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

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Summary

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 (P.L. 97-35), is a block grant program under which the federal government gives states and other jurisdictions annual grants to operate home energy assistance programs for low-income households. For FY2006, Congress twice appropriated funds for LIHEAP. First, Congress appropriated approximately $2.161 billion, of which $1.98 billion is regular funds (allotted to all states) and $181 million is emergency contingency funds (allotted to one or more states at the Administration's discretion). The funds were appropriated in the Departments of Labor, Health and Human Services, and Education Appropriations Act (P.L. 109-149).

Congress added funds to LIHEAP for FY2007 in the Deficit Reduction Act of 2005, P.L. 109-171, enacted February 8, 2006; Congress then made the funds available for FY2006 through S. 2320, which the President signed into law on March 20, 2006 (P.L. 109-204). The Deficit Reduction Act had appropriated $1 billion for LIHEAP for FY2007 — $250 million for regular funds and $750 million for contingency funds. However, P.L. 109-204 changed the allocation of funds — $500 million for regular funds and $500 million for contingency funds — in addition to making them available for FY2006. Thus, a total of $3.161 billion was appropriated for LIHEAP for FY2006, $2.48 billion for regular funds and $681 million for contingency funds.

The President's budget proposed $1.782 billion for LIHEAP in FY2007, all of which would be allocated to regular funds. On June 20, 2006, the House Appropriations Committee reported H.R. 5647, the Departments of Labor, Health and Human Services, and Education Appropriations Act for FY2007, which would provide $1.93 billion in regular LIHEAP funds and $181 million in contingency funds. The Senate Appropriations Committee's version of the Appropriations Act (S. 3708) would provide $1.98 billion in regular funds and $181 million in contingency funds.

The Administration has made three contingency fund distributions. The most recent occurred on September 12, 2006, when just under $80 million was distributed to 14 states for winter heating needs. In two previous distributions, the Administration released $600 million in contingency funds: of this amount, $500 million went to 25 states on March 24, 2006, and on January 5, 2006, $100 million went to all states, the District of Columbia, and the territories. Approximately $21 million in contingency funds remains available. (See **Table 2**.)

In FY2004, the most current year for which data is available, some 5.0 million households received LIHEAP heating/winter crisis assistance, with an average benefit of $277, compared with an estimated 4.8 million households in FY2003. Approximately 308,000 households received cooling aid in FY2004 and 88,000 received summer crisis assistance (compared to 493,000 and 71,000 in FY2003). The average cooling/summer crisis benefit was $192. This report will be updated as legislative or program activities warrant.

Contents

List of Tables

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

Introduction

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35, is a block grant program under which the federal government gives states, territories, and tribes annual grants to operate home energy assistance programs for low-income households. For FY2006, Congress first appropriated $2.161 billion to the program, which included a 1% across-the-board rescission as mandated by the Department of Defense Appropriations Act (P.L. 109-148). On March 20, 2006, the President signed P.L. 109-204, which made an additional $1 billion available for LIHEAP in FY2006, $500 million for regular funds, and $500 million for contingency funds.

In FY2004, the most current year for which data could be obtained from the U.S. Department of Health and Human Services (HHS), an estimated 5.0 million households received help meeting heating costs (i.e., heating assistance and/or winter/year-round crisis assistance).[1] In FY2004, approximately 308,000 households received cooling assistance, and 88,000 received summer crisis aid.[2] Approximately 112,000 households received weatherization assistance through LIHEAP in FY2004.

Recent Developments

FY2006 LIHEAP Funding. Congress appropriated a total of $3.161 billion to LIHEAP for FY2006 in two separate laws. The Departments of Labor, Health and Human Services, and Education Appropriations Act, P.L. 109-149, allocated $2 billion for regular funds to be distributed to all states, and $183 million as emergency contingency funds, which may be distributed at the discretion of the Secretary of HHS. After a 1% across-the-board rescission in the Department of Defense Appropriations Act, P.L. 109-148, these amounts were reduced to $1.98 billion and $181 million.[3] The contingency funds remain available through September 30, 2006. Because funds were not appropriated until the end of December 2005, Congress

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[1] U.S. Department of Health and Human Services, LIHEAP Office.

[2] The amount of overlap between households that received cooling aid and summer crisis aid is not known; thus an estimated number of households that received aid related to cooling (comparable to those receiving aid with heating costs) is not available.

[3] HHS makes proportionate cuts in the individual budget authorities within LIHEAP — regular funds, contingency funds, Leveraging Incentive and REACH grants, and training and technical assistance — in order to comply with rescission requests.

passed three continuing resolutions to fund LIHEAP prior to the passage of P.L. 109-149.[4]

Congress made available an additional $1 billion for LIHEAP in S. 2320, which the President signed into law on March 20, 2006 (P.L. 109-204). Senator Olympia Snowe introduced S. 2320 on February 16, 2006. It proposed to shift funds originally appropriated to LIHEAP for FY2007, in the Deficit Reduction Act of 2005 (P.L. 109-171), to FY2006. P.L. 109-171 had appropriated $1 billion for LIHEAP for FY2007 — $250 million for regular funds and $750 million for contingency funds. On March 2, 2006, the Senate began to debate S. 2320, and voted 66 to 31 to waive the Budget Act. The Senate then passed an amendment by Senator John Kyl (S.Amdt. 2899) to distribute the entire $1 billion as regular block grant funds. The bill was further amended on March 7, when the Senate voted in favor of Senator Snowe's amendment to allocate $500 million to regular funds and $500 million to contingency funds (S.Amdt. 2913). The Senate voted in favor of the bill that same day. Then, on March 16, the House also voted in favor of S. 2320, and the President signed the bill on March 20. On March 24, the Administration distributed the entire $500 million in contingency funds to 25 states based on average temperature and the energy sources used by low-income households.

