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Low-Income Home Energy Assistance Program (LIHEAP) Allocation Rates: Legislative History and Current Law

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Summary

The Low-Income Home Energy Assistance Program (LIHEAP) provides funds to states so that they may help low-income households pay home energy expenses. States may use LIHEAP funds to assist families with heating and cooling costs, provide crisis assistance, and pay for weatherization projects. The LIHEAP statute provides for two types of funding: regular block grant funds and emergency contingency grants. All regular funds that Congress appropriates are allocated to the states, the District of Columbia, U.S. territories and commonwealths, and Indian tribal organizations, whereas contingency funds may be released to one or more states at the discretion of the Secretary of the Department of Health and Human Services (HHS) based on emergency need.

Regular LIHEAP funds are allocated to the states according to a formula that has a long and complicated history. In 1980, Congress created the predecessor program to LIHEAP, the Low-Income Energy Assistance Program (LIEAP), P.L. 96-223. Because Congress was particularly concerned with the high costs of heating (as opposed to cooling), funds under LIEAP were distributed according to a multi-step formula that benefitted cold-weather states. Later in 1980, Congress further amended the LIEAP formula in a continuing resolution, P.L. 96-369, but did nothing to change the emphasis on heating expenditures in cold-weather states. Congress enacted LIHEAP in 1981 (P.L. 97-35), replacing LIEAP, and specified that states would continue to receive the same percentage of regular funds that they did under the LIEAP formula.

When Congress reauthorized LIHEAP in 1984 (P.L. 98-558), it changed the program's formula by requiring the use of more recent population and energy data and requiring that HHS consider all energy costs of low-income households alone (a change from the focus on heating needs of *all* households). The effect of these changes meant that funds would be shifted from cold-weather northeastern and midwestern states to southern and western states. To prevent a dramatic shift of funds, Congress added two "hold-harmless" provisions to the formula. The result of these provisions is a current law, three-tiered formula, the application of which depends on the amount of regular funds that Congress appropriates.

The Tier I formula is used to allocate funds when the total LIHEAP regular fund appropriation is less than or equal to the equivalent of an FY1984 appropriation of \$1.975 billion. Above an appropriation of \$1.975 billion, funds are allocated according to Tier II of the formula, which includes a hold-harmless *level* to prevent some states from losing LIHEAP funds. Finally, Tier III applies to appropriations at or above \$2.25 billion, and includes a second hold-harmless provision, the hold-harmless *rate*. Until FY2006, when Congress appropriated just over \$3 billion to the program, total LIHEAP regular appropriations had not exceeded the equivalent of an FY1984 appropriation of \$1.975 billion since FY1986. This report will be updated as legislative or program activities warrant.

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Low-Income Home Energy Assistance Program (LIHEAP) Allocation Rates: Legislative History and Current Law

Introduction

The Low-Income Home Energy Assistance Program (LIHEAP) is a block grant program under which the federal government gives annual grants to states, the District of Columbia, U.S. territories and commonwealths, and Indian tribal organizations to operate multi-component home energy assistance programs for needy households.¹ Established in 1981 by Title XXVI of P.L. 97-35, LIHEAP has been reauthorized and amended several times, most recently in 2005, when P.L. 109-58 authorized annual regular LIHEAP funds at \$5.1 billion per year from FY2005 through FY2007.

The federal LIHEAP statute has very broad guidelines, with almost all decisions regarding the program's operation made by the states. Recipients may be helped with their regular heating and cooling costs, receive crisis assistance,² have weatherizing expenses paid, or receive other aid designed to reduce their home energy needs. Households with incomes up to 150% of the federal poverty income guidelines (or, if greater, 60% of the state median income) are eligible for LIHEAP benefits. States may adopt lower income limits, but no household with income below 110% of the poverty guidelines may be considered ineligible. The most current Department of Health and Human Services (HHS) data show an estimated 4.8 million households received winter heating/crisis assistance in FY2003.

LIHEAP: Regular and Contingency Grants

The LIHEAP statute provides for two types of program funding: regular and contingency grants. Regular funds are allotted to states according to methods prescribed by the LIHEAP statute as amended by the Human Services Reauthorization Act of 1984 (P.L. 98-558). The allotment methods operate so that the way in which funds are allocated to states depends on the amount of funds appropriated by Congress. For FY2006, Congress twice appropriated regular LIHEAP funds. First, Congress appropriated \$2.0 billion in P.L. 109-149, which was

¹ For additional information on LIHEAP, see CRS Report RL31865, *The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding*, by Libby Perl.

² Crisis assistance may include immediate funds to prevent utilities from being cut-off in a household.

reduced to \$1.98 billion after application of a 1% across-the-board rescission in the Department of Defense Appropriations Act (P.L. 109-148). Congress then appropriated an additional \$500 million in regular funds in P.L. 109-204, enacted on March 20, 2006.

Contingency funds may be released and allotted to one or more states at the discretion of the President and the Secretary of HHS. The funds may be released at any point in the fiscal year to meet additional home energy assistance needs created by a natural disaster or other emergency.³ In FY2006, Congress first appropriated \$183 million for contingency funds, which was reduced to approximately \$181.2 million after the rescission required by P.L. 109-148. Congress appropriated an additional \$500 million in contingency funds in P.L. 109-204. On January 5, 2006, the Administration released its first distribution of contingency funds for FY2006. The release totaled \$100 million, and funds were distributed to all states, the District of Columbia, and the territories. On March 24, the Administration distributed an additional \$500 million to 25 states based on average temperature and the energy sources used by low-income households.

The remainder of this report discusses only the history and methods of distributing regular LIHEAP funds.

History and Previous Methods for Distributing Regular Funds

Predecessor Program: Low Income Energy Assistance Program (LIEAP)

The predecessor program to LIHEAP, the Low Income Energy Assistance Program (LIEAP), was established as part of the Crude Oil Windfall Profits Tax Act of 1980, P.L. 96-223. Like LIHEAP, the predecessor program allocated funds to states so that they could assist low-income households in paying home energy costs, primarily the costs of heating their homes. The program emerged as the result of concern over substantial increases in home energy costs, especially home heating fuel costs, during the late 1970s. In its report accompanying H.R. 3919, a bill that contained an early version of LIEAP, the Senate Finance Committee explained its emphasis on total heating expenditures writing that “[a]lthough all low-income households have suffered from increased energy costs, a particular hardship has fallen on those households in the very coldest parts of the country....”⁴ As a result of Congress’s concern about high heating costs, P.L. 96-223 allocated funds to states through a formula that emphasized heating needs, while placing less importance on

³ Depending on how Congress appropriates them, contingency funds may remain available for distribution in more than one fiscal year, or they may expire with the fiscal year for which they were appropriated.

