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Summary

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

States may use LIHEAP funds to help low-income households pay for heating and cooling costs, for crisis assistance, weatherization assistance, and services (such as counseling) to reduce the need for energy assistance. The LIHEAP statute establishes federal eligibility for households with incomes at or below 150% of poverty or 60% of state median income, whichever is higher, although states may set lower limits.

Available federal information regarding use of LIHEAP funds and households assisted is dated. The Department of Health and Human Services (HHS) releases annual LIHEAP Reports to Congress, but the most recent report available is from FY2010. In its FY2017 budget justifications, HHS reported limited preliminary LIHEAP data for FY2014. Of funds expended for heating, cooling, crisis assistance, and weatherization, approximately 57% of funds went to pay for heating assistance, 8% was used for cooling aid, 25% went to crisis assistance, and 10% was used for weatherization. (Note that these percentages do not account for administrative expenses or services to reduce the need for energy assistance.) Also in FY2014, an estimated 6.3 million households received an average of \$366 in heating assistance for the year.

In FY2016, Congress appropriated \$3.39 billion for LIHEAP as part of the FY2016 Consolidated Appropriations Act (P.L. 114-113), all distributed as regular funds. The bill allocated \$491 million of total regular funds according to the statutory, or “new,” LIHEAP formula, and the remainder according to the “old” formula. Additionally, \$3 million was set aside for training and technical assistance. As of the date of this report, HHS had distributed all but 1% of appropriated funds, with the first distribution announced October 23, 2015, and the second April 1, 2016. For state-by-state allocations, see **Table B-1**.

The President’s FY2017 budget proposed that LIHEAP receive \$3 billion in discretionary appropriations, all allocated as regular funds. The budget also included a proposal made in previous years, that emergency contingency funds be mandatory, with their availability triggered by increases in energy prices, extreme temperatures, or increased poverty as measured by participation in the Supplemental Nutrition Assistance Program (SNAP). The budget estimates that \$769 million in emergency contingency funds would be made available under this formulation in FY2017.

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Introduction

The Low Income Home Energy Assistance program (LIHEAP), established by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), is a program through which the federal government gives states, tribes, and territories annual grants to operate home energy assistance programs for low-income households. The LIHEAP statute provides for two primary types of program funding: regular funds (sometimes referred to as block grant or formula funds) and emergency contingency funds. Regular funds are allotted to states according to a formula prescribed by the LIHEAP statute.¹ Emergency 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 discusses LIHEAP program rules and benefits, including household eligibility and how funds may be used, and presents the most recent data available from HHS regarding household characteristics and benefit levels (see “Program Rules and Benefits”). The second section of this report discusses each category of LIHEAP funds and how they are distributed to states, tribes, and territories (see “Types of LIHEAP Funds”). The third section discusses LIHEAP funding and appropriations (see “LIHEAP Appropriations”). **Appendix A** describes the legislative history of energy assistance, leading up to and including the enactment of LIHEAP (see “Legislative History of Energy Assistance”). Finally, **Appendix B** contains tables showing recent LIHEAP allocations to the states, as well as appropriations for the program since its inception.

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 that receive federal funds (collectively referred to in this report as “grantees”). The law governing LIHEAP sets up most requirements as part of a list of “assurances” that grantees must make when they apply to HHS for funds.² For example, grantees must make assurances about the sorts of energy assistance they will provide, who will be served, and how funds will be administered. The LIHEAP statute contains 16 assurances that govern various aspects of how the program operates at the state, tribe, or territorial level. This section discusses how grantees implement the assurances to provide energy assistance to low-income households.

How May LIHEAP Funds Be Used?

The LIHEAP statute outlines the ways in which grantees may use funds.³

- Funds may be used to help households meet their home energy costs by making payments for heating and cooling expenses.⁴ All state grantees provide heating assistance to households, while a smaller number provide cooling assistance. See **Table 1**.

¹ See §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 42 U.S.C. §8624.

³ 42 U.S.C. §8624(b)(1).

⁴ “Home energy” is defined at 42 U.S.C. §8622 as “a source of heating or cooling in residential dwellings.”

- States must reserve funds to assist when households face an energy crisis,⁵ defined as “weather-related and supply shortage emergencies and other household energy-related emergencies.”⁶ Within this definition, states determine the circumstances under which they will provide assistance. For example, generally states provide crisis assistance 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.⁷
- Funds may be used for low-cost weatherization projects. Grantees are limited to using 15% of their allotment for weatherization unless a grantee has a waiver from HHS for up to 25%.⁸
- Grantees may use funds to provide services to reduce the need for energy assistance (e.g., needs assessment, counseling on how to reduce energy consumption) limited to 5% of the allotment.⁹
- Funds may be used for program administration, limited to 10% of the allotment.¹⁰

A Note About LIHEAP Data

HHS publishes data about how states use LIHEAP funds as well as the number and characteristics of recipient households as part of annual LIHEAP Reports to Congress and LIHEAP Home Energy Notebooks. The most recent LIHEAP Report to Congress is from FY2010 and the LIHEAP Home Energy Notebook is from FY2011. As a result, publicly available comprehensive information about LIHEAP is dated.

As part of the FY2017 Congressional budget justifications for LIHEAP, HHS included some preliminary FY2014 data regarding use of funds and households served.¹¹ In FY2014, of funds expended for heating, cooling, crisis assistance, and weatherization, approximately 57% of funds went to pay for heating assistance, 8% was used for cooling aid, 25% went to crisis assistance, and 10% was used for weatherization. (Note that these percentages do not account for administrative expenses or services to reduce the need for energy assistance, which were not provided in the budget justifications.) Also in FY2014, an estimated 6.3 million households received an average of \$366 in heating assistance for the year.

The greatest share of LIHEAP funding is used to offset home heating costs. In FY2010 (the most recent year for which detailed HHS data are publicly available), approximately 54% of all LIHEAP funds was used to provide heating assistance; all states (including the District of Columbia) provided some heating assistance.¹² All states also offered crisis assistance, most of

⁵ 42 U.S.C. §8623(c).

⁶ 42 U.S.C. §8622(3).

⁷ For the state definitions of “crisis” see the compilation at the LIHEAP Clearinghouse, <http://liheap.ncat.org/tables/FY2014/Crisis.pdf>. The LIHEAP Clearinghouse, via a contract with HHS, collects information about how states operate their energy assistance programs.

⁸ The limitation on use of weatherization funds is at 42 U.S.C. §8624(k).

⁹ 42 U.S.C. §8624(b)(16).

¹⁰ 42 U.S.C. §8624(b)(9).

¹¹ U.S. Department of Health and Human Services FY2017 Congressional Budget Justifications for the Low Income Home Energy Assistance Program, https://www.acf.hhs.gov/sites/default/files/olab/final_cj_2017_print.pdf.

¹² Based on state-reported total LIHEAP obligations for FY2010 of \$5.3 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 2010*, p. 19, http://www.acf.hhs.gov/sites/default/files/ocs/fy10_liheap_rtc_final.pdf (hereinafter, *FY2010 LIHEAP Report to Congress*).

which was used for heating needs;¹³ in FY2010, 18% of LIHEAP funds was used in the category of winter/year-round crisis assistance in 47 states and summer crisis assistance in seven states.¹⁴ Also in FY2010, 5% of funds went for cooling aid (offered by 17 states); 8% of total LIHEAP funds was used for weatherization services (provided by 43 states); 7% of available funds went for administration and planning purposes (51 states); and 1% of the FY2010 funds was used to offer services to reduce the need for energy assistance (provided by 29 states).¹⁵

Table I. Use of Federal LIHEAP Funds by States, FY2010

Use of Funds	Percentage of Funds	Dollars Obligated (\$ in millions) ^a	Number of States	Households Assisted ^b (in thousands)
Heating	54%	\$2,878	51	7,361
Cooling	5	267	17	909
Winter/Year Round Crisis Assistance	18 ^c	911	47 ^d	2,100
Summer Crisis		62	7	197
Weatherization	8	408	43	138
Administration	7	396	51	—
Services to Reduce Reliance on Home Energy	1	62	29	—
Carry Over to Next Fiscal Year	5	261	42	—

Source: *Low Income Home Energy Assistance Program Report to Congress for Fiscal Year 2010*, p. 19 (percentage of funds, dollars obligated, and number of states), p. 36 (number of households assisted and number of states for summer crisis), and p. ii of the executive summary (dollars obligated for winter/year round crisis and summer crisis).

Notes: “States” includes the District of Columbia.

- Total dollars obligated include funds that were carried over from FY2008.
- Note that the numbers of households assisted by category are not unduplicated. For example, HHS estimates that two thirds of households that receive winter/year round crisis assistance also receive heating assistance.
- HHS provides the combined percentage for crisis assistance.
- Three states, Kansas, Maryland, and Massachusetts, use expedited heating assistance to assist households in fuel crisis situations.

Who May Receive Assistance?

Basic Eligibility: Federal law sets out parameters that grantees must follow in establishing eligibility for LIHEAP assistance. The statute establishes households as the unit that is eligible for LIHEAP assistance (versus a family). A household consists of an “individual or group of individuals who are living together as one economic unit for whom residential energy is

¹³ Three states provided crisis assistance in the form of expedited heating benefits. These were Kansas, Maryland, and Massachusetts. *Ibid.*, Table I-8, pp. 20-22.

¹⁴ *FY2010 LIHEAP Report to Congress*, p. 19 and p. ii of the Executive Summary.

¹⁵ *Ibid.*, p. 19.

customarily purchased in common or who make undesignated payments for energy in the form of rent.”¹⁶ Grantees must have a system in place for a household denied assistance to appeal.¹⁷

- *Eligibility Based on Income:* Grantees have the option of setting LIHEAP eligibility for households at or below 150% of the federal poverty income guidelines or, if greater, 60% of the state median income.¹⁸ States may adopt lower income limits, but no household with income below 110% of the poverty guidelines may be considered ineligible.
- *Eligibility Based on Receipt of Other Benefits:* Grantees 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), benefits under the Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamps), or certain needs-tested veterans’ programs.¹⁹

The LIHEAP statute does not impose an asset test in establishing eligibility, but states may choose to limit client assets. LIHEAP assistance does not reduce eligibility or benefits under other state or federal aid programs.²⁰ For example, this means that a LIHEAP payment would not count toward the income or resources of a family applying for SNAP, housing assistance, or other types of assistance programs. Each year, the LIHEAP Clearinghouse, through a contract with HHS, makes available state eligibility guidelines on its website.²¹

Vulnerable and High-Need Populations: The LIHEAP statute requires that grantees conduct outreach to eligible households, “especially” households with elderly individuals, individuals with disabilities, or that have high energy burdens (home energy expenditures divided by income), to ensure that they are aware of LIHEAP availability.²²

Grantees must further ensure that households with the lowest incomes, together with the highest home energy need in relation to income, receive the highest level of assistance.²³ This provision was added to the law as part of the Human Services Amendments of 1994 (P.L. 103-252) with the intention of ensuring that both income and energy burden together were considered so that grantees would target households that are “most drastically burdened” and who have the “highest health risk.”²⁴

¹⁶ 42 U.S.C. §8622(5).

¹⁷ 42 U.S.C. §8624(b)(13).

¹⁸ 42 U.S.C. §8624(b)(2)(B). Each year HHS publishes updated poverty levels and state median income thresholds and the LIHEAP Clearinghouse publishes them on their website, http://liheap.ncat.org/delivery/income_elibility.htm.

¹⁹ 42 U.S.C. §8624(b)(2)(A). Eligible veterans’ benefits are compensation to parents for the service-connected death of a child, to veterans with non-service connected disabilities, to the surviving spouse of a veteran, and to children of a deceased veteran. In each case, benefits are need-based and are reduced based on the beneficiary’s income.