Due to high anticipated heating costs for the winter of 2005-2006,[5] Congress made a number of efforts to appropriate additional funds to LIHEAP for FY2006. Initially, the President's FY2006 budget proposed a total of $2 billion for LIHEAP, of which $1.8 billion was requested for regular funds. Out of the regular fund amount, $500,000 would have been reserved for a "feasibility study" to "identify options for a thorough and objective evaluation" of the program.[6]

In the Departments of Labor, Health and Human Services and Education appropriations bill (H.R. 3010), the House Appropriations Committee (H.Rept. 109-143) recommended $1.985 billion in LIHEAP funding. However, this proposal was amended on the House floor to add $22 million, bringing the House-approved FY2006 LIHEAP funding level in H.R. 3010 to $2.007 billion. All of these funds would have been made available for regular funds. The Senate Appropriations

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[4] P.L. 109-77 funded programs through November 18, 2005, P.L. 109-105 provided funding through December 17, 2005, and P.L. 109-128 provided funding through December 31, 2005.

[5] Energy Information Administration, "Short-Term Energy Outlook at Winter Fuels Outlook," December 6, 2005, available at [http://www.eia.doe.gov/pub/forecasting/steo/oldsteos/dec05.pdf]. The Short-Term Energy Outlook is updated monthly.

[6] The U.S. Department of Health and Human Services, Administration for Children and Families (ACF) *Justification of Estimates for Appropriations Committees, FY2006,* p. B16-B-18) also appears to assume that $27.5 million of these regular funds will be set aside for Leveraging Incentive and REACH Option grants. Although the statute [42 *U.S.C.* 8621(d)] provides a separate authorization for Leveraging Incentive funds, Congress has not used this authority to appropriate funds. Instead, as instructed by Congress (typically in the conference report), HHS has set aside leveraging money from the regular funds appropriation and, as permitted in the statute out of this set-aside, it has reserved 25% for REACH grants [42 *U.S.C.* 8626b(b)- authority for FY1996-FY1999].

Committee (S.Rept. 109-103) recommended a total of $2.183 billion in LIHEAP funds. Of this amount, $1.883 billion would have been available for regular funds, out of which $500,000 would have been made available for the program evaluation feasibility study (as requested by the President), and $27.5 million would have been set-aside for Leveraging Incentive grants. The remaining $300 million would have been available for contingency purposes.

When H.R. 3010 reached the Senate floor, four Senators proposed amendments that would have added funds to LIHEAP in addition to the amounts provided in S.Rept. 109-103. Senator Judd Gregg introduced two amendments to increase the regular funds appropriation to $3.159 billion (S.Amdt. 2290 and S.Amdt. 2253). Senator Jack Reed proposed to increase total LIHEAP funding to $5.1 billion (S.Amdt. 2194). Finally, Senators Ben Nelson and Thomas Carper proposed to increase the regular funds appropriation to $3.483 billion (S.Amdt. 2274). None of the amendments passed, and the Senate approved the amounts in S.Rept. 109-103 in a vote on October 27, 2005.

The first conference report for H.R. 3010 allocated a total of $2.183 billion for LIHEAP (H.Rept. 109-300), of which $2 billion was allocated for regular funds and $183 million for contingency funds. Of the $2 billion in regular funds, $27.5 million was provided for Leveraging Incentive grants. On November 17, 2005, the House failed to pass H.Rept. 109-300. After another conference, the second conference report (H.Rept. 109-337) contained the identical amount of funding for LIHEAP. The House approved H.Rept. 109-337 on December 14, 2005; the Senate approved it on December 21, 2005. On December 30, the President signed the bill into law as P.L. 109-149.

Two additional bills contained provisions that would have provided funding for LIHEAP in FY2006. First, the conference report for the Department of Defense appropriations bill (H.R. 2863, H.Rept. 109-359) would have appropriated an additional $2 billion for LIHEAP for FY2006, of which $1.5 billion would have gone to contingency funds, and $500 million would have gone to regular funds. However, the additional LIHEAP funds were removed from H.Rept. 109-359 along with a provision to allow drilling for oil in the Arctic National Wildlife Refuge (ANWR), when, on December 21, 2005, the Senate failed to vote in favor of cloture on H.Rept. 109-359. The provision to allow for oil drilling prevented the cloture vote, and, according to the sponsor of the ANWR provision, Senator Ted Stevens, LIHEAP funding was tied to oil drilling. He stated that future proceeds from ANWR would have paid for the $2 billion allocation to LIHEAP, and "unless ANWR is back in [the bill], there is not money for LIHEAP...."[7] As a result, when the Senate removed the ANWR provision in order to ensure the bill's passage, funding for LIHEAP was also removed from the bill (S.Con.Res. 74).

A second provision to fund LIHEAP was present in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, H.R. 4939. The House Appropriations Committee adopted an amendment by Representative David Obey, as modified by Representative Ralph

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[7] Congressional Record, December 19, 2005, pp. S13991-S13992.