⁴ Report of the Senate Committee on Finance, S.Rept. 96-394, to accompany H.R. 3919, Nov. 1, 1979, p. 112.

cooling needs. In fact, P.L. 96-223 allowed states to provide funds for cooling only when households could demonstrate medical necessity.

Under LIEAP, states chose one of four alternative formulas to measure home energy needs. Each formula contained different combinations of several factors: residential energy expenditures; heating degree days⁵ or heating degree days squared; and the number of low-income households in the state.⁶ Because total energy expenditures (rather than energy expenditures of low-income households only) and heating degree days (rather than cooling degree days) are higher in cold-weather states, all formulas effectively gave preference to the home energy needs of low-income households in cold-weather states. Congress authorized LIEAP for one year, FY1981, at \$3 billion.

Before the formula in P.L. 96-223 could be used to allocate funds, however, Congress introduced an alternative method for computing the state distribution rates. It did so when it appropriated \$1.85 billion in LIEAP funds for FY1981 in a continuing resolution (P.L. 96-369). In addition to appropriating funds, P.L. 96-369 amended the set of formulas for determining state allotments that was set out in the Crude Oil Windfall Profits Tax Act. The continuing resolution referred to a House report (H.Rept. 96-1244) where the specific formula components were laid out. H.Rept. 96-1244 contained an alternative set of formulas to those in P.L. 96-223, with two sets of calculations for estimating state allotments.⁷ The alternative formula calculations did little to erode the defacto cold-weather states preference, however.

The first step in the alternative set of formulas was to determine each state's share of funds using two calculations set out in H.Rept. 96-1244, and assign states the greater of the two amounts. Under the first alternative, half of the allocation was based on the increase in home heating expenditures between 1978 and 1980, and half was based on the number of heating degree days squared times the population with income less than or equal to 125% of poverty. Under the second alternative, one quarter of the allocation was based on total residential energy expenditures in 1980,

⁵ Heating degree days and cooling degree days measure how daily temperatures relate to requirements for heating and cooling. The concept is explained later in this paper, in the section "Components of the New Formula Rates."

⁶ The number of low-income households was based on the Bureau of Labor Statistics (BLS) lower living standard income level. The BLS determined this income level through its annual family budgets, which it maintained from 1947 to 1981. At the time the LIEAP program was enacted, the BLS developed annual family budgets assuming three different standards of living — lower, intermediate, and higher. The budget was calculated using costs of consumer goods including food, housing, transportation, clothing, and health care (unlike the federal poverty guidelines, which are based on the amount of money needed to buy food). The budget was then adjusted for family size and the prices of goods in various cities throughout the country. See David S. Johnson, John M. Rogers, and Lucilla Tan, "A Century of Family Budgets in the United States," *Monthly Labor Review*, 124, no. 5 (May 2001): 28-45.

⁷ Report of the House Committee on Appropriations, H.Rept. 96-1244, to accompany H.R. 7998, Aug. 21, 1980, pp. 75-76.

and three quarters was based on heating degree days squared multiplied by the number of low-income households in the state.

The greater of the two percentages calculated using the formula in H.Rept. 96-1244 was then assigned to each state. After adjusting state allotments proportionately so that the total allocation reached 100% of funds available, the second step in the amended formula was to compare these state allotments to 75% of the amount each state would receive under the formula in P.L. 96-223. Although the alternative formula under H.Rept. 96-1244 used factors similar to those in P.L. 96-223, the original set of formulas was slightly more favorable to warm-weather states because it put more weight on the size of a state's low-income population, and provided for a minimum benefit to states based on the number of recipient households, unconditioned on their household heating expenditures. In addition, the inclusion of the increase in home heating expenditures from 1978 to 1980 in H.Rept. 96-1244 benefitted northeastern states, where heating oil prices had increased substantially.

Enactment of LIHEAP

In August 1981, the Omnibus Budget Reconciliation Act, P.L. 97-35, created LIHEAP, replacing its predecessor, LIEAP. The new program was not substantially different from the previous program, although it contained less restrictive federal rules and gave states more flexibility in determining how to operate their LIHEAP programs. Regarding the formula, the new law provided that the allotment percentages for each state would remain the same as they had been in FY1981 under the LIEAP formula as amended by P.L. 96-369. The program was authorized at \$1.85 billion for FY1982-FY1984. In FY1982, Congress appropriated \$1.875 billion for LIHEAP; in FY1983, it appropriated \$1.975 billion; and in FY1984, \$2.075 billion.

Reauthorization: Formula Discussions

When Congress began to consider reauthorizing LIHEAP in 1983, two aspects of the formula were disputed. First, legislators recognized that the multi-step formula benefitted cold-weather states relative to warm-weather states because it took account of energy costs of all households, not just low-income households.⁸ On average, the proportion of poor families in warm-weather states is higher than that in cold-weather states. Therefore, a formula that considered the total home energy expenditures of only low-income households would allocate proportionately more funds to warm-weather states.

The second disputed aspect of the formula centered around the appropriateness and timeliness of the data used in formula calculations. In 1983, the energy information used to calculate state allotments was not the most current data

⁸ See, for example, Comments of Rep. Billy Tauzin, Joint Hearing before the Subcommittees on Energy and Commerce, Education and Labor, and Ways and Means, 98th Cong., 1st sess., Feb. 24, 1983, pp. 119-120.

available.⁹ For example, the most recent data the formula used was the change in the cost of energy between 1978 and 1980, or the cost of energy in 1980, depending on the sub-formula one chose to apply. No aspect of the formula took account of increased costs after 1980.¹⁰

Legislative sentiment in favor of changing the formula was evident, when, in September 1983, the House adopted an amendment to the Emergency Immigration Education Act (H.R. 3520) that would have adjusted the LIHEAP formula and resulted in a change in allocations to the states. The amendment's formula took into account the energy expenditures of poor families, which, according to the amendment's sponsor, Representative Carlos Moorhead (California), would result in lower percentage allocations for 23 states, mostly in the Northeast and Midwest, gains for 27, primarily in the South, and the same allocation for one state.¹¹ The amendment was eventually dropped from H.R. 3520 in conference with the Senate.

