



Eric L. Brakey
Senator, District 20

131st MAINE SENATE

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Testimony of Senator Eric Brakey
Before the Joint Standing Committee on Appropriations and Financial Affairs
Testifying on LD 3, An Act to Establish the Winter Energy Relief Payment Program to Aid
Residents with High Heating Costs and to Finalize the COVID Pandemic Relief Payment Program
December 21, 2022

Members of the committee, I am Senator Eric Brakey, representing the people of Auburn, New Gloucester, Poland, and Durham. I want to thank you all for holding this public hearing, during the week of Christmas, to exercise our important oversight and public input functions as the third branch of government.

I apologize that I cannot be there in person today, but I am grateful for the opportunity to share testimony over Zoom and will be listening in throughout the hearing. Today, I am testifying neither for, nor against LD 3, "An Act to Establish the Winter Energy Relief Payment Program to Aid Residents with High Heating Costs and to Finalize the COVID Pandemic Relief Payment Program." My goal in this testimony is to share a few questions that I hope you will get answers to during this hearing, and to propose a policy that would add value for Maine people to this overall legislative package.

I believe we all share a goal: delivering heating assistance to Maine people. It is also our job to explore the best means to deliver that assistance and any unintended consequences that could arise from the current proposal. After a review of this bill, I have many questions (which I have shared with my caucus leader, Senator Stewart, on this committee), but for today's hearing, I wanted to highlight just a few in my testimony

QUESTIONS ON EXISTING PROPOSALS WITHIN LD 3

In Part A of this legislation, \$71 million is to be appropriated for three programs related to heating and housing.

In speaking with Scott Thistle at the Maine Housing Authority, I understand that the proposed \$40 million appropriation for LIHEAP would expand the average benefit for a qualifying family from \$800 to \$1600. This makes sense to me, considering the price of kerosene has nearly doubled from last year. I have no objections to this proposal. I would appreciate knowing more, however, about the income thresholds to qualify for LIHEAP, the percentage of LIHEAP appropriations that make it to the beneficiary, and how much is spent on administration for this program.

There is also a \$10 million appropriation, so that "households that are not eligible for LIHEAP benefits" or those "that have already exhausted their energy assistance benefit and Maine State Housing Authority Energy Crisis Intervention Program amount... may be eligible for up to \$800 in emergency funds to avert an energy crisis." By my reading, this seems like very broad authorizations for distributing funds. I hope more clarity can be provided here. What constitutes an "energy crisis?" Are there any limits on who can qualify for these funds? Under what circumstances would someone who does not qualify for LIHEAP qualify for these funds? What criteria would the Maine State Housing Authority apply in making decisions over the distribution of these funds? If approved, can the Legislature get a report back on how these funds were utilized?

Also in Part A, there is an appropriation of \$21 million for "short-term emergency housing." My understanding is that part of this provision includes state funding for paying hotels to house people through April. Let me be clear, I don't want to see anyone kicked out of their housing situation during this Maine winter. At the same time, this is not a sustainable situation. I would like to ask: How did we get here? What is the plan to transition people out of this state of dependency on taxpayer funded hotel rooms? What is the geographic distribution of these funds? Does everyone receiving these benefits have a legal immigration status in this country?

I remember during my four years chairing the Legislature's Health and Human Services Committee, from 2015-18, the City of Portland was warned many times their policies were unsustainable. In particular, broadcasting the city as both a sanctuary for illegal immigration and as a welfare destination. In 2015, news broke that one third of immigrants receiving general assistance in Portland had no legal status in the country and were not in the process of pursuing one. In 2019, the former Portland Mayor, Ethan Strimling, when told that a city in Texas was buying bus tickets to send people without legal immigration statuses to Portland for the city's generous welfare benefits, responded to national media to "bring them on." This was roundly criticized by city administrative staff, who were struggling to deal with the realities of overstretched welfare budgets.

Years later, looking at this \$21 million appropriation, I wonder, "To what degree is the rest of Maine being asked to bailout Portland for the predictable consequences of billing itself as a sanctuary city with generous welfare benefits?" If we authorize this appropriation, what plan is there to transition people out of hotels by April? Or should we expect this to be proposed as a permanent program put forward in the next budget? I'd like to know if we are kicking the can down the road here, or is this a stopgap measure that will lead somewhere different?

Let's move onto Part B, which seeks to appropriate \$398 million for the purpose of distributing \$450 checks. Does this language for the "Winter Energy Relief Payment Program" establish a permanent program? If passed, would it only take a regular appropriation for this policy to continue as written annually? Is there any reason to not place a sunset on legislative authorization for this program? Considering the expedited nature of this bill, I would be more comfortable knowing we are only extending one-time authorization, not a permanent government program.