Regula, that would have made available in FY2006 funds for LIHEAP that were appropriated for FY2007 in the Deficit Reduction Act of 2005 (P.L. 109-171). Representative Obey's amendment would have made the entire $1 billion in the Deficit Reduction Act available for FY2006, while Representative Regula's amendment made only the $750 million in contingency funds available for FY2006. The House passed H.R. 4939, with the LIHEAP provision, on March 16. The Senate Appropriations Committee subsequently struck the LIHEAP language due to the enactment of P.L. 109-204 (S.Rept. 109-230).

FY2007 Funding. In his FY2007 budget, the President would provide $1.782 billion for LIHEAP, all of which would be allocated to regular funds. On March 16, 2006, the Senate voted in favor of the FY2007 Budget Resolution, S.Con.Res. 83. As part of the Budget Resolution, Senator Jack Reed introduced an amendment, S.Amdt. 3074, to add $3.318 billion to LIHEAP funds, bringing the total amount assumed in the resolution for LIHEAP in FY2007 to $5.1 billion. The amendment passed by a vote of 51-49. On June 20, 2006, the House Appropriations Committee reported H.R. 5647, the Departments of Labor, Health and Human Services, and Education Appropriations Act for FY2007, which would provide $1.93 billion in regular LIHEAP funds and $181 million in contingency funds. The Senate Appropriations Committee reported its version of the spending bill (S. 3708) on July 20, 2006. The Senate bill would provide $1.98 billion in regular LIHEAP funds and $181 million in contingency funds.

Table 1, below, shows LIHEAP funding for FY2005 and FY2006, and proposed funding for FY2007.

Table 1. Final FY2005 and FY2006 LIHEAP Funding, and Proposed FY2007 Funding

	Regular		Contingency	TOTAL
	State formula grants	Set-asides ($300,000 for technical assistance, which is permanently authorized in the statute)		
Final FY2006 Appropriation[a]				
P.L. 109-149	$1.98 billion	— $27.5 million — leveraging incentive (authorized by conference report language)	$181 million	$2.161 billion
P.L. 109-204[b]	$500 million	None	$500 million	$1.0 billion
Total	$2.48 billion	— $27.5 million —	$681 million	$3.161 billion
Proposed FY2007				
President's Request	$1.782 billion	— $27.225 million — leveraging incentive (this amount is assumed in Administration budget documents)	$0	1.782 billion
House Appropriations Committee	$1.93 billion	None	$181 million	$2.111 billion
Senate Appropriations Committee	$1.98 billion	— $27.225 million — leveraging incentive fund	$181 million	$2.161

Source: Congressional Research Service based on P.L. 109-148, P.L. 109-149, P.L. 109-171, P.L. 109-204, H.R. 5647, S. 3708, and the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF) *FY2007 Justification of Estimates for Appropriations Committees*.

a. Under the Department of Defense Appropriations Act (P.L. 109-148), discretionary spending in FY2006 was reduced by 1% through an across-the-board rescission. The amounts in P.L. 109-149 include the rescission.

b. The funds made available for FY2006 in P.L. 109-204 were originally appropriated for FY2007 in the Deficit Reduction Act of 2005, P.L. 109-171. Congress shifted the funds to FY2006 in P.L. 109-204.

LIHEAP Contingency Funds. The Administration released contingency funds on three occasions in FY2006. In its first distribution, on January 5, 2006, the Administration released $100 million. The funds were disbursed to all states, the District of Columbia, and the territories using the regular block grant allocation, weighted by the percentage of low-income households in each state that use natural gas, heating oil, and propane for heat. On March 24, 2006, the Administration

released an additional $500 million in contingency funds to 25 states. States receiving funds must have experienced an average winter temperature of 40 degrees Fahrenheit or lower, and at least 60% of low-income households in the state must have used natural gas, heating oil, or propane to heat their homes. The Administration then distributed funds to those states that met these threshold requirements using the percentage of low-income households heating their homes with natural gas, heating oil, and propane, the percentage of funds received under the block grant allocation, and average temperature. The third distribution of funds occurred on September 12, 2006, when the Administration released $80 million to 14 states to help pay heating costs for the upcoming winter. States were eligible if they experienced an average temperature of 47 degrees Fahrenheit or lower between October 5, 2005, and March 31, 2006, and at least 15% of low-income households used heating oil as their primary heating source. (For a breakdown of funds, see **Table 5**.) Approximately $21 million from the FY2005 contingency fund appropriation remains available until expended (P.L. 108-447).

In FY2005 the Administration released contingency funds four times. On three occasions, December 23, 2004, January 31, 2005, and March 1, 2005, the Administration distributed a total of $250 million to all states in response to higher home energy costs, especially for heating oil and propane. The first two distributions totaled $100 million each, and the third totaled $50 million. In each case, half of the contingency amount was distributed to the states based on the same formula used to distribute regular LIHEAP funds, and the remaining half was distributed based primarily on that formula but with certain adjustments made to ensure that extra funds would be received by states with the greatest share of low-income households using heating oil or propane. In early September, the Administration released $27.25 million to states affected by Hurricane Katrina. Alabama received $2 million, Florida received $1.5 million, Louisiana received $12 million, and Mississippi received $11.5 million. The funds may be used to pay for energy costs, the costs of transportation to shelters for those whose health is endangered due to lack of access to cooling, utility reconnections, and repairs to furnaces, insulation, and air conditioners.