LIHEAP: Introduction of a Hold-Harmless Level

Efforts to reauthorize LIHEAP had begun in April 1983, when Representative Richard Ottinger (New York) introduced the Low-Income Home Energy Assistance Amendments of 1984 (H.R. 2439). The bill was referred to two committees: Education and Labor and Energy and Commerce. Within the Energy and Commerce committee, two subcommittees held mark-ups: Fossil and Synthetic Fuels and Energy Conservation and Power.

As introduced, H.R. 2439 did not contain changes to the LIHEAP formula. The Subcommittees on Fossil and Synthetic Fuels and Energy Conservation and Power worked together to arrive at a formula change, which had the effect of shifting funds from states in the Northeast to the South and West. Unlike the previous set of formulas developed under LIHEAP, the new formula directed the Department of Health and Human Services to determine states' allotments "using data relating to the most recent year for which data is available" [sic]. Because the cost of heating oil remained steady between 1981 and 1983, and the price of natural gas rose 33%, this meant that states in the Northeast — where heating oil was the primary source of energy — would lose LIHEAP dollars, while states in the South and the Midwest would gain under this provision.¹² In addition, population growth in the South (as well as its higher poverty rates) meant that southern states would benefit from the use of more recent population data.

⁹ Report of the Committee on Energy and Commerce (H.Rept. 98-139, Part 2), to accompany H.R. 2439, May 15, 1984, p. 13.

¹⁰ *Ibid.*, p. 4.

¹¹ *Congressional Record*, Sept. 13, 1983, p. 23877. The greatest increases in percentage allocations were for Florida at 51%, Texas at 44%, and Alabama at 37%. The states whose percentage allocations decreased the most were Vermont at 32%, North Dakota at 24%, and New Hampshire at 23%.

¹² "The Low-Income Home Energy Assistance Program: An Analysis of the 1984 Reauthorization Issues," Coalition of Northeastern Governors, Apr. 1984, p. 9.

To offset the losses to certain states resulting from the use of current data, H.R. 2439 also included a hold-harmless provision, or hold-harmless level; this provision ensured that if appropriations were less than or equal to \$1.875 billion, states would receive no less than the amount they would have received had the same amount been appropriated in FY1984. If the annual appropriation exceeded \$1.875 billion, states would not receive less than their allotment would have been under the old formula at this appropriations level. The bill additionally increased the LIHEAP authorization level to \$2.075 billion for FY1984, \$2.26 billion for FY1985, \$2.625 billion for FY1987, and \$2.8 billion for FY1988.

LIHEAP: Introduction of a Hold-Harmless Rate

After the House Energy and Commerce Committee reported H.R. 2439 to the House floor — but before the full House could act on the bill — the Senate passed its version of LIHEAP reauthorization as part of the Human Services Reauthorization Act, S. 2565, on October 4, 1984.¹³ The Senate bill contained language very similar to H.R. 2439, but made several changes and additions to the formula.

- S. 2565 specified that states' shares of LIHEAP funds would be based on the home energy expenditures of low income households, not on expenditures of all households.
- The hold-harmless level was altered. S. 2565 directed that no state in FY1985 would receive fewer funds than it received in FY1984, and for FY1986 and thereafter, no state would receive less than the amount they would have received in FY1984 if the appropriations level had been \$1.975 billion.
- A second hold-harmless provision, or hold-harmless rate, was created. The provision maintained the percentage allocated rather than a total funding level allocated to each affected state.

The hold-harmless rate provision guaranteed that certain states would receive increased allotments when appropriations reached \$2.25 billion. States would qualify for this increase if their total allotment percentage at an appropriation of \$2.25 billion was less than 1%. These states would instead receive the allotment rate they would have received at an appropriation of \$2.14 billion. In its debate about S. 2565, Senators referred to the hold-harmless rate as the “small States hold harmless,” as the intent was to protect the small (population) states' shares of LIHEAP funds.¹⁴ Otherwise, these states' percentage shares of LIHEAP funds might decline, even as total appropriations increased. No rate protection was guaranteed for more populous states beyond the aforementioned hold-harmless level.

The Senate bill also included different authorization amounts for LIHEAP, \$2.14 billion for FY1985 and \$2.275 billion for FY1986. After S. 2565 passed the Senate, the House debated and passed the bill on October 9, 1984, retaining all the provisions included in the Senate version. The bill became P.L. 98-558 on October

¹³ The final version of S. 2565 can be found in the *Congressional Record*, Oct. 4, 1984, p. S13393.

¹⁴ *Congressional Record*, Oct. 4, 1984, pp. S13415-S13416.

30, 1984. Until FY2006, appropriations for regular LIHEAP funds had only exceeded an equivalent FY1984 appropriation of \$1.975 billion in 1985 and 1986; therefore, from FY1987 through FY2005 states continued to receive the same percentage of LIHEAP funds that they received under the program's predecessor, LIEAP. In FY2006, funds were distributed according to Tier III of the LIHEAP formula.

Current Law Distribution: How Allotments of Regular LIHEAP Funding Are Determined

Current law as enacted in P.L. 98-558 provides for three different methods to calculate each state's allotment of regular LIHEAP funds.¹⁵ The set of factors used to determine the percentage of total funds that each state receives is sometimes called the "new" formula. The calculation method (which uses the new formula rates) for state allotments depends upon the size of the appropriation for that fiscal year. It is important to understand that although the new formula rates are always applied to all appropriations, when appropriations are below a hypothetical FY1984 appropriation of \$1.975 billion, the result of the current law's hold-harmless provisions is that states receive the same allotment percentages that they did under the old formula.¹⁶ (Table 2 in the Appendix lists both the "old" and "new" allotment percentages.) There are several important implications of current law:

- For funding levels at or below the hypothetical FY1984 allotment, states are guaranteed that their allotment rate is equivalent to what it was under the old formula.
- For funding levels above the hypothetical FY1984 allotment, the new formula will not allocate any state fewer funds than the state would have received at the hypothetical FY1984 funding level of \$1.975 billion. However, some states may not receive any funds above that level, despite substantial increases in appropriation levels.
- Due to the hold-harmless provisions, the proportion of total regular funds each state receives at funding levels above \$1.975 billion may differ substantially from the proportion they would have received at \$1.975 billion.
- For funding levels above \$2.25 billion, certain states are subject to a hold-harmless rate. If a state would receive less than 1% of the total regular fund allotment at a *hypothetical* appropriation of \$2.25 billion, *and* the state's allotment proportion at a \$2.14 billion appropriation is greater than it would be at \$2.25 billion, then that state will receive the \$2.14 billion allotment proportion for all appropriation levels at or above \$2.25 billion.