²⁰ 42 U.S.C. §8624(f).

²¹ For income guidelines, see <http://liheap.ncat.org/tables/FY2014/POP14.htm>. For a list of states that use receipt of other benefits to establish eligibility, see <http://liheap.ncat.org/tables/FY2013/autoeligtable.htm>. For states that use asset tests, see <http://liheap.ncat.org/tables/FY2014/assets.htm>.

²² 42 U.S.C. §8624(b)(3).

²³ 42 U.S.C. §8624(b)(5).

²⁴ U.S. Congress, Senate Committee on Labor and Human Resources, *Human Services Reauthorization Act of 1994*, report to accompany S. 2000, 103rd Cong., 2nd sess., April 19, 1994, S.Rept. 103-251, p. 55.

Owners and Renters: Under the LIHEAP statute, grantees must treat owners and renters “equitably.”²⁵ The way in which renters pay utilities may differ from homeowners, where, in some cases, payments for heating and cooling are included in rent rather than paid directly by the tenant. However, this should not affect eligibility for LIHEAP.

In addition, the issue of how to treat renters living in housing subsidized through the Department of Housing and Urban Development (HUD) has been raised in the past. In general, HUD housing subsidies are based both on rent levels and reasonable utility expenses. Tenants pay approximately 30% of their income toward the total rent and utility costs, and HUD subsidizes the remainder of the total. In cases where tenants pay their utilities directly (rather than as part of their rent), they are reimbursed for the HUD share of utilities through a utility allowance, which generally comes in the form of a rent reduction. In 1992, Congress enacted legislation to make clear that states may not automatically deny LIHEAP benefits to subsidized tenants who pay their utilities directly and receive utility allowances.²⁶ However, states may take utility allowances into account when determining the amount of benefits subsidized renters may receive. On its website, the LIHEAP Clearinghouse compiles state policies regarding renters.²⁷

How Is LIHEAP Administered?

Federal rules allow grantees to decide the mix and dollar range of benefits, choose how benefits are provided (e.g., to utilities or directly to households), and decide which agencies will administer the program. Grantees provide details to HHS about program operation via a state plan submitted each year,²⁸ and they are to provide a method for public participation in the state plan’s development.²⁹

The state agency administering LIHEAP is to coordinate with other low-income programs, including the Department of Energy’s Weatherization Assistance Program (WAP).³⁰ To the extent possible, grantees are encouraged to follow WAP rules in order to increase consistency between the two weatherization components.³¹ LIHEAP grantees are also required to establish fiscal control and accounting procedures, which include a way of monitoring the assistance that is provided.³²

²⁵ 42 U.S.C. §8624(b)(8).

²⁶ See §927 of the Housing and Community Development Act of 1992 (P.L. 102-550) as amended by P.L. 103-185, a bill to provide increased flexibility to States in carrying out the Low-Income Home Energy Assistance Program.

²⁷ See <http://www.liheap.ncat.org/tables/FY2012/subsidize.htm>.

²⁸ 42 U.S.C. §8624(c).

²⁹ 42 U.S.C. §8624(b)(12).

³⁰ 42 U.S.C. §8624(b)(4).

³¹ *Ibid.* For more information about the Weatherization Assistance Program, see CRS Report R42147, *DOE Weatherization Program: A Review of Funding, Performance, and Cost-Effectiveness Studies*, by (name redacted)

³² 42 U.S.C. §8624(b)(10).

At the state level, many LIHEAP administrative functions such as intake and application processing are often delegated to local level agencies. In the early years of energy assistance, prior to the existence of LIHEAP, funds were administered by local Community Action Agencies (CAAs). This relationship continued when LIHEAP was enacted in 1981. The LIHEAP statute provides that, if a state designates local agencies to administer the program, then they agree to “give special consideration” to public or private nonprofit agencies receiving funds for low-income energy assistance or weatherization prior to LIHEAP’s enactment.³³ According to the LIHEAP Clearinghouse, in 30 states CAAs are involved in administering funds, another 13 states have local programs administered by the counties, and the remaining states are either administered at the state level or by nonprofit groups.³⁴ In most cases, LIHEAP benefits are given directly to utilities or fuel oil suppliers to be applied to recipients’ accounts rather than directly to recipients. An exception to this may occur in cases of renters whose utility payments are included in rent and who do not have their own account.

Community Action Agencies

Community Action Agencies (CAAs) have been a prominent part of administering energy assistance programs since the 1970s. CAAs are community-based organizations created as part of the Economic Opportunity Act of 1964 (P.L. 88-452), the law that established the War on Poverty. CAAs were authorized to administer a number of programs that assist low-income households. In addition to administering energy and weatherization assistance programs, CAAs run programs to assist families with housing, child development (including Head Start), food and nutrition, senior services, legal affairs, community development, and education, among others. More than 1,000 CAAs administer programs nationwide, and in many states continue to administer LIHEAP funds.

Households Served

Unlike some other federal assistance programs, such as Medicaid or the Supplemental Nutrition Assistance Program (SNAP), simply being eligible for LIHEAP does not entitle a household to LIHEAP benefits. Available benefits are limited by the amount that Congress appropriates each year, so the number of households that are served in a given year depends both on appropriations and how grantees use their funding.

In FY2011, the most recent year for which HHS data are publicly available, an estimated 7.6 million households received heating and/or winter crisis assistance (the bulk of LIHEAP assistance that is provided).³⁵ While the number of recipients was down from 8.1 million in FY2010, households served continued to be significantly higher than in years preceding FY2009, when Congress appropriated the most funding ever received by the program. Congress appropriated \$5.1 billion for LIHEAP in both FY2009 and FY2010, and \$4.7 billion in FY2011 (compared to \$2.59 billion in FY2008). In FY2009, an estimated 7.4 million households received assistance, an increase of 2 million compared to FY2008, when an estimated 5.4 million households were served.³⁶ Increased households served could also in part result from nominal LIHEAP benefits given to some households to leverage SNAP assistance (see the text box “Households Receiving Nominal LIHEAP Benefits”).

³³ 42 U.S.C. §8624(b)(6).0,

³⁴ See the LIHEAP Clearinghouse website, <http://liheap.ncat.org/admin/adminintro.htm>.

³⁵ U.S. Department of Health and Human Services, Administration for Children and Families, *LIHEAP Home Energy Notebook for Fiscal Year 2011*, June 2014, p. 29, https://www.acf.hhs.gov/sites/default/files/ocs/fy2011_hen_final.pdf (hereinafter *FY2011 LIHEAP Home Energy Notebook*). This estimate attempts to remove duplication among households that received both heating and winter crisis assistance.

³⁶ U.S. Department of Health and Human Services, Administration for Children and Families, *LIHEAP Home Energy Notebook for Fiscal Year 2009*, September 2011, p. 30 (hereinafter, *FY2009 LIHEAP Home Energy Notebook*).

Prior to FY2009, the most households were served shortly after LIHEAP was enacted, when approximately 6.8 million households received heating and/or winter crisis assistance in FY1983. After 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 to the current level. For the number of households receiving LIHEAP from FY2000 through FY2011, see **Table 2**.

The same trend can be seen in the *percentage* of federally eligible households that receive heating and/or winter crisis assistance. In FY1983, the 6.8 million households that received funds represented 31% of federally eligible households. By FY2000, the number of federally eligible households receiving LIHEAP heating and/or winter crisis assistance had dropped to 13%. After FY2003, the percentage of federally eligible households receiving assistance hovered between 14% and 16%, settling at 16% for FY2006 through FY2008. However, in FY2009 and FY2010, with increased funding for LIHEAP, 21% and 22% of those households federally eligible under the LIHEAP statute were served, respectively.³⁹ In FY2011, 19% of federally eligible households were served.⁴⁰

FY2010 and FY2011 saw the highest number of households receiving cooling and/or summer crisis assistance—1.1 million households in each year, compared to 900,000 in FY2009.⁴¹ Prior to FY2009, the number of households receiving cooling and/or summer crisis assistance reached a high point of 700,000 recipients in FY2006.⁴²

HHS estimates that of all households receiving LIHEAP heating assistance in FY2010 (the most recent publicly available data with more detailed information about receipt), about 29% had at least one member 60 years of age or older; about 31% had at least one member with a disability; and 23% included at least one child five years of age or younger.⁴³ Households may include members in more than one of the three categories. Although some states set LIHEAP eligibility as high as 60% of state median income, on average, LIHEAP households served have very low incomes. In FY2010, 69% of households receiving heating assistance had incomes at or below

Households Receiving Nominal LIHEAP Benefits

Since roughly 2009, some states have distributed nominal LIHEAP benefits to households (ranging from \$1 to \$5) in order to leverage additional SNAP benefits. This practice is sometimes referred to as “heat-and-eat.”³⁷ In 2014, the Farm Bill raised the amount of the LIHEAP benefit required to leverage additional funds to “greater than \$20 annually.” In its FY2010 LIHEAP Report to Congress, HHS identified eight states that provided more than \$900,000 in nominal LIHEAP benefits to nearly 900,000 households.³⁸ These were Connecticut, Maine, New Jersey, New York, Oregon, Pennsylvania, Vermont, and Wisconsin. Five of these states included nominal benefit recipients in their household heating totals, making up about 600,000 households.

³⁷ For more information about heat-and-eat, see CRS Report R42591, *The 2014 Farm Bill: Changing the Treatment of LIHEAP Receipt in the Calculation of SNAP Benefits*, by (name redacted) and (name redacted).

³⁸ *FY2010 LIHEAP Report to Congress*, pp. 37-39.

³⁹ Note that due to a provision in the FY2009 appropriations act (P.L. 110-329) that allowed states to increase household eligibility to 75% of state median income in that year, only 16% of those eligible under the *appropriations law* were served in FY2009. *FY2009 LIHEAP Home Energy Notebook*, p. 30.

⁴⁰ *FY2011 LIHEAP Home Energy Notebook*, p. 29.

⁴¹ U.S. Department of Health and Human Services, Administration for Children and Families, *LIHEAP Home Energy Notebook for Fiscal Year 2010*, January 2013, p. 31, https://www.acf.hhs.gov/sites/default/files/ocs/fy2010_hen.pdf and the *FY2011 LIHEAP Home Energy Notebook*, p. 30.

⁴² See the *FY2009 LIHEAP Home Energy Notebook*, p. 31, and the *FY2006 LIHEAP Home Energy Notebook*, p. 30.

⁴³ *FY2010 LIHEAP Report to Congress*, p. 57.

100% of poverty and 75% of households receiving cooling assistance were at or below the poverty level.⁴⁴

Benefit Levels

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. These include the following:

- 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).

The average LIHEAP benefit varies by state. For example, in FY2010, the most recent year in which state-by-state data are available, the average heating benefit nationwide was \$391, with a range from \$90 (Mississippi) to \$2,612 (Alaska).⁴⁵ The average benefit for cooling assistance, available in 17 states in FY2010, was \$293, ranging from \$52 (Indiana) to \$916 (Texas).

One way of looking at LIHEAP benefits over time is to measure them in constant dollars. Each year, the HHS *LIHEAP Home Energy Notebook* presents average heating and winter crisis benefits in nominal dollars and constant 1981 dollars (the year in which LIHEAP was enacted). Until FY2009, when funding for the program increased by more than \$2 billion compared to the previous fiscal year, the general trend in the constant dollar value of LIHEAP benefits since the program's beginning had been one of decline. In FY1981, the average heating and winter crisis benefit, measured in constant 1981 dollars, was \$213.⁴⁶ By FY1998, it had declined to \$117, and although the average benefit reached \$187 in FY2001, it generally declined again thereafter, with the exception of \$171 in FY2006, when funding was higher than in the immediately preceding and subsequent years. In FY2009, the constant dollar value of the average LIHEAP heating and winter crisis benefit increased by about \$58 from the previous year, to \$209.⁴⁷ By FY2011, with funding down slightly, the average benefit in constant dollars was \$184.⁴⁸ (See **Table 2**.)

⁴⁴ Ibid., p. 46.

⁴⁵ Ibid., pp. 41-43.

⁴⁶ *FY2009 LIHEAP Home Energy Notebook*, p. 33.

⁴⁷ Ibid.

⁴⁸ *FY2011 LIHEAP Home Energy Notebook*, p. 32.

Table 2. LIHEAP Households Receiving Heating and Winter Crisis Assistance
FY2000-FY2011

Fiscal Year	Funding Distributed ^a (\$ in millions)	Households Assisted			Average Benefits	
		Households Receiving Assistance (millions)	Households Federally Eligible for Assistance (millions)	Percentage of Federally Eligible Households Receiving Assistance	Nominal Dollars	Constant 1981 Dollars ^b
2000	\$1,844	3.9	29.4	13%	\$270	\$140
2001	1,856	4.8	30.4	16	364	187
2002	1,800	4.4	32.7	13	291	147
2003	1,988	4.8	34.5	14	312	154
2004	1,889	5.0	35.4	14	277	132
2005	2,162	5.3	34.8	15	304	140
2006	3,160	5.5	34.4	16	385	171
2007	2,161	5.3	33.6	16	320	139
2008	2,591	5.4	33.5	16	362 ^c	151
2009	5,100	7.4	35.0 ^d	21	502 ^e	209
2010	5,100	8.1	37.1 ^d	22	467	191
2011	4,701	7.6	40.1	19	462	184

Source: Data regarding households assisted, federally eligible households, and benefit levels for FY2000 to FY2011 are drawn from the LIHEAP Home Energy Notebooks for FY1998 through FY2011.

- See **Table B-3**.
- Constant 1981 dollars are used by HHS to measure the value of LIHEAP benefits over time.
- Note that the *FY2008 LIHEAP Report to Congress* reports this average as \$363.
- In FY2009 and FY2010, the appropriations bills (P.L. 110-329) and (P.L. 111-117) gave states the option of increasing LIHEAP household eligibility to 75% of state median income. This meant that approximately 45 million households were eligible for LIHEAP in FY2009 and nearly 48 million in FY2010. However, for the sake of comparison, this table includes only those households federally eligible under the LIHEAP statute (those with incomes at or below the greater of 150% of poverty or 60% of state median income).
- Note that the *FY2009 LIHEAP Report to Congress* reports this average as \$505.

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, has fluctuated over the years. While the average benefit in 1981 was \$129, in the years that followed the average benefit in constant 1981 dollars declined as low as \$57 in FY1983 and \$49 in FY1990. However, the average benefit grew from FY1990 levels, and by FY2000 and FY2001 the average benefit had reached \$107. In recent years, between FY2004 and FY2008, the constant dollar value has ranged from \$72 (in FY2008) to \$105 (in FY2006). After FY2009, when funding for LIHEAP increased significantly, the constant dollar value of cooling and summer crisis benefits rose to \$142.⁴⁹ In FY2011, the average constant dollar benefit was \$126.⁵⁰

⁴⁹ *FY2009 LIHEAP Home Energy Notebook*, p. 33.

⁵⁰ *FY2011 LIHEAP Home Energy Notebook*, p. 32.

Types of LIHEAP Funds

The LIHEAP statute authorizes several separate distributions of LIHEAP funds.⁵¹ The bulk of funds are distributed as “regular” funds, sometimes also referred to as formula or block grant funds. The regular funds are distributed via formula to the states and the District of Columbia. Tribes receive a share of state funding, while a percentage of regular funds is set aside for territories. The LIHEAP statute also authorizes emergency contingency funds, which may be distributed to one or more states, tribes, or territories at the discretion of the Administration. The statute also authorizes a smaller amount of funds for Leveraging Incentive grants, which are distributed to grantees that leverage non-federal resources for their energy assistance programs. And a portion of Leveraging Incentive grants may be used for competitive Residential Energy Assistance Challenge (REACH) grants that grantees may use for various purposes that improve the energy security of vulnerable low-income families.

Despite the different distribution methods, grantees may use each form of funding for the eligible activities under LIHEAP (e.g., heating and cooling assistance, emergency crisis assistance, and weatherization).

Regular Funds

When LIHEAP was created in 1981, the only funds available were regular funds, which were distributed to the states via a formula developed under the predecessor program to LIHEAP, the Low Income Energy Assistance Program (see **Appendix A**). Regular funds continue to be distributed to the states via a formula, though it was changed in 1984 as part of the Human Services Reauthorization Act (P.L. 98-558). The history and operation of the formula are complicated, and the issues are addressed in a separate report, CRS Report RL33275, *The LIHEAP Formula*, by (name redacted). Tribes and territories are not directly included in the LIHEAP formula distribution, and the way in which they receive regular funds is described in more detail, below. Regular funds have not been authorized since FY2007, when they were authorized at \$5.1 billion (P.L. 109-58).

Tribal Allotments

Indian tribes and tribal organizations have the option to request that they receive and administer their own allotments of LIHEAP funds.⁵² Tribal allotments may be based on the number of low-income households (as defined by the LIHEAP statute) residing on a reservation and any adjacent trust land as a proportion of all low-income households in the state. Alternatively, a tribe may work out its funding level with the state and enter into an agreement for an amount to be allocated. A tribe’s allotment is then taken from the state’s LIHEAP allocation. There are tribes in 25 states that administer their own LIHEAP funds.⁵³

Funds for the Territories

The LIHEAP statute provides that at least one-tenth, but not more than one-half of 1% of the total regular fund appropriation must be set aside for energy assistance in American Samoa, Guam, the

⁵¹ 42 U.S.C. §8621.

⁵² 42 U.S.C. §8623(d).

⁵³ Based on tribes receiving LIHEAP funding in FY2015.

Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. HHS sets the exact percentage of funds that goes to the territories. In FY2014, HHS set aside 0.5% of funding for the territories, the first time that funding had reached the maximum allowed by the statute. This set-aside has continued in appropriations since FY2014.

Prior to FY2014, and since the inception of the program, the set-aside for territories had been approximately 0.134% of regular funds. This percentage was based on the amount of funding that the territories received under LIEAP, the predecessor program to LIHEAP. For that program, Congress made \$2.5 million available to the territories. Prior to implementation of LIHEAP, in 1981, the territories asked HHS that more funding be provided.⁵⁴ However, according to HHS, it decided to provide the same approximate percentage of LIHEAP funding to the territories as was provided as part of LIEAP, concluding that

[HHS] should retain the funding levels originally proposed, since they are based on a congressional determination of need for the 1981 program, and the comments did not include any information demonstrating that changed conditions required a higher relative level of funding as compared to the States than existed in 1981.⁵⁵

HHS allocates funds among the five territories based on population, with Puerto Rico receiving approximately 90% of funds. For the most recent allocations to the territories, see the end of **Table B-1**.

Emergency Contingency Funds

Unlike LIHEAP regular funds, emergency contingency funds are not distributed by formula. Instead, they are to be distributed at the Administration's discretion "to meet the additional home energy assistance needs of one or more states arising from a natural disaster or other emergency."⁵⁶ The two terms are defined as follows:

- "Emergency" includes 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."⁵⁷
- A "natural disaster" is defined as "a weather event (relating to hot or cold weather)," floods, earthquakes, tornadoes, hurricanes, ice storms, or other events as determined by the Secretary.⁵⁸

Since the creation of the emergency contingency fund, funds have been released to grantees for various reasons, including energy price increases, extreme periods of hot or cold weather, and damage caused by natural disasters. In cases of natural disasters, grantees may be flexible in the ways they assist households, particularly those without power due to damaged or destroyed homes. According to HHS guidance, funds may be used to pay for temporary shelter, for

⁵⁴ U.S. Department of Health and Human Services, "Block Grant Programs: Final Rules," 47 *Federal Register* 29485, July 6, 1982.

⁵⁵ *Ibid.*

⁵⁶ 42 U.S.C. §8621(e). Initially, the terms "natural disaster" and "emergency" were not defined in the statute, and, several years later, in 1998, as part of P.L. 105-285, Congress amended the statute to include definitions.

⁵⁷ 42 U.S.C. §8622(1).

⁵⁸ 42 U.S.C. §8622(7).

transportation to shelter, coats and blankets, as well as for utility reconnection and equipment replacement.⁵⁹

Congress has appropriated emergency contingency funds in every year since the funds have been authorized with the exceptions of FY2003 (when funds appropriated in a previous year were available for distribution), and FY2012 through FY2015. In addition, just because Congress appropriates funds does not mean that the Administration releases them to grantees. In a number of years that Congress appropriated funds, HHS released only a portion of the funds available (see **Table B-3**).

Some form of emergency contingency funds was first appropriated in FY1991, although the funds were not authorized until enactment of the Human Services Amendments of 1994 (P.L. 103-252). Like the genesis of federal energy assistance programs in general, appropriations for energy-related emergencies grew out of high heating oil prices coupled with cold temperatures.⁶⁰ Congress appropriated \$200 million in FY1991 and referred to the program as an “Energy Emergency Contingency Fund” (see P.L. 101-517).⁶¹ Congress permanently authorized emergency contingency funding at \$600 million in FY1994, and they have remained authorized at that same level.

Emergency Designation

On occasion, LIHEAP emergency contingency funds were designated as “emergency” for purposes of budget scoring. The LIHEAP authorizing statute provided that emergency contingency funds would be designated as emergency for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), as amended by the Budget Enforcement Act (BEA) of 1990 (enacted as part of P.L. 101-508).⁶² The BEA used spending limits to reduce the deficit. However, funds that were designated as an emergency by both the President and in statute were not included in the spending limits.⁶³ Congress first designated emergency contingency funds as “emergency” for budgetary purposes in FY1992 and FY1993 appropriations acts, and then incorporated the language into the LIHEAP statute upon the inclusion of the emergency contingency fund in the law.⁶⁴ The BEA expired in 2002, and while the Budget

⁵⁹ U.S. Department of Health and Human Services, Office of Community Services, *LIHEAP Disaster Relief*, <http://www.acf.hhs.gov/programs/ocs/resource/liheap-disaster-relief>, accessed November 15, 2012.

⁶⁰ During the FY1991 appropriations process, the Senate Appropriations Subcommittee noted that “[e]xtraordinary circumstances in world oil markets pose a serious risk that low-income households will face skyrocketing home energy prices in the 1990-1991 heating season.” U.S. Congress, House Committee on Appropriations, *Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act*, report to accompany H.R. 4404, 101st Cong., 2nd sess., March 27, 1990, H.Rept. 101-434, pp. 17-18.

⁶¹ Funds were to be made available if the average price of heating oil for a given month exceeded the four-year average for the same month by 20% or more. Funds were distributed to all states but Hawaii in January 1991 based on December 1990 heating oil prices. Pursuant to the law, states received funds based on the percentage of low-income households using heating oil, liquified petroleum gas, and kerosene. U.S. Department of Health and Human Services, *Low Income Home Energy Assistance Program: Report to Congress for Fiscal Year 1991*, October 1992, pp. 59-60.

⁶² For more information, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by (name redacted).

⁶³ See §251(b)(2)(D) of P.L. 101-508, later extended as part of P.L. 103-66.

⁶⁴ The language reads “Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.” See 42 U.S.C. §8621(e).

Control Act of 2011 (P.L. 112-25) further amended the law with new procedures to reduce the deficit, the statutory reference to emergency contingency funds as an emergency designation pursuant to the BEA is no longer operative.⁶⁵

Leveraging Incentive and REACH Funds

LIHEAP does not require grantees to match the federal funds they receive. However, a portion of LIHEAP funds may be used for grants based on the amount of outside funds that grantees obtain for energy assistance. These Leveraging Incentive grants were authorized in 1990, when P.L. 101-501 amended the LIHEAP 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.⁶⁶ Such resources might include negotiated lower energy rates for low-income households or separate state funds for energy assistance. States are awarded incentive funds in a given fiscal year on the basis of a formula that takes into account their previous fiscal year's 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 Leveraging Incentive grants 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 the 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 grants have not been authorized since FY2004. In practice, Congress has regularly funded these initiatives at \$22 million to \$30 million with dollars set aside out of annual regular fund appropriations. However, from FY2013 through FY2015, funds were not set aside for Leveraging Incentive and REACH grants.

Other Federal Sources of Funds Available for Energy Assistance

For a time, beginning in the mid-1980s, additional funds were available to LIHEAP grantees via funds recovered as the result of oil company overcharges that violated price controls instituted in 1973 as part of the Emergency Fuels and Energy Allocation Act (P.L. 93-159). In cases where aggrieved parties could not be identified for reimbursement, funds were distributed to states to be used for energy efficiency purposes, including LIHEAP.⁶⁷ Oil overcharge funds that were allocated to LIHEAP reached a peak of \$174 million in FY1989, and had diminished to \$200,000 by FY2008, the most recent year for which HHS has data available.⁶⁸

⁶⁵ After expiration of the BEA, there were three years in which the appropriations language designated emergency contingency funds as "emergency" for purposes of the budget resolutions (these were FY2005, FY2008, and FY2009). Budget resolutions establish allocations for appropriators. For more information, see CRS Report R40472, *The Budget Resolution and Spending Legislation*, by (name redacted).

⁶⁶ 42 U.S.C. §8621(d).

⁶⁷ For example, §155 of the FY1983 Further Continuing Appropriations Act (P.L. 97-377) specified that the Department of Energy distribute \$200 million to the states to be used for five energy efficiency programs, including LIHEAP. Funds were also made available via court orders and settlements. See, for example, Chuck Hill, Heather Gonzalez, and Roger Colton, "Oil Overcharge and Percentage-of-Income Payment Plan Developments," *Clearinghouse Review*, vol. 22, no. 2 (June 1988), pp. 146-148.

⁶⁸ *FY2008 LIHEAP Report to Congress*, pp. 2-3.

In addition, the Social Services Block Grant program allows states to transfer up to 10% of funds to provide low-income home energy assistance, among other purposes.⁶⁹ The Temporary Assistance for Needy Families program also gives states the discretion to use funds for home heating and cooling costs.⁷⁰

LIHEAP Appropriations

The LIHEAP Program Year

The federal government's fiscal year, which runs from October 1 to September 30, is not ideally placed for a program like LIHEAP. Most states release the bulk of their LIHEAP funds during the winter months, shortly after federal appropriations are to be finalized. Further, in recent years, appropriations often have not been finalized until well after the fiscal year is under way. This may require states to enter the winter months without certainty as to the amount of funds they will receive.

LIHEAP was not always funded exactly in concert with the federal fiscal year. Beginning in FY1990, for four years (through FY1993) Congress provided "delayed funding" for the program, making a portion of funds available on the last day of the fiscal year. The funds were for purposes of "starting up activities" for the following winter's program.⁷¹ These amounts were small initially, totaling \$60 million in FY1990 (P.L. 101-166) and \$75 million in FY1991 (P.L. 101-517), but growing to \$406 million in FY1992 (P.L. 102-170) and \$688 million in FY1993 (P.L. 102-394).

Then, in FY1993, Congress amended the LIHEAP statute to change the way that the program was funded, recognizing the difficulty for grantees in running a program with little advance notice of the funding level for the coming year.⁷² As part of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (P.L. 101-501), Congress provided that LIHEAP be funded on a program year cycle, from July 1 to June 30, with appropriations made in the fiscal year in which the program year started. This funding structure is referred to as "forward funding." According to the Senate committee report (where the forward funding provision originated), forward funding was meant to give grantees time to plan once they knew how much funding would be available.

Despite the statutory language, Congress never actually appropriated funds for a program year as forward funding, and instead provided advance appropriations for LIHEAP. Advance appropriations are simply made for the fiscal year subsequent to the year in which funds are appropriated. From FY1994 through FY2001, Congress provided advance appropriations for LIHEAP in every year but one (FY1997). When Congress enacted the FY2001 appropriations

⁶⁹ 42 U.S.C. §1397a(d).

⁷⁰ 42 U.S.C. §604(a)(1).

⁷¹ See S.Rept. 102-104, p. 180, to accompany H.R. 2707, an appropriations bill that was vetoed, though the same LIHEAP funding went into final bill.

⁷² "[T]he funding cycle for LIHEAP under current law is a major obstacle to effective state planning and management of an efficient and timely winter heating or crisis program. LIHEAP funds are designed to be expended in the season when home energy costs are incurred and in time to avoid household energy emergencies. However, in recent years, the Department had most often been without a final appropriations figure by the October 1 program start date. States must begin their planning for the program well before the level of funding is established. As a result of funding uncertainties, benefits cannot be set, and especially when major cuts are proposed, eligibility levels cannot be determined." U.S. Congress, Senate Committee on Labor and Human Resources, *Human Services Reauthorization Act*, report to accompany H.R. 4151, 101st Cong., 2nd sess., August 3, 1990, S.Rept. 101-421, p. 75.

law, it did not provide advance appropriations for FY2002. While Congress acknowledged the benefits of advance funding,⁷³ it appears that the failure to provide advance funding was due to budget caps for the Departments of Labor, HHS, and Education appropriations bill.⁷⁴ Since FY2002, LIHEAP appropriations have been made for the current fiscal year.

Recent LIHEAP Funding

FY2017 LIHEAP Funding

For FY2017, the President proposed to provide \$3.0 billion in discretionary funding for LIHEAP, all for regular funds. Of the amount appropriated, \$27 million would be for leveraging incentive and REACH grants and \$3 million for training and technical assistance. The President's budget also proposed that \$435 million be allocated according to the statutory LIHEAP formula, and the remainder according to the percentages of the "old" LIHEAP formula. For more information about the LIHEAP formula, see CRS Report RL33275, *The LIHEAP Formula*, by (name redacted)

The President's budget also included a proposal to allow states to use up to 40% of their LIHEAP grants for weatherization. Currently the statute limits funds that can be used for weatherization to 15% of the total, though states may go up to 25% with a waiver from HHS. A similar proposal was introduced in the FY2016 budget, but unlike that proposal, the FY2017 proposal does not include a requirement that states use at least 10% of their grant for weatherization.

Another proposal revived in the FY2017 President's budget is to make emergency contingency funds available based on increases in energy prices, extreme temperatures, or the number of households in poverty as measured by participation in the Supplemental Nutrition Assistance Program (SNAP). The funding available for emergency contingency funds would be mandatory and capped at \$1 billion. The Administration estimated that in FY2017, \$769 million would be released pursuant to this proposal.

FY2016 LIHEAP Funding

In FY2016, funding for LIHEAP was appropriated as part of the FY2016 Consolidated Appropriations Act (P.L. 114-113) enacted on December 18, 2015. Prior to its enactment, LIHEAP and most federal programs were funded by three continuing resolutions, the first through December 11, 2015, the second through December 16, 2015, and the third until enactment of P.L. 114-113.⁷⁵ Congress appropriated \$3.39 billion for LIHEAP, all for regular funds, the same amount that was appropriated in FY2015. Of the total, P.L. 113-235 directed that \$491 million be distributed according to the provisions of the "new" LIHEAP formula, and the remainder, approximately \$2.9 billion, according to the proportions of the "old" LIHEAP formula. (For more information about the way LIHEAP funds are distributed according to the "new" and "old" formulas, see CRS Report RL33275, *The LIHEAP Formula*, by (name redacted))

⁷³ Instead the report stated that the "conferees fully intend" to provide FY2002 funding totaling \$1.7 billion. *Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY2001*, conference report to accompany H.R. 4577, 106th Cong., 2nd sess., December 15, 2000, H.Rept. 106-1033, pp. 153-154.

⁷⁴ See, for example, a discussion on the Senate floor about the Senate Committee on Labor, HHS, and Education Appropriations failing to include advance funding for FY2002: "As you know, this is a very difficult year for appropriators. The budget caps are very tight, and this bill contains many valuable programs." Senator Spector, "The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations, 2001," Senate debate, *Congressional Record*, vol. 146, part 9 (June 30, 2000), p. 13326.

⁷⁵ See P.L. 114-53, P.L. 114-96, and P.L. 114-100.

appropriations bill also provided that not more than \$2.988 million be available for training and technical assistance; no level was specified for Leveraging Incentive and REACH grants.

On October 23, 2015, HHS announced that approximately \$3 billion would be released to states, tribes, and territories pursuant to the CR. On April 1, 2016, HHS announced the release of an additional \$336 million. As of the date of this report, approximately 1% of the amount appropriated had not yet been distributed. For the distribution of funds, see **Table B-1**.

LIHEAP and Continuing Resolutions

OMB determines the amount of LIHEAP funding that is released to the states pursuant to a CR.⁷⁶ Despite the fact that the program is technically funded at the previous year's level, states do not necessarily receive the same amount of LIHEAP funding that they received in the previous year. This is due to a standard provision in continuing resolutions that states the following:

[F]or those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2016 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this Act that would impinge on final funding prerogatives.⁷⁷

The provision is meant to ensure that funds for a program that are released under a CR do not exceed the amount that Congress ultimately appropriates for it or influence Congress in its appropriations decision. Typically, states are eligible to receive their entire LIHEAP formula allocations in the first quarter of the fiscal year if they so choose, qualifying as a program “that would otherwise have high initial rates of operation or complete distribution of appropriations” at the beginning of the fiscal year as stipulated in the CR.

OMB may gauge the amount of LIHEAP funding to release, in part, based on appropriations bills in the House or Senate or, in their absence, on the President's budget proposal. For example, if a proposed funding level in one chamber is lower than what is proposed in the other, then the amount subject to release could be based on the lower proposal (in the event that Congress would ultimately enact the lower funding level).

⁷⁶ For more information about funding pursuant to CRs, see CRS Report RL34700, *Interim Continuing Resolutions (CRs): Potential Impacts on Agency Operations*, by (name redacted).

⁷⁷ See, for example, §109 of P.L. 114-53.

Table 3. FY2015-FY2016 Enacted and FY2017 Proposed LIHEAP Funding
(dollars in millions)

Type of Funding	FY2015 Funding P.L. 113-235	FY2016 Funding P.L. 114-113	FY2017 President's Budget Proposal
LIHEAP Regular Funds Appropriated	3,390	3,390	3,000
<i>Training and Technical Assistance</i>	3	3	3
<i>Leveraging Incentive/ REACH Grants</i>	— ^a	— ^a	27
Emergency Contingency Funds (Discretionary)	0	0	0
Total Discretionary Funding Available	3,390	3,390	3,000
Emergency Contingency Funds (Mandatory)	—	—	769 ^b

Sources: The FY2015 Consolidated and Further Continuing Appropriations Act (P.L. 113-235), the FY2016 Consolidated Appropriations Act, and the FY2017 Department of Health and Human Services Congressional Budget Justifications.

- The appropriations acts did not specify a level of funding for Leveraging Incentive and REACH grants. In FY2015, none were distributed, and, as of the date of this report, Leveraging Incentive and REACH grants had not been distributed for FY2016.
- The President's FY2017 budget proposes creating a mandatory trigger mechanism to make Emergency Contingency funds available. Funds would be released if energy prices, extreme temperatures, or participation in the Supplemental Nutrition Assistance Program reach certain levels.

Other Issues

Program Integrity

In June 2010, the Government Accountability Office (GAO) released a report about the Low Income Home Energy Assistance Program (LIHEAP) entitled *Low-Income Home Energy Assistance Program: Greater Fraud Prevention Controls Are Needed*. The GAO report found instances of benefit payments to ineligible applicants based on various factors, including the use of Social Security Numbers (SSNs) from deceased or imprisoned individuals as well as the under-reporting of income or over-reporting of household members.⁷⁸ In another instance, the GAO set up a fake utility company and through fake applicants was able to obtain LIHEAP benefits.

⁷⁸ See U.S. Government Accountability Office, *Low-Income Home Energy Assistance Program: Greater Fraud Prevention Controls Are Needed*, GAO-10-621, June 2010, <http://www.gao.gov/new.items/d10621.pdf>.

GAO recommended ways in which HHS could prevent instances of fraud such as these in the future. Among the recommendations in the report were requiring applicants to provide SSNs and checking applicant information against various databases (e.g., Social Security Administration data, state vital records, and state directories of new hires).

HHS reacted to the GAO report and its recommendations in several ways:

- The agency issued guidance that encouraged states to require LIHEAP applicants to divulge their SSNs. The LIHEAP statute and regulations do not require grantee states, tribes, and territories to collect SSNs or to verify applicant eligibility against specific databases, and not all states follow such verification procedures. Further, pursuant to the Privacy Act, HHS cannot *require* states to collect SSNs as part of the LIHEAP application process. However, the Tax Reform Act of 1976 (P.L. 94-455) authorizes *states* to use SSNs in administering certain programs, including “general public assistance” programs,⁷⁹ which HHS has interpreted to include LIHEAP.⁸⁰ As a result, HHS released guidance that the law “authorizes States to require SSNs as a condition of eligibility for use in verifying the identity of individual applicants and their household members.” As of FY2011, 40 states required LIHEAP applicants to provide SSNs, compared to 28 in FY2010.⁸¹
- HHS released an Action Transmittal asking states to supplement the information they provide to HHS for FY2011 to show that they are working to prevent improper payments, fraud, waste, or abuse.⁸² The LIHEAP statute directs the HHS Secretary to establish regulations to prevent waste, fraud, and abuse.⁸³ The regulations in turn require grantees to establish systems and procedures to prevent these activities among clients, vendors, and administering agencies.⁸⁴ However, the same section of the statute also states that “[t]he Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.”⁸⁵ So while each year states must submit a plan to HHS in which they make “assurances” that they will comply with statutory requirements, there is no specific way that they must go about this. HHS suggested that states report on compliance monitoring, fraud reporting mechanisms, verifying applicant identities, cross-checking SSNs, and verifying applicant income, among others.⁸⁶

⁷⁹ 42 U.S.C. §405(c)(2)(C)(i).

⁸⁰ See U.S. Department of Health and Human Services, LIHEAP Information Memorandum 10-06, States are Strongly Encouraged to Exercise their Discretion to Require Social Security Numbers in Determining Eligibility for LIHEAP, May 5, 2010, http://www.acf.hhs.gov/programs/ocs/liheap/guidance/information_memoranda/im10-06.html.

⁸¹ Lauren Christopher, “LIHEAP Program Integrity Activities at the State Level,” presentation at the National Energy and Utility Affordability Conference, New Orleans, LA, June 11, 2012, http://www.energyandutilityconference.org/Assets/2012%20Conference/2012%20Presentations/2C_Lauren%20Christopher.pdf.

⁸² U.S. Department of Health and Human Services, Administration for Children and Families, LIHEAP Action Transmittal 2010-6: Plan Supplement Required for Fiscal Year (FY) 2011: LIHEAP Program Integrity Plan – Application for LIHEAP Funding, June 8, 2010, http://www.acf.hhs.gov/programs/ocs/liheap/guidance/action_transmittals/at10-06_1.html.

⁸³ 42 U.S.C. §8624(b).

⁸⁴ 45 C.F.R. §96.84(c).

⁸⁵ 42 U.S.C. §8624(b).

⁸⁶ The template is available at http://www.acf.hhs.gov/programs/ocs/liheap/guidance/action_transmittals/at10-06_a.html.

- HHS also assembled a Program Integrity Working Group to recommend ways in which the agency could address some of the issues raised. The working group released a report in April 2012.⁸⁷ Among its recommendations were that (1) grantees require applicants to provide SSNs, but should provide for exceptions due to the emergency nature of LIHEAP, (2) HHS collaborate with other agencies, such as the Social Security Administration, to help with verification of identity and income, (3) HHS conduct a cost-benefit analysis of third party verification, and (4) grantees enter into vendor agreements that include provisions to prevent vendor fraud.

Performance Measures

At the direction of OMB, beginning in 2008, HHS staff, together with LIHEAP state directors, have worked to arrive at a set of performance measures that would guide data collection and serve as a way of examining outcomes resulting from LIHEAP assistance.⁸⁸ The performance measures are also intended to respond to some of the issues raised in the GAO report described in the previous section.

On June 6, 2013, HHS published a proposed information collection (and request for comment) in the *Federal Register*, with three primary performance measures proposed.⁸⁹ Each performance measure would require collection of several types of data.

- **The Average Reduction in Energy Burden for Households Receiving Fuel Assistance:** Within this measure, data collected and reported would include the average annual income of LIHEAP recipient households, average LIHEAP benefits, the number of LIHEAP recipient households that use each primary heating source, annual heating fuel consumption by LIHEAP recipient households, and electricity consumption for cooling.
- **The Percent of Unduplicated Households Where LIHEAP Prevented a Potential Home Energy Crisis:** Among the data collected for this performance measure would be the number of households receiving utility past due or disconnect notices, the number receiving a notice from a bulk fuel vendor of an unpaid balance, the number of households who deplete deliverable fuel sources, and the number of households where LIHEAP benefits resulted in repair or replacement of heating or cooling equipment.
- **The Percent of Unduplicated Households Where LIHEAP Benefits Restored Home Energy:** This measure would involve identifying households where LIHEAP resulted in utility reconnection, purchase of bulk fuel, or repair or replacement of heating or cooling equipment.

⁸⁷ LIHEAP Clearinghouse, National Center for Appropriate Technology, *LIHEAP Program Integrity Working Group Final Report*, April 13, 2012, <http://www.liheap.ncat.org/admin.htm#lhpi>.

⁸⁸ U.S. Department of Health and Human Services, Administration for Children and Families, *Action Transmittal 2010-4, Implementing LIHEAP Outcome Performance Measures*, March 17, 2010, <http://www.acf.hhs.gov/programs/ocs/resource/implementing-liheap-outcome-performance-measures>.

⁸⁹ U.S. Department of Health and Human Services, Administration for Children and Families, "Proposed Information Collection; Comment Request," 78 *Federal Register* 34105-34106, June 6, 2013.

While LIHEAP state grantees would be the entities required to collect and report the data to HHS, information on fuel and electricity consumption would require input from fuel vendors and utility companies.

Appendix A. Legislative History of Energy Assistance

LIHEAP was not the first federal energy assistance program created to help low-income households with their energy bills. Congressional appropriations for home energy assistance initially came about in the 1970s at the time of the OPEC (Organization of the Petroleum Exporting Countries) Oil Embargo of 1973-1974. In the fall of that year, a number of countries in the Middle East stopped exporting oil to the United States, a stoppage that continued until March of 1974.⁹⁰ Prices of heating oil rose, while supplies were restricted. What followed were several years in which Congress directed funds to assistance focused on lowering energy bills through weatherization and education. Later in the 1970s, assistance evolved to include crisis assistance for households facing shutoff or other emergencies, followed by a system of direct payments to subsidize the energy bills of low-income households. When LIHEAP was enacted, direct assistance for energy bills was the focus of the program, but all of these forms of assistance—weatherization, education, and crisis assistance—were made part of the program and continue to be eligible uses of funds. This appendix discusses the evolution of energy assistance in the 1970s and early 1980s, culminating in the creation of LIHEAP in 1982.

Energy Assistance Programs Prior to LIHEAP

The first federal funds for energy assistance were the outgrowth of a program that was created in Maine just after the start of the oil embargo by OPEC countries. In 1973, the Maine Office of Economic Opportunity applied to the federal Office of Economic Opportunity (OEO, the federal agency in charge of administering War on Poverty programs in the 1960s and 1970s) to fund a project they had conceived of called “Project Fuel.” Energy costs, particularly the costs of heating oil and wood, were growing in Maine, and the state determined that it would assist low-income and elderly households in meeting their energy needs.⁹¹ OEO approved funding for the state at the end of 1973. Project FUEL used funding primarily to help “winterize” homes, but also to provide crisis counseling, and purchase fuel for use in emergency situations such as equipment breakdown or when dealers ran out of fuel.⁹²

Project Fuel prompted what would become the first federal program to assist low-income households during the energy crisis, the Emergency Energy Conservation Program (EECP, P.L. 93-644) enacted as part of the Headstart, Economic Opportunity, and Community Partnership Act at the beginning of 1975.⁹³ The law authorized the Community Services Administration (CSA, which replaced the OEO as part of the same bill) to use funds primarily for weatherization and

⁹⁰ Carol A. Kunze, *A Chronology of International Economic Events: Oil Prices, the System of International Exchange Rates, Conference Between Developing and Industrialized Countries, International Economic Summits and Related Events 1971-1976*, Archived Congressional Research Service Report, February 11, 1977.

⁹¹ See, for example, U.S. Congress, Senate Select Committee on Nutrition and Human Needs, *Federal Food Programs—1974, Part 6 Fuel Crisis Impact on Low Income and Elderly*, 93rd Cong., 2nd sess., January 22 and 23, 1974, p. 706.

⁹² *Ibid.*, pp. 741-742.

⁹³ The bill originally proposing the new program was S. 3051, the Emergency Energy Conservation Economic Opportunity Amendments. An identical program was included in the final version of P.L. 93-644. When S. 3051 was introduced, its sponsor, Senator Javits, described the Maine program, as well as efforts in Vermont, and said “Through this bill, the sponsors seek to prompt a duplication nationally of such efforts at the earliest moment.” See Senator Jacob Javits, Introduction of S. 3051, *Congressional Record*, vol. 120, part 3 (February 25, 1974), p. 4030.

conservation purposes, but also gave the authority to use funds for fuel voucher or stamp programs. Community Action Agencies, Community Development Corporations, state Offices of Economic Opportunity, and other public or private nonprofit organizations were eligible to apply to administer the funds.⁹⁴ Congress first appropriated funds for the EECF in FY1975, \$16.5 million, as part of a supplemental appropriations act (P.L. 94-32).⁹⁵ Congress continued to appropriate funds for the Emergency Energy Conservation Program (to be used primarily for weatherization purposes) through FY1978.⁹⁶

The EECF came to an end with the advent of the Weatherization Assistance Program (WAP), created in 1976 as part of P.L. 94-385 and administered by the Federal Energy Administration (the predecessor to the Department of Energy). WAP was meant to be a supplement to the EECF, not to replace it.⁹⁷ However, the programs were similar. Community Action Agencies administered WAP funds and weatherized homes of low-income households. By FY1979, the Administration proposed that weatherization funds be made available only through the DOE program. In that year and thereafter, Congress stopped funding the CSA weatherization program and only appropriated funds to the DOE Weatherization Assistance Program.

At the same time that weatherization assistance was phased out of the CSA, the agency began to administer direct assistance to low-income households to help pay their energy bills. In FY1977, as part of a supplemental appropriations act (P.L. 95-26), Congress appropriated \$200 million to be used through the CSA for a Special Crisis Intervention Program. P.L. 95-26, which was debated and enacted in the spring of 1977, came just after an unusually cold winter in which both fuel usage and prices had been high, resulting in large numbers of consumers facing utility disconnection.⁹⁸ Unlike previous funding for the EECF, which went primarily to fund weatherization, the FY1977 supplemental funding was to be used by the states for direct payments to utilities and fuel suppliers. The program allowed for up to \$250 payments to utilities on behalf of customers whose power had been shut off or threatened with shut off, and up to \$50 directly to households that could prove “dire financial need” as the result of having paid large fuel bills.⁹⁹ Congress again appropriated funds to help households facing energy crises in FY1978 and FY1979 (see **Table A-1**).

⁹⁴ U.S. Department of Health, Education, and Welfare, Community Services Administration, “Character and Scope of Specific Community Action Programs: Emergency Energy Conservation Program,” 40 *Federal Register* 31603, July 28, 1975.

⁹⁵ The conference report, H.Rept. 94-239, provided that \$7.5 million more than was available in the House-passed version of the bill (\$9 million) be appropriated. Funds were added to the House-passed version (H.R. 5899) on the floor; see “Second Supplemental Appropriations Bill, 1975,” House debate, *Congressional Record*, vol. 121, part 8 (April 15, 1975), pp. 10263-10266.

⁹⁶ In FY1978, funds were appropriated as part of the Continuing Appropriations Act (P.L. 95-205). Funding levels were specified in the FY1978 Departments of Labor and Health, Education, and Welfare funding bill (H.R. 7555); see the conference report (H.Rept. 95-538).

⁹⁷ See the House and Senate committee reports to accompany H.R. 8650 (H.Rept. 94-377 and S.Rept. 94-623), one of the bills from which provisions for the Weatherization Assistance Program were drawn. See U.S. Congress, *Energy Conservation and Production*, conference report to accompany H.R. 12169, 94th Cong., 2nd sess., August 4, 1976, H.Rept. 94-1392, pp. 88-91.

⁹⁸ See, for example, statement of Senator Edmund Muskie, Senate debate of the Supplemental Appropriations Act of 1977, *Congressional Record*, vol. 123, part 8 (April 1, 1977), p. 10114. While many states imposed moratoriums on utility disconnections during the winter months, when spring arrived, large numbers of households faced shutoff. The Senate Subcommittee on Intergovernmental Relations surveyed state utility commissions and utility companies to determine the extent of disconnections. The results of the study were published in the *Congressional Record*, vol. 123, part 8 (April 1, 1977), pp. 10119-10122.

⁹⁹ Community Services Administration, “Special Crisis Intervention Program: Information, Application Procedures, (continued...)”

In FY1980, Congress expanded energy assistance by appropriating significantly more funding than had been made available in the past, a total of \$1.6 billion provided through two different agencies. The impetus behind the rather dramatic increase in funding was, as in the early 1970s, the increase in energy prices, particularly heating oil. In 1979, the decontrol of domestic oil prices, together with an increase in OPEC oil prices, led to increases in the price of heating oil and kerosene. An article in the Congressional Quarterly describing the environment surrounding the passage of energy assistance legislation noted the “spectacular rise in the price of home heating oil” as “the biggest factor in the problems that led Congress to take action.”¹⁰⁰ In the summer and fall of 1979, the Senate Committee on Labor and Human Resources alone held 12 hearings on energy assistance legislation.¹⁰¹

Enactment of LIEAP, the Predecessor Program to LIHEAP

Energy needs of low-income households continued to occupy the President and Congress after the appropriation of energy assistance funding for FY1980. One of the proposals to fund energy assistance for FY1980, S. 1724, the Home Energy Assistance Act (as reported by the Senate Committee on Labor and Human Resources), proposed a new energy assistance program to be authorized from FY1981 through FY1984.¹⁰² The program was enacted in April 1980 as the Low Income Energy Assistance Program (LIEAP) as part of the Crude Oil Windfall Profits Tax Act (P.L. 96-223).¹⁰³ LIEAP was to be funded by windfall profits taxes imposed as part of P.L. 96-223 and deposited in a Treasury account, but the law did not provide for the account to be established, so the program was funded by an appropriation.¹⁰⁴ LIEAP was authorized at \$3 billion for FY1981; Congress appropriated \$1.85 billion for the program in that year (P.L. 96-369).

Like LIHEAP, the program that was to follow, LIEAP was a block grant program to states. Funds were primarily distributed to the states by formula, with a small amount (\$100 million) reserved for crisis assistance. States could use funds to help low-income households pay home energy costs. While the term “home energy” included cooling assistance, states could only provide cooling assistance in cases of medical need. Eligible households were considered those at or below the Bureau of Labor Statistics lower living standard, an income level that exceeded the poverty level in most instances.¹⁰⁵ Recipients of certain means-tested benefits—Aid to Families with Dependent Children (now TANF), Food Stamps (now SNAP), SSI benefits, and certain veterans’ benefits—were eligible for LIEAP benefits. Payments could be made to fuel suppliers or utilities, residents, or both, at the discretion of the state. States had some discretion in setting up their programs, with the ability to determine the state and local agencies that would administer

(...continued)

and Post Grant Requirements for the Special Crisis Intervention Program,” 42 *Federal Register* 33240, June 29, 1977.

¹⁰⁰ “Home Heating Assistance.” In *CQ Almanac 1979*, 35th ed., 535-536. Washington, DC: Congressional Quarterly, 1980, <http://library.cqpress.com/cqalmanac/cqal79-1185945>.

¹⁰¹ U.S. Congress, Senate Committee on Labor and Human Resources, *Home Energy Assistance Act*, 96th Cong., 1st sess., October 25, 1979, S.Rept. 96-378, p. 5.

¹⁰² “Windfall Profits Tax.” In *CQ Almanac 1979*, 35th ed., 609-632. Washington, DC: Congressional Quarterly, 1980. <http://library.cqpress.com/cqalmanac/cqal79-1184031>.

¹⁰³ The program in S. 1724 was incorporated into H.R. 3919, the Crude Oil Windfall Profits Tax Act, replacing an energy assistance program that had been proposed by the Senate Finance Committee.

¹⁰⁴ (name redacted), *Energy Assistance for Low-Income Households: 1979 and 1980 Legislation*, Congressional Research Service Issue Brief, June 15, 1981, p. 18.

¹⁰⁵ CRS Memo, *Poverty and Lower Living Standard Estimates*, April 30, 1980.

the program, who would receive payments, the amount of benefits, certification for eligibility, how to provide benefits to renters, and establishment of funds to emergencies (up to 3% of total).

Most at issue in enactment of LIEAP was how funds would be distributed to the states, specifically whether states would receive the same share of funds, or if colder weather states would have preference. The formula that Congress established for LIEAP was complex and incorporated data that included temperatures, energy expenditures, and the number of low-income households. For more information about the LIEAP formula and how it pertains to LIHEAP, see CRS Report RL33275, *The LIHEAP Formula*, by (name redacted)

Table A-1. Energy Assistance Funding Prior to LIHEAP

(dollars in millions)

Fiscal Year	Community Services Administration ^a			Department of Energy	Department of Health, Education, and Welfare	
	Emergency Energy Conservation Program	Special Crisis Intervention/ Emergency Energy Assistance Program ^b	Energy Crisis Assistance/ Intervention Program	Weatherization Assistance Program ^c	Low Income Supplemental Energy Allowances	Low Income Energy Assistance Program
1975	16.5 ^d	—	—	—	—	—
1976	27.5 ^e	—	—	—	—	—
1977	110.0 ^f	200.0 ^g	—	27.5	—	—
1978	65.0 ^h	200.0 ⁱ	—	65.0	—	—
1979	—	200.0 ⁱ	—	199.0	—	—
1980	—	—	400.0 ^k	199.0	1,200.0 ^l	—
1981	—	—	— ^m	175.0	—	1,850.0 ^m

Source: The table notes provide additional information about the funding for each program.

- a. CSA funds were appropriated under the authority of Section 222(a)(5) and (12) of the Community Services Act of 1974 (P.L. 93-644). (In 1975, the relevant section was moved from (a)(12) to (a)(5).)
- b. In FY1977, Congress called the program the Special Crisis Intervention Program, but in FY1978 and FY1979 referred to it as the Emergency Energy Assistance Program.
- c. Appropriations figures for the Weatherization Assistance Program were taken from Evelyn Tager, *Federal Weatherization for Low-Income Households*, CRS Report, May 12, 1983.
- d. Funds were appropriated in FY1975 as part of the Second Supplemental Appropriations Act (P.L. 94-32). The conference report (H.Rept. 94-239) provided that \$7.5 million more than was available in the House-passed version of the bill (\$9 million) be appropriated. Funds were added to the House-passed version (H.R. 5899) on the floor. See “Second Supplemental Appropriations Bill, 1975,” House debate, *Congressional Record*, vol. 121, part 8 (April 15, 1975), pp. 10263-10266.
- e. Funds were appropriated in FY1976 as part of the Departments of Labor and Health, Education, and Welfare Appropriations Act (P.L. 94-206). The conference report (H.Rept. 94-689) specified that the level for EECF be \$11 million more than the \$16.5 million that was provided for in the House-passed version of the appropriations bill (H.R. 8069).
- f. Congress appropriated \$27.5 million for EECF as part of the FY1977 Departments of Labor and Health, Education, and Welfare Appropriations Act (P.L. 94-439). The CSA breakdown in funding is found in “Conference Report on H.R. 14232, Departments of Labor, Health, Education, and Welfare, and Related Agencies Appropriations, 1977,” House debate, *Congressional Record*, vol. 122, part 21 (August 10, 1976), p. 26772. Later in the year, another \$82.5 million was appropriated as part of the FY1977 Supplemental Appropriations Act (P.L. 95-26).
- g. P.L. 95-26 provided \$200 million for the Special Crisis Intervention Program.

- h. Funds were appropriated in FY1978 for the EECAP as part of the FY1978 Continuing Appropriations Act (P.L. 95-205).
- i. Funds were appropriated as part of the FY1978 Supplemental Appropriations Act (P.L. 95-240). While the funds were to be used in a similar manner to the FY1977 appropriation to the Special Crisis Intervention Program (to assist households facing emergency circumstances), distribution to the states was contingent on a showing of an energy-related emergency. In addition, the program was referred to as the Emergency Energy Assistance Program.
- j. Funds were appropriated as part of the FY1979 Continuing Appropriations Act (P.L. 95-482).
- k. The Energy Crisis Assistance Program (ECAP) represented an “expanded version” of the Special Crisis Intervention Program (see (name redacted) *Low-Income Energy Cost Assistance: FY1980*, CRS Report, December 20, 1979). Of the amount appropriated, \$250 million was part of the FY1980 Continuing Resolution (P.L. 96-123), which referred to the amount in the Departments of Labor and Health, Education, and Welfare appropriations bill (H.R. 4389, H.Rept. 96-400) and the remaining \$150 million was appropriated as part of P.L. 96-126, the Department of the Interior Appropriations Act.
- l. Of the \$1.2 billion appropriated to HEW for the Low Income Supplemental Energy Allowances, \$400 million was set aside specifically for households receiving Supplemental Security Income. Funds were appropriated as part of P.L. 96-126.
- m. Of the amount appropriated for LIEAP, Congress specified that \$87.5 million be allocated to the CSA Crisis Intervention Program. See the conference report to accompany H.J.Res. 610 (H.Rept. 96-1443).

Enactment of LIHEAP

In 1981, Congress enacted a new program, the Low Income Home Energy Assistance Program (LIHEAP), which replaced LIEAP. LIHEAP was similar to its predecessor program in that it was set up as a block grant to states, tribes, and territories to help low-income households meet their energy needs. LIHEAP maintained the same formula distribution as was set up under LIEAP. Unlike LIEAP, grantees were able to use funds for cooling expenses without a showing of medical necessity, as well as for weatherization. Grantees were given the option of setting eligibility at the higher of 150% of poverty or 60% of state median income (rather than the BLS lower living standard), and the program maintained eligibility for recipients of AFDC (now TANF), Food Stamps (now SNAP), SSI benefits, and certain veterans’ benefits. The program was authorized at \$1.875 billion from FY1982 through FY1984 and was funded at that level in its first year of operation. For historic LIHEAP funding levels, see **Table B-3**.

LIHEAP differed from LIEAP in that states were given more flexibility and had fewer administrative requirements in implementation.¹⁰⁶ For example, under the new LIHEAP program, states were only required to report about households assisted annually, compared to quarterly under LIEAP, and HHS did not require uniform data collection or record keeping standards. Under LIEAP, states had to submit detailed changes in plans each time they wanted to modify benefit levels or the way in which funds were used.¹⁰⁷ In applying for LIHEAP funds, the statute only required grantees to make assurances about the services they would provide, and HHS did

¹⁰⁶ The Senate committee report, in describing the new program, stated that “the Committee does not want to burden States with unnecessary paperwork” and that “the general effect will be to return basic control and responsibility to the State level.” See U.S. Congress, Senate Committee on the Budget, *Omnibus Budget Reconciliation Act*, report to accompany S. 1377, 97th Cong., 1st sess., June 17, 1981, S.Rept. 97-139, pp. 908-911. S. 1377 was substituted for the House version (H.R. 3982) prior to enactment of the Omnibus Reconciliation Act. The framework for LIHEAP came from S. 1377. See Ken Cahill, *Low-Income Energy Assistance Reauthorization: Proposals and Issues*, Congressional Research Service Issue Brief, October 28, 1981, p. 6.

¹⁰⁷ U.S. Congress, Senate Committee on Labor and Human Resources, Subcommittee on Aging, Family, and Human Services, *Examination on the Ability of Existing Energy Assistance Programs to Provide Help for the Needs of Low-Income Individuals*, Testimony of David Swoap, Under Secretary, Department of Health and Human Services, 97th Cong., 1st sess., March 24, 1981, pp. 16-27.

not have the authority to dictate how states would accomplish program goals or to approve or disapprove state plans.¹⁰⁸

¹⁰⁸ Some of the differences between LIEAP and LIHEAP regulations are discussed in U.S. Department of Health and Human Services, *Low Income Home Energy Assistance Program: Report to Congress for Fiscal Year 1982*, November 1, 1983, pp. 1-5.

Appendix B. Tables Showing LIHEAP Funding Levels

In this appendix are two tables that show how LIHEAP funds have been distributed to the states, tribes, and territories during recent fiscal years, and an additional table showing historical funding levels from the time the program was created to the present.

Table B-1 shows the amount of LIHEAP regular funds distributed to states, tribes, and territories pursuant to the FY2016 Consolidated Appropriations Act (P.L. 114-113) announced by HHS on October 23, 2015, and again on April 1, 2016. Net allocations to the states distributed pursuant to the CR are in columns (a) and (c) (i.e., the columns do not include funding for tribes) and tribal allocations are in columns (b) and (d). Allocations for the territories are in the last rows of the table, after the states. Column (e) shows total FY2016 funding for all grantees. As of the date of this report, approximately 1% of LIHEAP appropriations had not been distributed.

Table B-2 shows the total amount of LIHEAP regular and emergency contingency funds distributed to each state from FY2007 through FY2015; the totals include funds distributed to tribes within the states.

Table B-3 provides historic funding levels for LIHEAP from the time the program was initially funded, in FY1982, through proposed funding in FY2017. The table shows authorization levels for LIHEAP regular funds, Administration budget requests for both regular and emergency contingency funds, the total amount of regular and emergency contingency funds appropriated in each fiscal year, and the total amount of emergency contingency funds distributed.

Table B-1. FY2016 Regular Fund Allocations to States, Tribes, and Territories

Dollars in Millions

States and Territories	Available Funds Announced October 23, 2015		Available Funds Announced April 1, 2016		Total Funding Distributed to States, Tribes, and Territories: \$3.353 billion (e)
	Net Funding to States and Territories: \$2.985 billion (a)	Amounts to Tribes: \$33 million (b)	Net Funding to States and Territories: \$332 million (c)	Amounts to Tribes: \$3.7 million (d)	
Alabama	38.786	0.232	4.281	0.026	43.325
Alaska	9.179	6.536	1.022	0.727	17.464
Arizona	18.012	0.858	1.988	0.095	20.953
Arkansas	24.986		2.765		27.752
California	158.223	0.625	17.546	0.066	176.459
Colorado	43.892		4.890		48.781
Connecticut	72.346		8.021		80.367
Delaware	11.280		1.247		12.527
District of Columbia	9.330		1.038		10.368
Florida	61.730	0.010	6.813	0.001	68.553
Georgia	48.814		5.387		54.202

States and Territories	Available Funds Announced October 23, 2015		Available Funds Announced April 1, 2016		Total Funding Distributed to States, Tribes, and Territories: \$3.353 billion (e)
	Net Funding to States and Territories: \$2.985 billion (a)	Amounts to Tribes: \$33 million (b)	Net Funding to States and Territories: \$332 million (c)	Amounts to Tribes: \$3.7 million (d)	
Hawaii	4.916		0.543		5.458
Idaho	17.091	0.872	1.902	0.097	19.962
Illinois	148.883		16.611		165.495
Indiana	67.404	0.006	7.520	0.001	74.931
Iowa	47.774		5.330		53.105
Kansas	28.576	0.041	3.170	0.004	31.791
Kentucky	41.862		4.652		46.514
Louisiana	37.895		4.186		42.081
Maine	33.574	1.274	3.746	0.142	38.736
Maryland	64.819		7.167		71.986
Massachusetts	133.235	0.107	14.795	0.012	148.148
Michigan	140.599	0.753	15.688	0.083	157.123
Minnesota	101.836		11.362		113.198
Mississippi	25.996	0.053	2.881	0.006	28.936
Missouri	65.662		7.309		72.971
Montana	17.386	3.683	1.935	0.410	23.414
Nebraska	26.370	0.016	2.935	0.002	29.323
Nevada	8.863		0.978		9.841
New Hampshire	23.655		2.630		26.285
New Jersey	113.875		12.667		126.542
New Mexico	15.950	0.871	1.771	0.097	18.689
New York	325.976	0.177	36.370	0.020	362.543
North Carolina	76.401	1.383	8.436	0.162	86.383
North Dakota	17.394	5.493	1.936	0.611	25.435
Ohio	131.709		14.695		146.405
Oklahoma	29.060	3.996	3.212	0.441	36.709
Oregon	31.377	0.581	3.502	0.064	35.523
Pennsylvania	182.170		20.306		202.476
Rhode Island	23.271	0.040	2.581	0.004	25.897
South Carolina	30.989		3.420		34.409
South Dakota	15.616	2.972	1.738	0.331	20.658
Tennessee	50.309		5.573		55.882

States and Territories	Available Funds Announced October 23, 2015		Available Funds Announced April 1, 2016		Total Funding Distributed to States, Tribes, and Territories: \$3.353 billion (e)
	Net Funding to States and Territories: \$2.985 billion (a)	Amounts to Tribes: \$33 million (b)	Net Funding to States and Territories: \$332 million (c)	Amounts to Tribes: \$3.7 million (d)	
Texas	102.714		11.336		114.050
Utah	21.101	0.299	2.349	0.033	23.782
Vermont	17.049		1.898		18.946
Virginia	75.278		8.330		83.608
Washington	50.670	1.896	5.653	0.211	58.431
West Virginia	25.927		2.886		28.813
Wisconsin	91.667		10.228		101.894
Wyoming	8.286	0.282	0.922	0.031	9.522
Subtotal to States and Tribes	2,969.765	33.055	330.149	3.678	3,336.646
American Samoa	0.250		0.028		0.277
Guam	0.547		0.061		0.608
Northern Mariana Islands	0.190		0.021		0.211
Puerto Rico	13.585		1.510		15.095
Virgin Islands	0.518		0.058		0.575
Subtotal to Territories	15.090		1.678		16.767
Total	2,984.855	33.055	331.826	3.678	3,353.413

Source: Funding levels are from the U.S. Department of Health and Human Services (HHS), Administration for Children and Families.

Table B-2. LIHEAP Funding by State: FY2007 to FY2015
(dollars in millions)

State (includes tribal allotments)	Total Funds Distributed ^a (regular and emergency contingency, where appropriated)								
	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
Alabama	22.205	19.221	64.274	69.016	61.570	47.408	48.269	48.885	44.387
Alaska	12.454	16.856	30.928	28.182	24.727	18.002	17.171	18.841	17.482
Arizona	8.551	9.296	31.084	37.422	33.844	23.852	23.343	23.641	21.581
Arkansas	15.749	14.667	39.711	40.000	36.401	28.537	26.746	27.505	26.777
California	94.855	103.117	248.487	234.215	211.554	154.574	145.410	153.592	174.086
Colorado	33.073	41.326	71.352	70.675	65.035	47.308	44.270	46.378	48.889
Connecticut	48.102	65.618	125.887	107.845	102.919	79.532	76.014	77.413	85.764
Delaware	5.727	6.929	18.748	16.847	15.854	11.957	12.573	13.016	12.547
District of Columbia	6.700	7.284	16.249	16.067	14.641	10.687	9.976	10.474	10.379
Florida	27.977	30.414	101.701	129.014	110.783	78.040	76.376	77.351	70.611
Georgia	28.564	24.047	80.410	102.091	87.862	61.702	60.387	61.158	55.829
Hawaii	2.228	2.403	5.182	6.589	6.235	6.107	5.416	6.159	5.622
Idaho	12.901	13.916	30.012	30.158	28.199	20.576	19.207	20.166	19.982
Illinois	119.418	149.216	265.679	265.542	248.941	185.684	160.191	167.458	167.396
Indiana	54.069	67.561	116.487	117.575	107.584	80.006	72.374	75.820	75.792
Iowa	38.319	47.881	76.929	74.524	71.589	54.813	51.292	53.735	53.715
Kansas	19.746	22.137	49.541	46.262	43.924	32.160	31.397	31.019	30.717
Kentucky	32.010	30.588	75.055	67.832	61.111	46.423	43.483	48.288	44.896
Louisiana	22.499	19.651	61.502	59.054	54.895	43.422	40.864	42.062	38.390
Maine	33.719	46.536	79.187	60.428	56.541	39.982	37.414	39.195	39.181
Maryland	33.036	35.913	109.164	90.005	88.926	69.790	70.390	68.513	68.854
Massachusetts	93.795	126.492	213.500	196.602	183.854	132.731	132.256	140.014	146.328
Michigan	113.377	141.667	249.416	276.447	238.425	173.450	165.582	165.444	161.827
Minnesota	81.681	102.063	163.982	160.089	152.559	116.839	109.335	114.541	114.498
Mississippi	17.871	16.479	42.622	46.650	40.635	31.591	29.313	30.120	26.996
Missouri	52.645	59.603	114.902	107.145	100.193	68.231	66.553	70.882	73.772
Montana	15.132	18.907	35.202	34.530	33.072	24.135	22.529	23.654	23.438
Nebraska	18.950	23.679	44.086	42.893	41.447	30.226	28.214	29.623	29.353
Nevada	4.016	4.366	14.599	18.218	15.868	11.203	10.964	11.104	10.136
New Hampshire	18.769	25.635	47.737	37.423	36.050	26.055	24.321	25.536	25.750
New Jersey	80.120	108.707	185.773	199.455	188.792	136.746	124.480	124.570	126.586

Total Funds Distributed^a (regular and emergency contingency, where appropriated)									
State (includes tribal allotments)	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
New Mexico	10.705	11.638	27.451	24.739	23.543	17.074	15.938	16.734	17.844
New York	261.604	359.628	538.243	537.348	521.925	375.710	350.169	366.843	381.440
North Carolina	45.974	42.383	132.528	127.139	116.205	83.011	87.702	88.271	86.504
North Dakota	16.438	20.539	38.240	36.668	35.936	26.218	24.473	25.695	25.460
Ohio	105.643	132.004	245.750	253.035	234.875	165.463	144.794	154.314	148.087
Oklahoma	19.282	17.668	52.878	53.190	49.378	36.094	35.955	37.147	36.338
Oregon	25.633	27.650	51.460	52.029	47.861	36.666	34.311	35.945	35.931
Pennsylvania	140.520	191.759	308.394	315.357	294.486	209.548	190.810	203.071	206.356
Rhode Island	15.471	20.875	38.653	34.444	31.274	23.241	23.976	23.813	27.361
South Carolina	17.636	15.266	51.047	56.232	48.649	36.270	38.335	38.825	35.442
South Dakota	13.350	16.681	31.058	29.989	29.259	21.293	19.877	20.869	20.678
Tennessee	33.568	30.985	80.512	84.899	74.390	55.405	56.856	58.040	55.161
Texas	46.545	50.599	169.196	212.807	184.201	129.832	127.064	128.686	117.473
Utah	15.369	19.204	35.755	35.003	33.537	24.513	22.882	24.025	23.806
Vermont	14.162	19.370	36.156	27.941	26.959	19.529	18.230	19.140	18.965
Virginia	40.241	43.746	127.668	109.927	107.215	80.436	78.971	81.877	81.432
Washington	42.163	45.481	84.645	83.989	78.688	60.310	56.437	59.124	59.102
West Virginia	18.621	20.157	45.019	43.363	40.786	29.700	27.723	29.108	28.842
Wisconsin	73.525	91.872	147.608	145.214	137.390	105.172	98.417	103.103	103.065
Wyoming	6.153	7.689	14.315	14.124	13.444	9.815	9.162	9.619	9.531
Subtotal to States and Tribes	2,131	2,587	5,066	5,066	4,694	3,437	3,248	3,370	3,370
Territories ^b	2.788	3.014	6.734	6.816	6.322	4.661	4.405	16.937	16.937
Leveraging/ REACH ^c	27.225	— ^d	27.000	27.000	0	26.949	0	0	0
Training/ tech. asst. ^e	0.297	0.292	0.300	0.300	0.300	2.994	2.838	2.958	2.988
Total	2,161	2,591	5,100	5,100	4,701	3,472	3,255	3,390	3,390

Source: Compiled by the Congressional Research Service (CRS) using U.S. Department of Health and Human Services (HHS) data.

- a. The totals shown in these columns include regular fund allocations to states and tribes, and any contingency funds awarded to states and tribes in that year.
- b. 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).
- c. 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 may stipulate in appropriations acts that a certain portion of the LIHEAP regular funds can be set aside for leveraging and REACH grants.
- d. The FY2008 Consolidated Appropriations Act (P.L. 110-161) did not specify funds for leveraging incentive and 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. Since FY2012, Congress has increased the amount available in annual appropriations acts.

Table B-3. LIHEAP Funding: FY1982 to FY2017
(dollars in thousands)

Fiscal Year	Regular Funds			Emergency Contingency Funds ^a			Total Distributed
	Authorized	President's Request	Appropriated	President's Request	Appropriated	Distributed	
1982	1,875,000	1,400,000	1,875,000	—	—	—	1,875,000
1983	1,875,000	1,300,000	1,975,000	—	—	—	1,975,000
1984	1,875,000	1,300,000	2,075,000	—	—	—	2,075,000
1985	2,140,000	1,875,000	2,100,000	—	—	—	2,100,000
1986	2,275,000	2,097,765	2,100,000	—	—	—	2,100,000
1987	2,050,000	2,097,642	1,825,000	—	—	—	1,825,000
1988	2,132,000	1,237,000	1,531,840	—	—	—	1,531,840
1989	2,218,000	1,187,000	1,383,200	—	—	—	1,383,200
1990	2,307,000	1,100,000	1,443,000	—	—	—	1,443,000
1991	2,150,000	1,050,000	1,415,055	NA ^b	195,180	195,180	1,610,235
1992	2,230,000	925,000	1,500,000	100,000	300,000	0	1,500,000
1993	ssan ^c	1,065,000	1,346,030	0	595,200	0	1,346,030
1994	ssan ^c	1,507,408	1,437,402	0	600,000	300,000	1,737,402
1995	2,000,000	1,475,000	1,319,202	^d	600,000	100,000	1,419,202
1996	2,000,000	1,319,204	900,000	^e	180,000	180,000	1,080,000
1997	2,000,000	1,000,000	1,000,000	300,000	420,000	215,000	1,215,000
1998	2,000,000	1,000,000	1,000,000	300,000	300,000	160,000	1,160,000
1999	2,000,000	1,000,000	1,100,000	300,000	300,000	175,299	1,275,299
2000	ssan ^c	1,100,000	1,100,000	300,000	900,000	744,350 ^f	1,844,350 ^f
2001	ssan ^c	1,100,000	1,400,000	300,000	600,000 ^g	455,650 ^h	1,855,650
2002	2,000,000	1,400,000	1,700,000	300,000	300,000	100,000 ⁱ	1,800,000
2003	2,000,000	1,400,000	1,788,300 ^j	300,000	0	200,000 ^k	1,988,300
2004	2,000,000	1,700,000	1,789,380	300,000	99,410	99,410	1,888,790
2005	5,100,000	1,900,500 ^{lm}	1,884,799	200,000	297,600	277,250	2,162,050
2006	5,100,000	1,800,000 ^l	2,480,000	200,000	681,000	679,960	3,160,000
2007	5,100,000	1,782,000	1,980,000	0	181,000	181,000	2,161,000
2008	— ⁿ	1,500,000	1,980,000	282,000	590,328	610,678 ^o	2,590,678
2009	— ⁿ	1,700,000	4,509,672	300,000	590,328	590,328	5,100,000
2010	— ⁿ	2,410,000 ^p	4,509,672	790,000	590,328	590,678	5,100,350
2011 ^q	— ⁿ	2,510,000 ^r	4,500,653	790,000	200,000	200,000	4,700,653
2012	— ⁿ	1,980,000	3,471,672 ^s	590,000	0	0	3,471,672
2013	— ⁿ	2,820,000	3,290,083 ^t	200,000	0	0	3,255,436 ^u

Fiscal Year	Regular Funds			Emergency Contingency Funds ^a			Total Distributed
	Authorized	President's Request	Appropriated	President's Request	Appropriated	Distributed	
2014	— ⁿ	2,820,000 ^v	3,424,549	150,000	0	0	3,390,304 ^u
2015	— ⁿ	2,550,000 ^v	3,390,304	200,000	0	0	3,390,304
2016	— ⁿ	3,190,000 ^w	3,390,304	0 ^w	0	0	3,353,413 ^x
2017	— ⁿ	3,300,304 ^y	—	0 ^y	—	—	—

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

- a. 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. Congress first allocated emergency contingency funds in January of 1991 due to the price of home heating oil (P.L. 101-517). Funds were not requested in the President's budget until FY1992.
- c. Such sums as necessary.
- d. The President's FY1995 request would have made the unallocated contingency funds that were appropriated in FY1994 (P.L. 103-112) available until expended.
- e. The President's FY1996 request would have made the unallocated contingency funds that were appropriated in FY1995 (P.L. 103-333) available until expended.
- f. The Administration released \$400 million of the FY2000 contingency funds in late September 2000, making them effectively available to states in FY2001.
- g. The initial contingency fund appropriation for FY2001 was \$300 million (P.L. 106-554). The Administration released the entire amount by December 30, 2000. On July 24, 2001, the 2001 Supplemental Appropriations Act (P.L. 107-20) provided an additional \$300 million in contingency funds.
- h. The distributed contingency funds in FY2001 included the \$300 million appropriated in P.L. 106-554 and the amount remaining from FY2000 (approximately \$156 million). The \$300 million that was appropriated as part of P.L. 107-20 was made available until expended; a portion was distributed in FY2003 and the remainder was converted to regular funds that same year.
- i. The FY2002 contingency funds were distributed out of the total FY2002 contingency appropriation (P.L. 107-116). With the end of FY2002, the remainder of the contingency funds expired (\$200 million).
- j. The 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).
- k. FY2003 contingency funds were distributed out of contingency dollars appropriated as part of the FY2001 supplemental (P.L. 107-20).
- l. Of the amounts requested by the President in FY2005 and FY2006, \$500,000 was to be set aside for a national evaluation.
- m. In FY2005, the President's initial budget request for LIHEAP regular funds was \$1,800,000,500. However, on November 14, 2004, the President submitted a budget amendment to Congress, requesting \$1,900,000,500 for LIHEAP regular funds.
- n. LIHEAP was not authorized from FY2008 through FY2015, and has not been reauthorized for the current fiscal year (FY2016) or the upcoming fiscal year (FY2017).
- o. Of the emergency contingency funds distributed in FY2008, \$20 million came from funds appropriated in the FY2005 Departments of Labor, Health and Human Services, and Education Appropriations Act (P.L. 108-447). Contingency funds in P.L. 108-447 were made available until expended.
- p. In FY2010, the President proposed that a mechanism be created whereby additional LIHEAP funds would be released when energy price increases reached certain levels; the proposal was not adopted by Congress. The Administration estimated that this "trigger" would have resulted in mandatory budget authority of \$450 million. This estimate is not included in the table.
- q. P.L. 112-10 imposed an across-the-board rescission of 0.2% on discretionary accounts. As a result, the regular fund allocation was reduced from approximately \$4.51 billion to \$4.50 billion.
- r. In FY2011, the President again proposed a trigger to release additional LIHEAP funds. In addition to proposing that funds be released when energy prices increase, the FY2011 proposal would have released

- funds when participation in SNAP (formerly known as Food Stamps) increased above a certain level. The Administration estimated that this trigger would have resulted in mandatory budget authority of \$2 billion. This estimate is not included in the table.
- s. P.L. 112-74 imposed an across-the-board rescission of 0.189% on discretionary accounts, bringing the total available for LIHEAP down from \$3.478 billion to \$3.472 billion. See Division F, Title V, Section 527.
 - t. The FY2013 Consolidated and Further Continuing Appropriations Act (P.L. 113-6) funded LIHEAP and most other federal programs at FY2012 levels. However, imposition of reductions through sequestration, including an across-the-board reduction of 0.2% applied due to failure to stay within the caps set by the Budget Control Act, reduced funding for LIHEAP from \$3.472 billion to \$3.290 billion.
 - u. The appropriations acts give HHS the authority to transfer funds within the agency. In FY2013 and FY2014, HHS transferred approximately \$35 million from LIHEAP, reducing the total available for distribution.
 - v. The President's FY2014 and FY2015 budgets also proposed \$50 million for a new competitive grant that would be used to help low-income households reduce their energy burdens. The \$50 million is not included in the request in the table.
 - w. The President's FY2016 budget proposed an additional \$200 million for a new competitive grant, called the Utility Innovation Fund, to help reduce energy burdens of low-income households. In addition, as in FY2010 and FY2011, the budget proposed that emergency contingency funds be funded through mandatory appropriations based on increased energy prices, extreme cold, or participation in SNAP. Neither of these proposals is included in the table.
 - x. As of the date of this report, approximately 1% of funding appropriated in FY2016 had not yet been distributed.
 - y. Similar to proposals in FY2010, FY2011, and FY2016, the President's FY2017 budget proposed that emergency contingency funds be funded through mandatory appropriations based on increased energy prices, extreme temperatures, or participation in SNAP. This proposal is not included in the table.

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