Table 2, below, shows recent federal funding levels for LIHEAP, including the amount of contingency funds released.

Table 2. Recent LIHEAP Funding

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

Fiscal year	Funds appropriated		Contingency funds distributed[a]			Total funds distributed[b]	
	Regular[c]	Contingency	To all states	To some states	Subtotal	Subtotal (to all states)	TOTAL
2002	1,700	300	0	100	100	1,700	1,800
2003	1,788	0	200	0	200	1,988	1,988
2004	1,789	99	40	59	99	1,829	1,889
2005	1,885	298	250	27.25	277.25	2,135[c]	2,162[c]
2006	2,480	681	100	580	680	2,580	3,160

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

a. The amount of contingency funds appropriated in a fiscal year may differ from the amount of contingency funds that are distributed in that fiscal year for two reasons: First, the LIHEAP statute gives the Administration discretion to release (or not release) any of the available contingency funding. Further, these funds, as directed by the Congress in its appropriations language, may be available for release in one or more years.

b. Regular funds, all of which are included in both of the Total Funds Distributed columns, include all regular funding distributed by formula to the states, the tribes, and the District of Columbia, as well as set-asides for the territories, leveraging incentive grants, REACH grants, and technical assistance (with total set-asides of approximately $30 million). The "Subtotal to all states" column includes all regular funds plus any contingency funds that were distributed to all states; the "Total" column includes all regular funds plus any contingency funds that were distributed to one or more states.

c. Regular LIHEAP funds are made available to states on a quarterly basis (October, January, April, and July). However, states may specify what percentage of their total allotment they wish to receive in each quarter, and many states receive all, or the great majority of, their LIHEAP funds in the first two quarterly disbursements.

Energy Act Reauthorizes LIHEAP Through FY2007. The Energy Policy Act of 2005 (P.L. 109-58) reauthorized LIHEAP for FY2005-FY2007. The law was signed by the President on August 8, 2005. With regard to LIHEAP, P.L. 109-58:

- sets the regular funds authorization level for the program at $5.1 billion in each of FY2005-FY2007 (LIHEAP regular funding authorization was set at $2 billion for FY2004);
- allows the Secretary of the Interior, when disposing of in-kind oil and gas royalties taken from oil and gas leases, to grant a preference for the purpose of providing additional resources to support federal low-income energy assistance programs;
- authorizes state energy assistance offices, or those they contract with, to use LIHEAP assistance to purchase renewable fuels as part of providing this aid;

- requires the Department of Energy to report to Congress on the use of renewable fuels in providing aid under LIHEAP; and

- requires HHS (within one year of the bill's enactment) to report to Congress on how LIHEAP "could be more effectively used to prevent loss of life from extreme temperatures."

LIHEAP Legislation in the 109th Congress. At least ten House and Senate bills introduced in the 109th Congress would provide funding for LIHEAP by increasing federal revenues from the oil and natural gas industries. The methods of obtaining funds include imposing windfall profits taxes on the oil and/or natural gas industries, suspending oil and natural gas royalty relief, repealing tax subsidies to the oil and gas industries, and imposing fines and penalties on those companies and individuals who participate in price gouging in the sale of fuels.[8] Another bill, H.R. 4318, would allow federal funds to be used for natural gas leasing on the outer continental shelf, with a portion of royalty proceeds to fund LIHEAP. As of September 2006, each of these eleven bills remains in committee.

Two bills introduced in the House propose to amend certain aspects of LIHEAP. H.R. 1210, introduced by Representative Anthony Weiner, seeks to expand access to the program for seniors by raising the maximum federal income eligibility limit to 100% of the state median income — provided that at least 50% of that household's income was attributable to an individual aged 65 or older. (Current law sets the maximum federal income eligibility for households at 60% of the state median income, or 150% of the federal poverty level, whichever is greater.) H.R. 108, introduced by Representative Gene Green, would mandate that no more than 50% of the funding provided under LIHEAP could be made available for heating purposes. Both bills were referred to the Committees on Energy and Commerce, and Education and the Workforce.

Program Rules and Benefits

Federal LIHEAP requirements are minimal and leave most important program decisions to the states, the District of Columbia, the territories, and Indian tribes and tribal organizations (collectively referred to as grantees) who receive federal funds. The federal government (HHS) may not dictate how grantees implement "assurances" that they will comply with general federal guidelines.

Federal Eligibility Standards and Grantee Responsibility. Federal law limits LIHEAP eligibility to households with incomes up to 150% of the federal poverty income guidelines (or, if greater, 60% of the state median income). States may adopt lower income limits, but no household with income below 110% of the poverty guidelines may be considered ineligible. States may separately choose to make eligible for LIHEAP assistance any household of which at least one member is a recipient of Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, or certain needs-tested veterans' programs.

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[8] Among those bills introduced are H.R. 3664, H.R. 3710, H.R. 3936, H.R. 4248, H.R.4263, H.R. 4276, H.R. 4420, H.R. 4449, H.R. 4479, and S. 1981.

Within these limits, grantees decide which, if any, assistance categories to include, what income limits to use, and whether to impose *other* eligibility tests. The statute gives priority for aid to households with the greatest energy needs or cost burdens, especially those that include disabled individuals, frail older individuals, or young children. Federal standards require grantees to treat owners and renters "equitably," to adjust benefits for household income and home energy costs, and to have a system of "crisis intervention" assistance for those in immediate need. LIHEAP assistance does not reduce eligibility or benefits under other aid programs. Federal rules also require outreach activities, coordination with the Department of Energy's Weatherization Assistance Program, annual audits and appropriate fiscal controls, and fair hearings for those aggrieved. Grantees decide the mix and dollar range of benefits, choose how benefits are provided, and decide what agencies will administer the program.[9]

Kinds of Energy Assistance Available. Funds are available for four types of energy assistance to eligible households:

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

Use of Funds. The majority of LIHEAP funding is used to offset home heating costs. In FY2003, the most recent year in which data regarding total spending is available, approximately 72% of all LIHEAP funds were used to provide heating assistance or crisis aid related primarily to heating needs; all states (including the District of Columbia) provided some heating assistance, and nearly all also offered crisis aid related to heating needs. In that same year, 3.5% of funds were used for cooling/summer crisis aid; just 15 states offered cooling assistance and only six offered summer crisis aid. Also in FY2003 10.5% of total LIHEAP funds were used for weatherization services (provided by 46 states); 8.2% of available funds were used for administration and planning purposes (51 states), and 1% of the FY2003 funds were used to offer services to reduce the need for energy assistance (provided by 21 states).[10]

Households Served. Since the LIHEAP program began in the early 1980s, both the percentage of eligible households served and the absolute number of households receiving heating/winter crisis assistance have generally declined. However, in FY2003 and FY2004 both figures increased somewhat, to 4.8 million

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

[10] Based on state-reported total LIHEAP expenditures for FY2003 (including federal and any supplemental non-federal funding) of $2.112 billion. *LIHEAP Report to Congress for FY2003*, p. 14.

and 5.0 million recipients. (See **Table 3** below.) The number of households receiving cooling assistance reached its high point in FY2002, with more than half a million recipients. However, in FY2003 and FY2004, the number of recipients fell below that number.

States reported that in FY2004, approximately 4.6 million households received assistance with heating payments; 308,000 received cooling aid; approximately 1.1 million received winter/year-round crisis aid; 88,000 received summer crisis aid; and 112,000 received weatherization assistance. Because many households may receive more than one kind of LIHEAP assistance, a total, unduplicated number of households assisted is not available. However, these data are used to estimate that some 5.0 million households received heating assistance or heat-related crisis aid in FY2004.[11]

The Census Bureau's 2003 Annual Social and Economic Supplement indicates that among all households receiving LIHEAP heating assistance, about 36% had at least one member 60 years of age or older; about 48% had at least one disabled member; and some 23% included at least one child five years of age or younger. These same census data showed that a minority of households receiving LIHEAP heating assistance also received other kinds of federal aid: an estimated 12% received TANF; 24% received SSI; and 26% lived in rent-subsidized or public housing.[12]

Benefit Levels. The constant dollar value of LIHEAP heating/winter crisis benefits declined from the program's beginning until FY1998 — in FY1983, the average benefit was $209 dollars, and by FY1998 it was $117. Although the value of benefits went up from FY1999 through FY2001, in FY2004 the average constant dollar benefit was down to $132. In nominal dollars, the average heating/winter crisis benefit fell from $312 in FY2003 to $277 in FY2004. The average nominal cooling/summer crisis benefit, which is available to a more limited number of households in far fewer states, had largely risen until FY2002, when it fell sharply to $145 from $211 in FY2001. In FY2003, this benefit stayed approximately the same, at $148, and in FY2004 it increased to $192.[13]

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[11] Department of Health and Human Services, LIHEAP Office.

[12] *LIHEAP Report to Congress, FY2003*., pp. 19-21.

[13] Department of Health and Human Services, *FY2004 LIHEAP Home Energy Notebook*, p. 30. In constant (1981 dollars) the average cooling/summer crisis benefit was worth $57 in FY1983, $107 in both FY2000 and FY2001, $70 in FY2002, $80 in FY2003, and $91 in FY2004.

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

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

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

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

The LIHEAP benefit now covers a smaller portion of home heating bills than in earlier years, 8% in FY2004 compared to 18% in FY1983. And while the portion of household income required for home heating by LIHEAP-recipient households *before* receiving the LIHEAP benefit is less than when the program began, the portion of a recipient household's budget required for home heating *after* receiving the LIHEAP benefit is slightly more in FY2004 than it was in FY1983 (2.7% compared to 2.6%). In recent years, leading up to FY2004, the percentage of a household's budget required to pay for heating post-benefit had been in the single digits. (See **Table 3**.)

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.[14] These include —

- 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).

Funds and Their Distribution

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

Regular Funds. Regular funds are distributed to states according to a three-tier formula in the LIHEAP statute and based on the level of funds appropriated in a given fiscal year.[15] The three-tier formula is the result of changes to the LIHEAP statute in 1984 through the Human Services Reauthorization Act (P.L. 98-558). Prior to the changes in P.L. 98-558, LIHEAP allotments to the states were based largely on home heating needs with minimal consideration of cooling costs, and did not provide for the use of updated data, including population and energy costs.[16]

The new distribution formula provides that in determining state allotments the Department of Health and Human Services shall use "the most recent satisfactory data available" and consider home energy costs of low-income households (not simply all households, as was previously the case). These changes to the calculation of state allotments mean that some states will receive a smaller percentage share of regular funds, while some will receive a larger share. In order to offset the losses to certain states resulting from the formula change, and "prevent severe disruption to

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

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

[16] For more information on the history of the LIHEAP formula, see CRS Report RL33275, *Low-Income Home Energy Assistance Program (LIHEAP) Allocation Rates: Legislative History and Current Law*, by Julie Whittaker and Libby Perl.

programs,"[17] Congress implemented two "hold harmless" provisions in P.L. 98-558 to prevent states from losing too much funding. This resulted in the three-tier current law formula, which is described in more detail below.[18]

Tier I. The Tier I formula is used to allocate funds when the total LIHEAP regular fund appropriation is less than $1.975 billion. Neither hold harmless provision applies at the Tier I level, and HHS allocates funds according to the allotment percentages used under the pre-1984 formula. The old formula is used because the amount of appropriated funds required to trigger the new formula is $1.975 billion. The LIHEAP statute stipulates that for FY1986 and succeeding years, no state shall receive less money than it would have received in FY1984 had the LIHEAP funding in that year been $1.975 billion.[19] According to HHS, then, the LIHEAP statute requires use of the old allotment percentages when funding is less than $1.975 billion.[20] Until FY2006, funding levels for LIHEAP only twice exceeded the $1.975 billion level, in FY1985 and FY1986. Thus, from FY1987 through FY2005, states continued to receive the same allotment percentages they received under the previous LIHEAP formula.

Tier II. For appropriations above $1.975 billion and up to $2.25 billion, the Tier II rate applies, and HHS uses the formula enacted in 1984 to calculate state allotments. Under the Tier II formula, a hold harmless *level* applies, and no state may receive less funding than it would have received under the Tier I distribution rate *as it was in effect for FY1984*, assuming a $1.975 billion appropriation.[21] State allotment *percentages* may be different, however. To ensure that states receive their hold harmless levels of funding, those states that gain the most funding under the new formula must have their percentage share of funds ratably reduced to bring other states up to the hold harmless level.[22]

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

[18] For more information on the formula and the percentage share of funds a state would receive at various levels of funding, see CRS Report RS21605, *Low-Income Home Energy Assistance Program (LIHEAP): Formula and Estimated Allocation Rates*, by Julie Whittaker and Libby Perl.

[19] 42 U.S.C. §8623(a)(2)(A) (2003).

[20] U.S. Department of Health and Human Services, *Low Income Home Energy Assistance Program: Report to Congress for FY1987*, p. 133. The statutory provision that provides for use of the old formula is 42 U.S.C. §8623(a)(3) (2003).

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

[22] 42 U.S.C. §8623(a)(3) (2003).

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

Contingency Funds. The statute currently provides an annual authorization of $600 million for LIHEAP contingency funds (contingency funds are authorized indefinitely).[23] Appropriated contingency funds may only be released at the discretion of HHS and may be allocated to one or more states based on their needs. The statute authorizes the appropriation of contingency funds "to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency." The term "emergency" is defined in the LIHEAP statute to include a natural disaster; a significant home energy supply shortage or disruption; significant increases in the cost of home energy, home energy disconnections, participation in public benefit programs, or unemployment; or an "event meeting such criteria as the [HHS] Secretary may determine to be appropriate."

Leveraging Incentive and REACH Funds. In 1990, P.L. 101-501 amended the program statute to provide a separate funding authorization of $50 million ($30 million if regular funds appropriated are under $1.4 billion) for incentive grants to states that leverage non-federal resources for their LIHEAP programs.[24] Such resources might include negotiated lower energy rates for low-income households or separate state funds. States are awarded incentive funds in a given fiscal year based on a formula that takes into account their previous fiscal year success in securing non-federal resources for their energy assistance program. In 1994 (P.L. 103-252) the statute was further amended to provide that of any incentive funds appropriated, up to 25% may be set aside for the Residential Energy Assistance Challenge Option (REACH). Under the REACH option states may be awarded competitive grants for their efforts to increase efficiency of energy usage among low-income families and to reduce those families' vulnerability to homelessness and other health and safety risks due to high energy costs. The funding authorization for Leveraging Incentive and REACH grants is separate from regular funds, and the programs were not reauthorized in P.L. 109-58. In practice, however, Congress has funded these initiatives at $22 million to $30 million with dollars set-aside out of annual regular fund appropriations.

Other Funds. States are allowed to carry over unused funds from a previous fiscal year (limited to 10% of funds awarded a state). A diminishing amount of money may also be available from previously settled claims of price control violation

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[23] 42 U.S.C. §8621(e) (2003).

[24] 42 U.S.C. §8621(d) (2003).

by oil companies.[25] Finally states have the authority to transfer funds to LIHEAP from certain other federal block grants (including TANF).

Legislative History

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

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

In 1986, P.L. 99-425 extended the program with few changes. In 1990, P.L. 101-501 created the Incentive Program for Leveraging Non-Federal Resources and authorized a July to June program year (or forward funding) for LIHEAP to allow state program directors to plan for the fall/winter heating season with knowledge of available money. This program year language was subsequently removed, although the statute now states that money appropriated in a given fiscal year is to be made available for obligation in the following fiscal year. Congress last provided advance appropriations for LIHEAP in the FY2000 appropriations cycle.

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

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

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[25] *LIHEAP Report to Congress, FY2003*, p. 11. For FY2002, $3.3 million in oil overcharge funds was available to two states.

Issues

LIHEAP Formula. The Energy Policy Act of 2005 requires HHS to report to Congress on how LIHEAP "could be used more effectively to prevent loss of life from extreme temperatures." Neither the act nor the conference report directs how HHS should fulfill this requirement. The requirement that such a report be made was first included in House legislation (H.R. 1644) in the 108th Congress and, according to the accompanying committee report, was intended to "assist the [HHS] Secretary in developing a more accurate formula allocation methodology" to better meet the home energy assistance needs of "vulnerable populations." At the time, the House Energy Committee report asserted that any formula developed should use the best statistical data and models now available; be a simple, easy-to-understand science-based mechanism that considers state-level expenditures for low-income home heating and cooling needs; and include annually updated, state-level heating and cooling degree day and fuel price information.[26]

Table 4. LIHEAP Funding by State, FY2003 to FY2006

(*Dollars in millions*)

State	TOTAL funds distributed[a] *(regular and contingency)*			Regular allotment[b]	Contingency distributed[c]	TOTAL
	FY2003	FY2004	FY2005	FY2006		
Alabama	$16.1	$15.4	$19.9	$31.129	$0.658	$31.787
Alaska	7.8	7.5	10.1	8.738	4.101	12.839
Arizona	7.2	6.9	7.7	13.994	0.236	14.230
Arkansas	12.3	11.8	13.5	22.765	0.571	23.336
California	86.1	82.4	91.7	152.032	4.409	156.441
Colorado	30.2	28.9	32.4	31.704	13.102	44.806
Connecticut	43.8	40.2	46.8	47.809	23.297	71.106
Delaware	5.8	5.3	6.2	10.141	0.813	10.954
District of Columbia	6.3	6.2	6.7	7.852	0.314	8.165
Florida	25.9	24.5	29.6	49.529	0.256	49.785
Georgia	20.3	19.4	22.5	39.170	0.856	40.026
Hawaii	2.0	1.9	2.2	2.555	0.012	2.567
Idaho	11.8	11.1	12.2	13.673	0.382	14.055
Illinois	109.6	104.5	117.2	145.959	47.855	193.814
Indiana	50.2	47.3	53.9	53.980	21.347	75.327
Iowa	35.5	33.5	38.9	36.762	15.291	52.054
Kansas	16.1	15.4	17.4	26.786	0.923	27.709
Kentucky	26.1	24.6	28.1	44.347	0.972	45.320
Louisiana	16.5	15.8	29.8	32.010	0.661	32.671
Maine	28.6	25.1	30.6	25.835	17.661	43.496
Maryland	32.1	30.8	34.2	58.499	3.390	61.889
Massachusetts	86.1	80.4	91.9	82.764	43.661	126.425

[26] U.S. Congress, House Energy and Commerce Committee, *Energy Policy Act of 2003: Report to Accompany H.R. 1644*, 108th Congress, 1st sess., H.Rept. 108-65, Part 1, p. 145.

State	TOTAL funds distributed[a] *(regular and contingency)*			Regular allotment[b]	Contingency distributed[c]	TOTAL
	FY2003	FY2004	FY2005	FY2006		
Michigan	104.9	105.0	112.5	108.028	45.587	153.615
Minnesota	77.5	71.5	84.0	78.363	32.487	110.849
Mississippi	13.8	13.2	27.4	26.793	0.622	27.415
Missouri	43.8	41.7	48.1	59.541	18.679	78.220
Montana	11.9	11.2	12.8	14.224	5.035	19.259
Nebraska	17.4	16.6	19.0	21.102	7.532	28.634
Nevada	3.7	3.5	4.0	7.112	0.135	7.247
New Hampshire	16.9	15.2	18.3	18.197	9.543	27.740
New Jersey	78.7	74.5	83.9	77.346	37.413	114.759
New Mexico	9.1	8.7	9.9	11.031	0.524	11.555
New York	260.1	243.4	277.9	250.543	131.176	381.719
North Carolina	37.5	33.6	40.6	67.810	3.315	71.125
North Dakota	12.6	12.4	14.0	14.298	4.974	19.272
Ohio	98.1	98.4	104.7	122.259	41.967	164.226
Oklahoma	13.6	13.0	14.7	26.228	0.693	26.921
Oregon	23.8	21.8	25.0	24.059	0.516	24.575
Pennsylvania	136.7	130.9	145.5	134.810	67.514	202.324
Rhode Island	14.2	13.2	15.1	15.780	7.286	23.066
South Carolina	13.4	12.3	14.6	24.867	0.412	25.279
South Dakota	10.4	9.6	11.6	12.227	4.313	16.540
Tennessee	26.4	24.9	28.3	46.363	0.776	47.139
Texas	42.5	40.7	46.2	82.421	1.584	84.005
Utah	13.8	14.0	14.7	16.806	6.042	22.848
Vermont	12.6	11.4	13.8	13.639	7.264	20.903
Virginia	39.1	37.5	41.7	71.259	3.794	75.053
Washington	37.7	35.4	39.9	38.885	0.745	39.631
West Virginia	17.4	17.4	18.5	23.818	0.725	24.543
Wisconsin	69.5	64.3	75.3	70.538	29.300	99.837
Wyoming	5.5	5.2	5.9	6.644	2.342	8.987
Subtotal	$1,939	$1,840	$2,111	$2,423	$673.063	$3,096
Tribes[d]	19.3	19.0	20.1	26.135	6.762	32.897
Territories[e]	2.5	2.5	2.9	3.321	0.135	3.456
Leveraging/REACH[f]	27.3	27.3	27.3	27.225	0.0	27.225
Training/Tech. Asst.[g]	0.3	0.3	0.3	.297	0.0	.297
TOTAL	$1,988	$1,889	$2,162	$2,480	$679.96	$3,160