¹⁵ See CRS Report RS21605, *Low-Income Home Energy Assistance Program (LIHEAP): Formula and Estimated Allotments*, by Julie M. Whittaker and Libby Perl for the full discussion.

¹⁶ See U.S. Department of Health and Human Services, *Low Income Home Energy Assistance Program: Report to Congress for FY1987*, p. 133.

- The *actual* proportion of total regular funds each state receives at funding levels above \$1.975 billion may differ substantially from the calculated new formula rate prior to application of the hold-harmless provisions. This is due to the hold-harmless provisions and ratable reductions. Ratable reductions must be applied to some states' allotments to ensure that other states do not fall below the hold-harmless level or hold-harmless rate.

Tier I: Below \$1.975 Billion

Current law requires that for fiscal years in which the regular LIHEAP fund appropriation is \$1.975 billion or less, as was the case in each fiscal year from FY1987 through FY2005, states receive the same percentage of funds that they received in FY1984 (Section 2604(a)(2)(A)).¹⁷ The LIHEAP formula in FY1984 distributed funds by giving states the same share of funds that they received in FY1981 under the predecessor program, the Low-Income Energy Assistance Program (LIEAP). In **Table 1**, column (a) reports the amount of funds that each state would have received in FY1984 had the regular appropriation been \$1.975 billion.

Tier II: From \$1.975 Billion up to \$2.25 Billion

If the regular LIHEAP appropriation exceeds \$1.975 billion for the fiscal year, *all* funds are to be distributed under a different methodology, including a new set of rates that are subject to a hold-harmless *level* (Section 2604(a)(2)(A)(ii)). Under Tier II calculations, a state's allotment in the statute is required to reflect "the percentage which expenditures for home energy by low-income households in that state bears to such expenditures in all states..." (See "Components of the New Formula" below.) However, the statute provides that no state can be allocated *less* LIHEAP funds than the state would have received under the Tier I formula if the appropriation level in 1984 were equal to \$1.975 billion.¹⁸ This provision is known as the hold-harmless level. (As mentioned in footnote 18, this currently corresponds to \$2.0028 billion in appropriations for regular LIHEAP funds.)

Implementing the hold-harmless level greatly changes the proportion of the total allocation that most states receive with application of the new formula. This is because the statute provides that the hold-harmless level must be achieved by reducing the allocation of funds to those states with the greatest proportional gains. Column (b) in **Table 1** reports the estimated allotment of funds that each state receives when the regular appropriation is at \$2.14 billion, whereas Column (c) reports the estimated allotment of funds when the regular appropriation is just under \$2.25 billion (\$2,249,999,999). The allocations in (b) and (c) are calculated using the Tier II methodology previously described. (**Table 2** in the Appendix lists whether or not a state is subject to the hold-harmless level.)

¹⁷ All section citations refer to the Low-Income Home Energy Assistance Act (Title XXVI of P.L. 97-35), as amended.

¹⁸ In fact, the appropriation in 1984 was not \$1.975 billion but the law refers to this hypothetical amount in its hold-harmless provision. The actual FY1984 appropriation was \$2.075 billion.

Tier III: At or Above \$2.25 Billion

The law stipulates additional requirements in the methods for distributing funds when the appropriation is at or above \$2.25 billion (Section 2604(a)(2)(B)). At this level all of the provisions specified in the Tier II allocation methodology are in place, including the change in the formula factors and the hold-harmless level. In addition, a new hold-harmless *rate* is applied. That is, for all appropriation levels at or above \$2.25 billion, states that would have received less than 1% of a total \$2.25 billion appropriation must be allocated the percentage they would have received at a \$2.14 billion appropriation level. (This assumes the new percentage is greater than the percentage originally calculated at the hypothetical \$2.25 billion appropriation). This hold-harmless *rate* ensures a state specific *share* of the total available funds. The allocations to the states with the greatest *proportional* funding share increases are then ratably reduced again, using the methodology described in the Tier II discussion, until there is no funding shortfall.

The application of the hold-harmless *rate* creates another layer of discontinuity in the allocation rates. Column (d) in **Table 1** reports the estimated allotment of funds that each state receives when the regular appropriation is at \$2.25 billion *after the hold-harmless rate* is applied. Column (e) reports the actual allotment of funds that each state received for FY2006 where the regular appropriation was \$2.48 billion. This column reflects the recision required by P.L. 109-148. (Both Training and Technical Assistance and the Leveraging/REACH funds were reduced by 1%.) Column (f) reports the estimated allotment of funds that each state receives when the regular appropriation is at \$3.0 billion. This column reflects the recision. Column (g) reports the estimated allotment of funds that each state receives when the regular appropriation is at \$4.0 billion. Column (h) reports estimated allotment of funds that each state receives when the regular appropriation is at \$5.1 billion (the amount authorized by P.L. 109-58).

**Table 1. Low-Income Home Energy Assistance Program (LIHEAP),
Estimated State Allotments for Regular Block Grants**
(\$ in millions)

| State | Tier I | Tier II | | Tier III | | | | |
|----------------------|---|-----------------------|-------------------------------------|-----------------------|------------------------------------|----------------------|----------------------|----------------------|
| | Hypothetical \$1.975 billion in FY1984 (a) | \$2.14 billion (b) | Just under \$2.25 billion (c) | \$2.25 billion (d) | \$2.48 billion ^a (e) | \$3.0 billion (f) | \$4.0 billion (g) | \$5.1 billion (h) |
| Alabama | \$16.963 | \$21.045 | \$24.328 | \$24.054 | \$31.319 | \$47.024 | \$67.511 | \$87.205 |
| Alaska | \$10.828 | \$10.828 | \$10.828 | \$11.392 | \$12.574 | \$15.236 | \$20.363 | \$26.002 |
| Arizona | \$8.203 | \$10.178 | \$11.765 | \$11.633 | \$15.146 | \$22.741 | \$32.649 | \$42.233 |
| Arkansas | \$12.943 | \$16.058 | \$18.564 | \$18.354 | \$22.767 | \$27.589 | \$36.872 | \$47.082 |
| California | \$91.001 | \$112.901 | \$130.513 | \$129.040 | \$153.201 | \$185.646 | \$248.107 | \$316.814 |
| Colorado | \$31.729 | \$31.729 | \$31.729 | \$31.729 | \$31.729 | \$34.080 | \$45.546 | \$58.158 |
| Connecticut | \$41.392 | \$41.392 | \$43.320 | \$43.320 | \$47.814 | \$57.941 | \$77.435 | \$98.878 |
| Delaware | \$5.494 | \$6.816 | \$7.879 | \$7.791 | \$10.144 | \$12.816 | \$17.128 | \$21.871 |
| District of Columbia | \$6.428 | \$6.762 | \$7.115 | \$7.115 | \$7.853 | \$9.516 | \$12.717 | \$16.239 |
| Florida | \$26.840 | \$33.300 | \$38.494 | \$38.060 | \$49.557 | \$74.406 | \$106.823 | \$138.181 |
| Georgia | \$21.221 | \$26.329 | \$30.436 | \$30.092 | \$39.182 | \$58.830 | \$84.460 | \$109.253 |
| Hawaii | \$2.137 | \$2.200 | \$2.315 | \$2.315 | \$2.555 | \$3.096 | \$4.138 | \$5.284 |
| Idaho | \$12.376 | \$12.376 | \$12.376 | \$13.021 | \$14.372 | \$17.416 | \$23.275 | \$29.721 |
| Illinois | \$114.565 | \$125.707 | \$132.254 | \$132.254 | \$145.975 | \$176.890 | \$236.404 | \$301.871 |
| Indiana | \$51.872 | \$51.872 | \$51.872 | \$51.872 | \$53.992 | \$65.427 | \$87.440 | \$111.654 |
| Iowa | \$36.762 | \$36.762 | \$36.762 | \$36.762 | \$36.762 | \$36.762 | \$47.595 | \$60.776 |
| Kansas | \$16.883 | \$20.946 | \$24.213 | \$23.940 | \$26.801 | \$32.477 | \$43.405 | \$55.424 |
| Kentucky | \$26.994 | \$33.490 | \$38.715 | \$38.278 | \$44.352 | \$53.745 | \$71.828 | \$91.718 |

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| State | Tier I | Tier II | | Tier III | | | | |
|----------------|---|-----------------------|-------------------------------------|-----------------------|------------------------------------|----------------------|----------------------|----------------------|
| | Hypothetical \$1.975 billion in FY1984 (a) | \$2.14 billion (b) | Just under \$2.25 billion (c) | \$2.25 billion (d) | \$2.48 billion ^a (e) | \$3.0 billion (f) | \$4.0 billion (g) | \$5.1 billion (h) |
| Louisiana | \$17.342 | \$21.515 | \$24.872 | \$24.591 | \$32.019 | \$48.075 | \$66.623 | \$85.072 |
| Maine | \$26.815 | \$26.815 | \$26.815 | \$26.815 | \$26.815 | \$27.561 | \$36.834 | \$47.034 |
| Maryland | \$31.693 | \$39.321 | \$45.454 | \$44.941 | \$58.517 | \$80.121 | \$107.078 | \$136.730 |
| Massachusetts | \$82.797 | \$82.797 | \$82.797 | \$82.797 | \$82.797 | \$92.520 | \$123.648 | \$157.890 |
| Michigan | \$108.770 | \$108.770 | \$108.770 | \$108.770 | \$108.770 | \$116.941 | \$156.286 | \$199.566 |
| Minnesota | \$78.363 | \$78.363 | \$78.363 | \$78.363 | \$78.363 | \$78.363 | \$78.363 | \$90.280 |
| Mississippi | \$14.543 | \$18.043 | \$20.858 | \$20.622 | \$26.851 | \$40.316 | \$57.881 | \$74.871 |
| Missouri | \$45.762 | \$51.280 | \$53.950 | \$53.950 | \$59.548 | \$72.159 | \$96.436 | \$123.142 |
| Montana | \$14.517 | \$14.517 | \$14.517 | \$15.273 | \$16.857 | \$20.428 | \$27.300 | \$34.861 |
| Nebraska | \$18.180 | \$18.180 | \$18.180 | \$19.127 | \$21.112 | \$25.583 | \$34.190 | \$43.658 |
| Nevada | \$3.853 | \$4.780 | \$5.526 | \$5.463 | \$7.114 | \$10.681 | \$15.334 | \$19.836 |
| New Hampshire | \$15.672 | \$15.672 | \$15.672 | \$16.488 | \$18.199 | \$22.053 | \$29.472 | \$37.634 |
| New Jersey | \$76.865 | \$76.865 | \$76.865 | \$76.865 | \$77.549 | \$93.972 | \$125.589 | \$160.368 |
| New Mexico | \$10.270 | \$10.270 | \$10.793 | \$10.805 | \$11.926 | \$14.452 | \$19.314 | \$24.663 |
| New York | \$250.974 | \$250.974 | \$250.974 | \$250.974 | \$250.974 | \$276.436 | \$369.444 | \$471.752 |
| North Carolina | \$37.403 | \$46.404 | \$53.643 | \$53.038 | \$69.058 | \$96.371 | \$128.795 | \$164.462 |
| North Dakota | \$15.770 | \$15.770 | \$15.770 | \$16.591 | \$18.312 | \$22.190 | \$29.656 | \$37.869 |
| Ohio | \$101.350 | \$105.295 | \$110.779 | \$110.779 | \$122.272 | \$148.167 | \$198.018 | \$252.854 |
| Oklahoma | \$15.592 | \$19.345 | \$22.363 | \$22.110 | \$28.789 | \$37.856 | \$50.593 | \$64.604 |
| Oregon | \$24.591 | \$24.591 | \$24.591 | \$24.591 | \$24.591 | \$24.906 | \$33.286 | \$42.504 |
| Pennsylvania | \$134.810 | \$134.810 | \$134.810 | \$134.810 | \$134.810 | \$159.688 | \$213.415 | \$272.515 |
| Rhode Island | \$13.629 | \$13.629 | \$13.629 | \$14.339 | \$15.826 | \$19.178 | \$25.631 | \$32.728 |