In Part C, we are asked to appropriate \$11.5 million to cover cost overruns to "support the higher than estimated number of eligible recipients" from the last round of checks. Questions: How many more

recipients were there than estimated? Are these generally individuals who filed income taxes in the state of Maine for the first time? Did non-citizens qualify for these payments, including those without legal statuses? What protections were in place to ensure against fraudulent claims?

Through parts C and D, the bill deals with the funding sources. Though I believe the distribution mechanism is worth questioning, I have no objection to the principle of sending surplus funds back to the Maine people. \$156.7 million, however, is proposed for de-appropriation from DHHS programs. I understand this de-appropriation is being supplanted by a one-time increase in FMAP funding. I respect this means funding levels for these HHS programs (including Maine nursing homes, brain injury services, and payments to providers) will remain steady from last year. When I left the HHS Committee four years ago, however, I remember there being unresolved funding shortfalls in services for our most vulnerable, including nursing homes and home-based care for our seniors, as well as waitlists for intellectually-disabled adults. While it is certainly possible these shortfalls have been fully funded in my absence, I have to ask: have these programs been fully funded? And if shortfalls remain, should we be moving funds out of these programs?

PROPOSAL FOR MAINE HEATING ACCOUNTS

Questions on the existing proposal aside, as we explore the best ways to provide heating relief for Maine people, I'd like to add for consideration a simple idea that would empower Maine taxpayers to use their own money for this purpose.

I am calling this proposal Maine Heating Accounts (MHAs). Please find included with my testimony draft language I had prepared as a potential floor amendment for LD 1, including a fiscal note.

Winter comes to Maine every year. Rather than reacting from crisis to crisis with only short-term relief, I believe we should also help Maine families prepare for future winters by empowering them to save their own money tax-free for energy needs.

Under this proposal, any person could open an MHA at a participating bank or credit union, which would allow for tax-free contributions and earnings over the course of the account's life. MHA funds could be used solely for residential heating, electricity and weatherization.

Contributions to a Maine Heating Account would operate similarly to current federal programs, like Health Savings Accounts (HSAs) and Flexible Savings Accounts (FSAs), both of which allow for pretax deductions from payroll taxes for contributions to the account. While federal legislation would be needed to allow MHAs to qualify for pretax payroll deductions, residents could contribute up to \$2,500 per year for individuals (and \$5,000 per year for those who are married and filing jointly). Any contributions are then excluded from Maine state income taxes as a deduction claimed on their tax return. Funds withdrawn for purposes outside of those authorized for MHAs would be treated as taxable income. Unspent MHA funds would roll over from year to year, similar to how HSAs operate.

Who could benefit from this proposal? Anyone who (1) pays income taxes in the state of Maine, and (2) pays out of pocket for home energy expenses. For example, an individual who earns \$30,000 a year is

subject to a state income tax rate of 5.8%. If that person spends \$1000 out of pocket on home energy throughout the year, they could deposit those funds into their MHA, pay with an MHA debit card, and save \$58 on their state taxes.

As elected officials seeking to help people afford life necessities, the policy temptation is often to suck money out of people's pockets and into a centralized bureaucracy, then redistributing it back to people. I believe it is worth asking: can we help people by not taking the dollar out of their pocket in the first place? This is an idea to help people take care of their own families with their own money. I hope you will consider it.

I am happy to answer any questions.

**An Act to Provide Funding for Winter Emergency Energy Relief and to Finalize
the COVID Pandemic Relief Payment Program**

L.D. 1

Date:

(Filing No. S-)

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST REGULAR SESSION**

SENATE AMENDMENT " " to S.P. 8, L.D. 1, "An Act to Provide Funding for Winter Emergency Energy Relief and to Finalize the COVID Pandemic Relief Payment Program."

Amend the bill by striking out the title and substituting the following:

'An Act to Provide Funding for Winter Emergency Energy Relief, Create the Home Energy Savings Account Program and Finalize the COVID Pandemic Relief Payment Program'

Amend the bill by inserting after Part F the following:

'PART G

Sec. G-1. 10 MRSA c. 110, sub-c. 15 is enacted to read:

SUBCHAPTER 15

HOME ENERGY SAVINGS ACCOUNT PROGRAM

§1100-HH. Home Energy Savings Account Program

1. Program established. There is established within the authority the Home Energy Savings Account Program, referred to in this subchapter as "the program," to provide for the deposit of tax-free funds to be used for home weatherization and heating or electricity costs.

2. Requirements. The authority shall develop and administer the program. The program must allow individuals to establish and deposit funds into home energy savings accounts, referred to in this subchapter as "the accounts," established in financial institutions in this State, including credit unions, authorized by the authority.

3. Deposit amounts; lapse. Deposits into the accounts are limited as follows:

A. An individual may deposit up to \$2,500 per year; and

B. A married couple may deposit up to \$5,000 per year.

Any balances in an account do not lapse but carry forward each year.

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L.D. 1

4. