appropriation of contingency funds “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.”

Leveraging Incentive and REACH Funds

In 1990, P.L. 101-501 amended the program statute to provide a separate funding authorization of \$50 million (\$30 million if regular funds appropriated are under \$1.4 billion) for incentive grants to states that leverage non-federal resources for their LIHEAP programs.²⁶ Such resources might include negotiated lower energy rates for low-income households or separate state funds. States are awarded incentive funds in a given fiscal year based on a formula that takes into account their previous fiscal year success in securing non-federal resources for their energy assistance program. In 1994 (P.L. 103-252) the statute was further amended to provide that of any incentive funds appropriated, up to 25% may be set aside for the Residential Energy Assistance Challenge Option (REACH). Under the REACH option states may be awarded competitive grants for their efforts to increase efficiency of energy usage among low-income families and to reduce those families’ vulnerability to homelessness and other health and safety risks due to high energy costs. The funding authorization for Leveraging Incentive and REACH grants is separate from regular funds, and the programs were not reauthorized in P.L. 109-58. In practice, however, Congress has funded these initiatives at \$22 million to \$30 million with dollars set-aside out of annual regular fund appropriations.

Other Funds

States are allowed to carry over unused funds from a previous fiscal year (limited to 10% of funds awarded a state). A diminishing amount of money may also be available from previously settled claims of price control violation by oil companies.²⁷ In addition, the Social Services Block Grant program allows states to transfer up to 10% of funds to provide low-income home energy assistance,²⁸ while the Temporary Assistance for Needy Families program gives states the discretion to use funds for home heating and cooling costs.²⁹

²⁶ 42 U.S.C. §8621(d).

²⁷ *FY2004 LIHEAP Report to Congress*, p. 11. For FY2004, \$2 million in oil overcharge funds was available to one state.

²⁸ 42 U.S.C. §1397a(d).

²⁹ 42 U.S.C. §604(a)(1).

Legislative History

Since it was created by the Low Income Home Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), the LIHEAP program has been reauthorized or amended seven times. The legislation and some of the significant changes made are briefly discussed in the following paragraphs.

In 1984, P.L. 98-558, established a new formula by which regular LIHEAP funds are to be distributed in every year (after FY1985) in which regular appropriations exceed \$1.975 billion. This level of funding was exceeded in FY1986 and again in FY2006.

In 1986, P.L. 99-425 extended the program with few changes. In 1990, P.L. 101-501 created the Incentive Program for Leveraging Non-Federal Resources and authorized a July to June program year (or forward funding) for 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.

In 1993, P.L. 103-43 extended the authorization of LIHEAP for one year but made no other changes. In 1994 (P.L. 103-252) Congress stipulated that LIHEAP benefits and outreach activities target households with the greatest home energy needs (and costs), and it enacted a separate and permanent contingency funding authorization of \$600 million for each fiscal year. The 1994 law also established the competitive REACH grant option. In 1998, P.L. 105-285 authorized annual regular funding for each of FY2002-FY2004 at \$2 billion and made explicit a wide variety of situations under which HHS is authorized to release LIHEAP contingency funds.

Finally, in 2005 the Energy Policy Act (P.L. 109-58) reauthorized the program and raised the LIHEAP regular funds authorization level for FY2005 through FY2007 to \$5.1 billion. It also explicitly permitted the purchase of renewable fuels as part of providing LIHEAP assistance; required the Department of Energy to report on use of renewable fuels in provision of LIHEAP aid; required HHS to report (within one year of the legislation's enactment) on ways that the program could more effectively prevent loss of life due to extreme temperatures; and allowed the Secretary of the Interior, when disposing of in-kind oil and gas royalties taken from oil and gas leases, to grant a preference for the purpose of providing additional resources to support federal low-income energy assistance programs.

Table 4. LIHEAP Funding by State, FY2005 to FY2008
(dollars in millions)

State	Total Funds Distributed ^a (Regular and Contingency)			Regular Allotment	Contingency Distributed	Total
	FY2005	FY2006	FY2007			
Alabama	19.9	31.787	22.077	16.668	1.280	17.948
Alaska	10.1	12.839	8.631	7.420	2.465	9.885
Arizona	7.7	14.230	7.856	7.453	0.576	8.029
Arkansas	13.5	23.336	15.749	12.799	0.983	13.782
California	91.7	156.441	94.089	89.258	6.856	96.114
Colorado	32.4	44.806	33.073	31.375	8.059	39.435
Connecticut	46.8	71.106	48.102	40.930	13.598	54.528
Delaware	6.2	10.954	5.727	5.433	0.827	6.259
District of Columbia	6.7	8.165	6.700	6.356	0.488	6.845
Florida	29.6	49.785	27.970	26.534	2.038	28.572
Georgia	22.5	40.026	28.564	20.985	1.612	22.596
Hawaii	2.2	2.567	2.228	2.113	0.162	2.276
Idaho	12.2	14.055	12.275	11.645	0.894	12.539
Illinois	117.2	193.814	119.418	113.287	29.100	142.387
Indiana	53.9	75.327	54.062	51.286	13.174	64.461
Iowa	38.9	52.054	38.319	36.352	9.338	45.690
Kansas	17.4	27.709	19.727	16.653	4.278	20.931
Kentucky	28.1	45.320	32.010	26.693	2.050	28.743
Louisiana	29.8	32.671	22.499	17.148	1.317	18.466
Maine	30.6	43.496	32.487	25.547	8.487	34.034
Maryland	34.2	61.889	33.036	31.340	2.407	33.747
Massachusetts	91.9	126.425	93.757	81.841	27.190	109.030
Michigan	112.5	153.615	112.509	106.733	27.417	134.150
Minnesota	84.0	110.849	81.681	77.488	19.905	97.393
Mississippi	27.4	27.415	17.838	14.353	1.102	15.456
Missouri	48.1	78.220	52.645	45.251	11.624	56.875
Montana	12.8	19.259	12.487	11.846	3.043	14.888
Nebraska	19.0	28.634	18.940	17.963	4.614	22.577
Nevada	4.0	7.247	4.016	3.810	0.293	4.103
New Hampshire	18.3	27.740	18.769	15.497	5.149	20.645
New Jersey	83.9	114.759	79.920	75.817	25.251	101.068
New Mexico	9.9	11.555	9.867	9.347	0.718	10.065
New York	277.9	381.719	261.178	247.769	82.316	330.085
North Carolina	40.6	71.125	45.156	36.328	2.790	39.118
North Dakota	14.0	19.272	13.446	12.756	3.277	16.032
Ohio	104.7	164.226	105.643	100.219	25.744	125.963
Oklahoma	14.7	26.921	17.517	14.003	1.076	15.079
Oregon	25.0	24.575	25.035	23.750	1.824	25.574
Pennsylvania	145.5	202.324	140.520	133.306	44.288	177.594
Rhode Island	15.1	23.066	15.428	13.439	4.465	17.903
South Carolina	14.6	25.279	17.636	13.322	1.023	14.345
South Dakota	11.6	16.540	10.977	10.413	2.675	13.088

State	Total Funds Distributed ^a (Regular and Contingency)			Regular Allotment	Contingency Distributed	Total
	FY2005	FY2006	FY2007	FY2008		
Tennessee	28.3	47.139	33.568	27.039	2.077	29.116
Texas	46.2	84.005	46.545	44.155	3.391	47.546
Utah	14.7	22.848	15.062	14.289	3.670	17.959
Vermont	13.8	20.903	14.162	11.616	3.859	15.475
Virginia	41.7	75.053	40.241	38.175	2.932	41.107
Washington	39.9	39.631	40.443	38.367	2.947	41.314
West Virginia	18.5	24.543	18.621	17.665	1.357	19.021
Wisconsin	75.3	99.837	73.525	69.750	17.917	87.667
Wyoming	5.9	8.987	5.932	5.628	1.446	7.073
Subtotal	2,111	3,096	2,108	1,929.207	445.368	2,374.574
Tribes ^b	20.1	32.897	23.201	21.107	4.429	25.536
Territories ^c	2.9	3.456	2.788	2.645	.203	2.848
Leveraging/REACH ^d	27.3	27.225	27.225	26.749	—	26.749
Training/Tech. Asst. ^e	0.3	0.297	0.297	0.292	—	0.292
Total	2,162	3,160	2,161	1,980	450	2,430

Source: Table compiled by the Congressional Research Service (CRS) based on U.S. Department of Health and Human Services (HHS) data.

- a. The totals shown in these columns include regular fund allocations to states (net of the direct awards to tribes) and any contingency funds awarded to the state in that year.
- b. This funding is made directly available to or for tribes but is reserved out of a given state's allotment amount. As prescribed in the statute, the tribal set-aside from a state gross allotment is based on tribal households in that state.
- c. The statute provides that HHS must set-aside not less than one-tenth of 1% and not more than one-half of 1% for use in the territories (American Samoa, Guam, Puerto Rico, Northern Mariana Islands, and the U.S. Virgin Islands).
- d. The statute provides a separate funding authorization for competitive grants under the leveraging incentive program (designed to encourage states to increase non-federal support for energy assistance). It also provides that up to 25% of any leveraging funds made available may be reserved for competitive REACH grants (for state efforts to increase efficient use of energy among low-income households and to reduce their vulnerability to homelessness and other problems due to high energy costs). Congress has in recent years stipulated that a certain portion of the LIHEAP regular funds be set aside for leveraging grants and, of this amount, HHS has reserved 25% for REACH grants.
- e. The statute provides that HHS may reserve up to \$300,000 for making grants or entering into contracts with states, public agencies, or private nonprofits that provide training and technical assistance related to achieving the purposes of the LIHEAP program.

Table 5. LIHEAP Funding: FY1982 to FY2008
(dollars in thousands)

Fiscal Year	Regular Funds ^a			Contingency Funds ^a		Total Distributed
	President's Request	Authorized	Appropriated	Appropriated	Distributed	
1982	1,400,000	1,875,000	1,875,000	—	—	1,875,000
1983	1,300,000	1,875,000	1,975,000	—	—	1,975,000
1984	1,300,000	1,875,000	2,075,000	—	—	2,075,000
1985	1,875,000	2,140,000	2,100,000	—	—	2,100,000
1986	2,097,765	2,275,000	2,100,000	—	—	2,100,000
1987	2,097,642	2,050,000	1,825,000	—	—	1,825,000
1988	1,237,000	2,132,000	1,531,840	—	—	1,531,840
1989	1,187,000	2,218,000	1,383,200	—	—	1,383,200
1990	1,100,000	2,307,000	1,443,000	—	—	1,443,000
1991	1,050,000	2,150,000	1,415,055	195,180	195,180	1,610,235
1992	1,025,000	2,230,000	1,500,000	300,000	0	1,500,000
1993	1,065,000	<i>ssan</i> ^b	1,346,030	595,200	0	1,346,030
1994	1,507,408	<i>ssan</i> ^b	1,437,402	600,000	300,000	1,737,402
1995	1,475,000	2,000,000	1,319,202	600,000	100,000	1,419,202
1996	1,319,204	2,000,000	900,000	180,000	180,000	1,080,000
1997	1,000,000	2,000,000	1,000,000	420,000	215,000	1,215,000
1998	1,000,000	2,000,000	1,000,000	300,000	160,000	1,160,000
1999	1,300,000	2,000,000	1,100,000	300,000	175,299	1,275,299
2000	1,400,000	<i>ssan</i> ^b	1,100,000	900,000	744,350 ^c	1,844,350 ^c
2001	1,400,000	<i>ssan</i> ^b	1,400,000	600,000	455,650	1,855,650
2002	1,400,000	2,000,000	1,700,000	300,000	100,000 ^d	1,800,000
2003	1,400,000	2,000,000	1,788,300 ^e	0	200,000 ^f	1,988,300
2004	1,700,000	2,000,000	1,789,380	99,410	99,410	1,888,790
2005	1,800,500 ^g	5,100,000	1,884,799	297,600	277,250	2,162,050
2006	1,800,000 ^g	5,100,000	2,480,000	681,000	679,960	3,160,000
2007	1,782,000	5,100,000	1,980,000	181,000	181,000	2,161,000
2008	1,500,000	— ^h	1,980,000	590,328	450,000	2,430,000

Source: Table prepared by the Congressional Research Service (CRS) on the basis of HHS data.

- a. Amounts listed under the Regular Funds heading are for *regular* funding only. In 1994, Congress enacted a permanent \$600 million annual authorization for contingency funding. As shown, however, before this authorization contingency funds were sometimes made 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. These funds were distributed out of the total FY2002 contingency appropriation (P.L. 107-116). With the end of FY2002, the remaining \$200 million of these contingency funds expired.
- e. The final FY2003 appropriations act (P.L. 108-7) included \$1.688 billion in new regular funds and converted into regular funds \$100 million of remaining contingency funds originally appropriated in FY2001 (P.L. 107-20).
- f. These funds were distributed out of contingency dollars appropriated as part of the FY2001 supplemental (P.L. 107-20). That law provided that the funds were “available until expended.” Congress subsequently converted some of these dollars into regular funds (see tablenote).
- g. Of this amount, the President requested that \$500,000 be set aside for a national evaluation.
- h. LIHEAP is unauthorized in FY2008.