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| State | Tier I | Tier II | | Tier III | | | | |
|----------------|--|--------------------|-------------------------------|--------------------|---------------------------------|-------------------|-------------------|-------------------|
| | Hypothetical \$1.975 billion in FY1984 (a) | \$2.14 billion (b) | Just under \$2.25 billion (c) | \$2.25 billion (d) | \$2.48 billion ^a (e) | \$3.0 billion (f) | \$4.0 billion (g) | \$5.1 billion (h) |
| South Carolina | \$13.472 | \$16.714 | \$19.322 | \$19.103 | \$24.874 | \$37.347 | \$53.618 | \$69.357 |
| South Dakota | \$12.808 | \$12.808 | \$12.808 | \$13.475 | \$14.873 | \$18.023 | \$24.086 | \$30.756 |
| Tennessee | \$27.344 | \$33.925 | \$39.217 | \$38.775 | \$46.368 | \$56.188 | \$75.093 | \$95.888 |
| Texas | \$44.653 | \$55.400 | \$64.042 | \$63.319 | \$82.446 | \$123.787 | \$177.718 | \$229.887 |
| Utah | \$14.745 | \$14.745 | \$14.745 | \$15.513 | \$17.122 | \$20.748 | \$27.729 | \$35.407 |
| Vermont | \$11.747 | \$11.747 | \$11.747 | \$12.358 | \$13.641 | \$16.529 | \$22.091 | \$28.208 |
| Virginia | \$38.606 | \$47.897 | \$55.368 | \$54.744 | \$71.280 | \$87.737 | \$117.256 | \$149.727 |
| Washington | \$40.450 | \$40.450 | \$40.450 | \$40.450 | \$40.450 | \$40.450 | \$50.121 | \$64.001 |
| West Virginia | \$17.864 | \$20.514 | \$21.582 | \$21.582 | \$23.821 | \$28.866 | \$38.578 | \$49.261 |
| Wisconsin | \$70.538 | \$70.538 | \$70.538 | \$70.538 | \$70.538 | \$70.538 | \$82.545 | \$105.404 |
| Wyoming | \$5.903 | \$5.903 | \$5.903 | \$6.211 | \$6.855 | \$8.307 | \$11.102 | \$14.176 |
| Total | \$1,972.33 | \$2,109.339 | \$2,219.19 | \$2,219.19 | \$2,449.434 | \$2,968.18 | \$3,966.821 | \$5,065.33 |

Source: Congressional Research Service (CRS) calculations based on factors provided by the Department of Health and Human Services (HHS) in December 2005.

Notes: These estimates take into account current law, which allows HHS to set aside funds out of regular LIHEAP funds for technical assistance and training, territories, leverage incentive grants and Residential Energy Assistance Challenge (REACH) grants. As a result, an appropriation of \$1.98 billion is estimated to result in \$1.950 billion in regular LIHEAP funds going directly to the states. Because \$1.950 billion is less than the hypothetical \$1.972 billion that would have gone to the states under the hypothetical FY1984 appropriation, CRS estimates that these funds would be distributed under the Tier I formula.

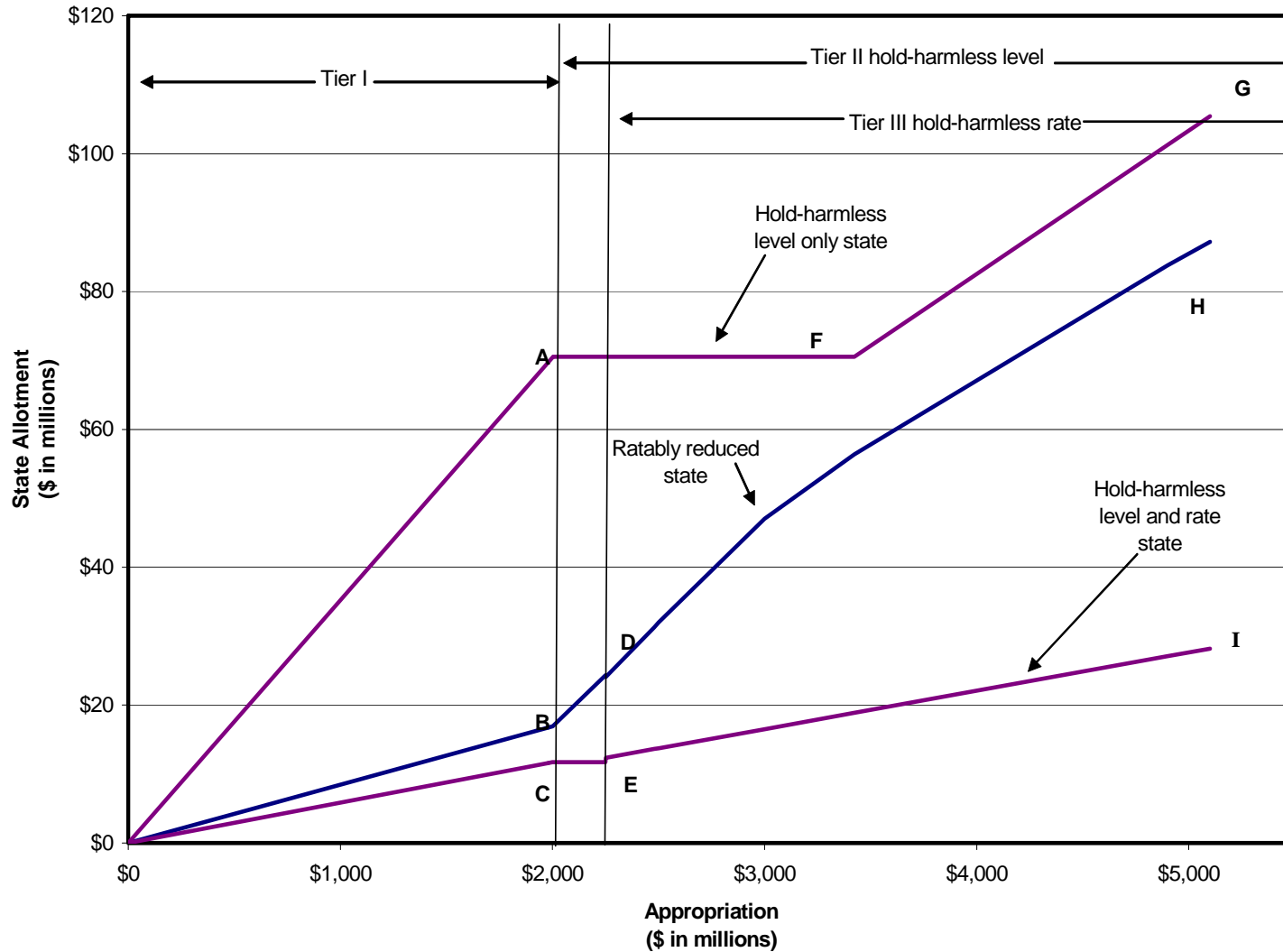
a. The \$2.48 billion appropriation (column e) reflects the amount of regular LIHEAP funding in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 2006 (P.L. 109-149) and the additional \$500 million in regular funds in P.L. 109-204. The \$2.48 billion represents the 1% cut in the \$2.0 billion required by P.L. 109-148. As a result, both Training and Technical Assistance and the Leveraging/REACH funds were reduced by 1% in column (e). *All other estimated allotments do not reflect this 1% cut.*

Further Depiction of How State Allotments Depend Upon Appropriation Levels

Figure 1 graphically illustrates state allotments for three “typical” types of states over a range of appropriations from \$0 to \$5.1 billion. In the figure, there are three vertical areas. These areas separate the three levels of appropriations (Tiers I-III) that are triggers under current law and were explained in the previous section. the figure also graphs the three basic types of states. Reading from top to bottom of **Figure 1**, these three types of states are

- **Hold-harmless level only** states. These states are subject to only the hold-harmless level provision. They do not qualify for the hold-harmless rate because each state’s share of the regular funds at \$2.25 billion is greater than 1%. An example of a typical hold-harmless level only state is represented by the line that runs from \$0 to point G. The hold-harmless level is evident from point A to point F. Here, despite increases in the appropriations level, the state allotment remains fixed. *In Table 2 (located in the Appendix), these are the states that have a “Y” in the “Subject to hold-harmless level?” column and a “N” in the “Subject to hold-harmless rate?” column.*
- **Ratable reduction** states. These states are subject to a ratable reduction. Their new formula rate is greater than their old, FY1984, rate. An example of these states is depicted by the line that runs from \$0 to point H. The ratable reduction is (somewhat) evident by the curvilinear appearance of line segments BD and DH. There is a small non-linear decrease at point D. This is attributable to the increased shortfall on the distribution of funds that the hold-harmless rate imposes. *In Table 2, these are the states that have a “N” in the “Subject to hold-harmless level?” column and a “N” in the “Subject to hold-harmless rate?” column.*
- **Hold-harmless level and rate** states. These states are subject to both the hold-harmless level and the hold harmless rate provisions. An example of a typical level and rate state is shown by the line that runs from \$0 to point I. The hold-harmless level is evident by the fixed state allotment from point C to point E. However, the (subtle) non-linear jump at exactly \$2.25 billion signals that this state is subject to the hold-harmless rate provision. After the allotment jump at \$2.25 billion, the state’s allotment continues to increase (at a rate lower than the old rate, but higher than the new rate). *In Table 2, these are the states that have a “Y” in the “Subject to hold-harmless level?” column and a “Y” in the “Subject to hold-harmless rate?” column.*

Figure 1. Estimated Low-Income Home Energy Assistance Program (LIHEAP) Allocations at Various Appropriation Levels for Three Types of States



Source: Figure created by Congressional Research Service (CRS) calculations using allotment rates provided by the Department of Health and Human Services in December 2005.

Components of the New Formula Rates (Used in Tiers II and III)

As mentioned previously, when Congress considered a new formula for distributing LIHEAP funds in 1983 and 1984, one of its concerns was the appropriateness and timeliness of the data used in formula calculations. At the time, the energy information used to calculate state allotments was not the most current data available.¹⁹ For example, the formula used the change in cost of energy between 1978 and 1980, but did not take account of increased costs after 1980. In fact, the formula factors were fixed rates, and the LIHEAP statute at that time had no provision for allowing newer information to be incorporated into the determination of state allotments.

Current law requires HHS to “determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available.” Developed by HHS, this formula accounts for variations in heating and cooling needs of the states, the types of energy used, energy prices, and the low-income population and their heating and cooling methods.

The new formula is a complex aggregation of four major groups of state-level data, which attempts to capture the expenditures of low-income households for the most current year possible.

- *Average Annual Heating and Cooling degree days by state.* A heating degree day measures the extent to which a day’s average temperature falls below 65°F and a cooling degree day measures the extent to which a day’s average temperature rises above 65°F. This information is collected by the National Oceanic and Atmospheric Administration. For example, a day with an average temperature of 40°F results in a measure of 15 heating degree days; a day with an average temperature of 80°F results in a measure of 15 cooling degree days. A state’s heating and cooling degree data are weighted by population in the state. Averages over 30 years also are measured and are taken into account by the formula. The data from 2002 are used to represent “current” climatic conditions that would cause an increase or decrease in energy needs.
- *Residential sector energy price projections by fuel type in nominal dollars.* These projected prices for fuels include fuel oil, natural gas, electricity, kerosene and liquefied petroleum gas. Regional energy price variation can be significant, and the formula takes expected expenditure differences into account. This information is collected by the Department of Energy’s Energy Information Administration (EIA) and published in the State Energy Price and Expenditure Report. The price data are from 2000 and are used to calculate “current” home energy expenditures.

¹⁹ Report of the Committee on Energy and Commerce (H.Rept. 98-139, Part 2), to accompany H.R. 2439, May 15, 1984, p. 13.

- *Residential energy consumption by fuel source*, for heating and for cooling by BTUs. There is substantial variation by state and region on the distribution of types of energy used for home consumption. Fuel oil, natural gas, electricity, and kerosene consumption data are collected in the State Energy Data Report from the EIA. Data for coal, wood, and liquefied petroleum gas are collected in the Combined State Energy Data System by the EIA. The consumption data are from 2003.
- *The number of heating and cooling units by fuel source and the number of low-income households by fuel source* are calculated from Census data by the Bureau of the Census, Department of Commerce. The ratio of low-income household energy consumers used to calculate “current” low-income home energy expenditures are from 1999. Low-income households are those whose income is the greater of 150% of poverty or 60% of state median income.

Although the underlying formula factors today are frequently revised as new information becomes available, many components that comprise the current law formula factors are as out-of-date as the factors used in the old formula were in 1983 when there was a push to incorporate newer (price) information.

Other CRS Reports on LIHEAP

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

CRS Report RS21605, *Low-Income Home Energy Assistance Program (LIHEAP): Formula and Estimated Allocations*, by Julie M. Whittaker and Libby Perl.

CRS Report RL31865, *The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding*, by Libby Perl.

A variety of congressional distribution memoranda on estimated state allotments at various appropriations exist. Please contact Julie Whittaker for further information.

Appendix

Table 2 presents a summary of significant LIHEAP rates and triggers for each state. Column (a) lists the “old” formula factor percentages that states receive when the appropriation level is below the hypothetical FY1984 appropriation. Column (b) lists the “new” formula factor percentages that were calculated in December 2005. As mentioned earlier in this report, current law requires that these “new” percentages be applied to state allotments, regardless of the appropriation level. However, because of the hold-harmless provisions, some (if not all) states do not actually end up with a state allotment that mirrors this percentage.

Column (c) demarcates whether a state, given current law, would be subject to the hold-harmless level provision (marked with a “Y”). These are states that have a “new” percentage rate that is lower than their “old” percentage rate. Column (d) lists the dollar value of the hold-harmless level for those states (dollars are reported in millions). Column (e) lists whether a state would be subject to the hold-harmless rate provision (labeled “Y”). These are states that would have received less than 1% of a total \$2.25 billion appropriation and are then allocated the percentage they would have received at a \$2.14 billion appropriation level. (This assumes the new percentage is greater than the percentage originally calculated at the actual, \$2.25 billion or greater, appropriation). Column (f) lists the rate that would be used for those “hold-harmless rate” states for appropriation levels at or above \$2.25 billion.

**Table 2. Low-Income Home Energy Program (LIHEAP):
“Old” and “New” Allotment Rates by State, FY2006**

| State | “Old” (a) | “New” (b) | Subject to hold- harmless level? (c) | Hold- harmless level (millions) (d) | Subject to hold- harmless rate? (e) | Hold- harmless rate (f) |
|----------------------|--------------|--------------|--|---|---|----------------------------------|
| Alabama | 0.86% | 1.72% | N | — | N | — |
| Alaska | 0.55% | 0.37% | Y | \$10.828 | Y | 0.51% |
| Arizona | 0.42% | 0.84% | N | — | N | — |
| Arkansas | 0.66% | 0.93% | N | — | N | — |
| California | 4.61% | 6.25% | N | — | N | — |
| Colorado | 1.61% | 1.15% | Y | \$31.729 | N | — |
| Connecticut | 2.10% | 1.95% | Y | \$41.392 | N | — |
| Delaware | 0.28% | 0.43% | N | — | N | — |
| District of Columbia | 0.33% | 0.32% | Y | \$6.428 | N | — |
| Florida | 1.36% | 3.58% | N | — | N | — |
| Georgia | 1.08% | 2.45% | N | — | N | — |
| Hawaii | 0.11% | 0.10% | Y | \$2.137 | N | — |
| Idaho | 0.63% | 0.33% | Y | \$12.376 | Y | 0.59% |
| Illinois | 5.81% | 5.96% | N | — | N | — |
| Indiana | 2.63% | 2.20% | Y | \$51.872 | N | — |
| Iowa | 1.86% | 1.20% | Y | \$36.762 | N | — |
| Kansas | 0.86% | 1.09% | N | — | N | — |
| Kentucky | 1.37% | 1.81% | N | — | N | — |
| Louisiana | 0.88% | 1.68% | N | — | N | — |
| Maine | 1.36% | 0.93% | Y | \$26.815 | N ^a | — |
| Maryland | 1.61% | 2.70% | N | — | N | — |
| Massachusetts | 4.20% | 3.12% | Y | \$82.797 | N | — |
| Michigan | 5.51% | 3.94% | Y | \$108.770 | N | — |
| Minnesota | 3.97% | 1.78% | Y | \$78.363 | N | — |
| Mississippi | 0.74% | 1.54% | N | — | N | — |
| Missouri | 2.32% | 2.43% | N | — | N | — |
| Montana | 0.74% | 0.39% | Y | \$14.517 | Y | 0.69% |
| Nebraska | 0.92% | 0.54% | Y | \$18.180 | Y | 0.86% |
| Nevada | 0.20% | 0.46% | N | — | N | — |
| New Hampshire | 0.79% | 0.54% | Y | \$15.672 | Y | 0.74% |
| New Jersey | 3.90% | 3.17% | Y | \$76.865 | N | — |
| New Mexico | 0.52% | 0.49% | Y | \$10.270 | Y | 0.49% |
| New York | 12.72% | 9.31% | Y | \$250.974 | N | — |
| North Carolina | 1.90% | 3.25% | N | — | N | — |
| North Dakota | 0.80% | 0.21% | Y | \$15.770 | Y | 0.75% |
| Ohio | 5.14% | 4.99% | Y | \$101.350 | N | — |
| Oklahoma | 0.79% | 1.28% | N | — | N | — |
| Oregon | 1.25% | 0.84% | Y | \$24.591 | N | — |
| Pennsylvania | 6.84% | 5.38% | Y | \$134.810 | N | — |
| Rhode Island | 0.69% | 0.61% | Y | \$13.629 | Y | 0.65% |
| South Carolina | 0.68% | 1.42% | N | — | N | — |
| South Dakota | 0.65% | 0.27% | Y | \$12.808 | Y | 0.61% |
| Tennessee | 1.39% | 1.89% | N | — | N | — |

| State | “Old” (a) | “New” (b) | Subject to hold- harmless level? (c) | Hold- harmless level (millions) (d) | Subject to hold- harmless rate? (e) | Hold- harmless rate (f) |
|---------------|--------------|--------------|--|---|---|----------------------------------|
| Texas | 2.26% | 5.75% | N | — | N | — |
| Utah | 0.75% | 0.55% | Y | \$14.745 | Y | 0.70% |
| Vermont | 0.60% | 0.36% | Y | \$11.747 | Y | 0.56% |
| Virginia | 1.96% | 2.96% | N | — | N | — |
| Washington | 2.05% | 1.26% | Y | \$40.450 | N | — |
| West Virginia | 0.91% | 0.97% | N | — | N | — |
| Wisconsin | 3.58% | 2.08% | Y | \$70.538 | N | — |
| Wyoming | 0.30% | 0.20% | Y | \$5.903 | Y | 0.28% |

Source: Congressional Research Service (CRS) calculations based on factors provided by the Department of Health and Human Services (HHS) in December 2005.

Note: The actual proportion of total regular funds each state receives at funding levels above \$1.975 billion may differ substantially from the calculated new formula rate due to the hold-harmless provisions and the ratable reductions to cover the budgetary shortfall from the hold-harmless provisions.

- a. Maine is not subject to the hold-harmless rate because at an appropriation of \$2.25 billion it receives over 1% of the total allocation to the states