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

a. The totals shown in these columns include regular fund allocations to states (net of the direct awards to tribes) and any contingency funds awarded to the state in that year.
b. Includes 1% rescission in P.L. 109-148. LIHEAP funds are released on a quarterly basis.
c. This column shows the amount of FY2006 contingency funds released. The total available contingency funds includes $20.75 million in FY2005 contingency funds, $181 million appropriated in P.L. 109-149, and $500 million in P.L. 109-204.

d. This funding is made directly available to or for tribes but is reserved out of a given state's allotment amount. As prescribed in the statute, the tribal set-aside from a state gross allotment is based on tribal households in that state.

e. The statute provides that HHS must set-aside not less then 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).

f. 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). The Congress has in recent years stipulated that a certain portion of the LIHEAP regular funds be set aside for leveraging grants and, of this amount, HHS has reserved 25% for REACH grants.

g. The statute provides that HHS may reserve up to $300,000 for making grants or entering into contracts with states, public agencies, or private nonprofits that provide training and technical assistance related to achieving the purposes of the LIHEAP program.

Table 5. LIHEAP Funding: FY1982 to FY2007

(*Dollars in thousands*)

Fiscal year	Regular Funds[a]			Contingency Funds[a]		TOTAL Distributed
	President's request	Authorized	Appropriated	Appropriated	Distributed	
1982	$1,400,000	$1,875,000	$1,875,000	—	—	$1,875,000
1983	1,300,000	1,875,000	1,975,000	—	—	1,975,000
1984	1,300,000	1,875,000	2,075,000	—	—	2,075,000
1985	1,875,000	2,140,000	2,100,000	—	—	2,100,000
1986	2,097,765	2,275,000	2,100,000	—	—	2,100,000
1987	2,097,642	2,050,000	1,825,000	—	—	1,825,000
1988	1,237,000	2,132,000	1,531,840	—	—	1,531,840
1989	1,187,000	2,218,000	1,383,200	—	—	1,383,200
1990	1,100,000	2,307,000	1,443,000	—	—	1,443,000
1991	1,050,000	2,150,000	1,415,055	195,180	195,180	1,610,235
1992	1,025,000	2,230,000	1,500,000	300,000	0	1,500,000
1993	1,065,000	*ssan*[b]	1,346,030	595,200	0	1,346,030
1994	1,507,408	*ssan*[b]	1,437,402	600,000	300,000	1,737,402
1995	1,475,000	2,000,000	1,319,202	600,000	100,000	1,419,202
1996	1,319,204	2,000,000	900,000	180,000	180,000	1,080,000
1997	1,000,000	2,000,000	1,000,000	420,000	215,000	1,215,000
1998	1,000,000	2,000,000	1,000,000	300,000	160,000	1,160,000
1999	1,300,000	2,000,000	1,100,000	300,000	175,299	1,275,299
2000	1,400,000	*ssan*[b]	1,100,000	900,000	744,350[c]	1,844350[c]
2001	1,400,000	*ssan*[b]	1,400,000	600,000	455,650	1,855,650
2002	1,400,000	2,000,000	1,700,000	300,000	100,000[d]	1,800,000
2003	1,400,000	2,000,000	1,788,300[e]	0	200,000[f]	1,988,300
2004	1,700,000	2,000,000	1,789,380	99,410	99,410	1,888,790
2005	1,800,500[g]	5,100,000	1,884,799	297,600	277,250	2,162,050
2006	1,800,000[g]	5,100,000	2,480,000	681,000	679,960	3,160,000
2007	1,782,000	5,100,000	—	—	—	—

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

a. Amounts listed under the Regular Funds heading are for *regular* funding only. In 1994, Congress enacted a permanent $600 million annual authorization for contingency funding. As shown, however, before this authorization contingency funds were sometimes made available.
b. Such sums as necessary.
c. President Clinton released $400 million of these FY2000 contingency funds in late Sept. 2000 making it effectively available to states in FY2001.
d. These funds were distributed out of the total FY2002 contingency appropriation (P.L. 107-116). With the end of FY2002, the remaining $200 million of these contingency funds expired.
e. The final FY2003 appropriations act (P.L. 108-7) included $1.688 billion in new regular funds and converted into regular funds $100 million of remaining contingency funds originally appropriated in FY2001 (P.L. 107-20).
f. These funds were distributed out of contingency dollars appropriated as part of the FY2001 supplemental (P.L. 107-20). That law provided that the funds were "available until expended." Congress subsequently converted some of these dollars into regular funds (see tablenote e).
g. Of this amount, the President requested that $500,000 be set aside for a national evaluation.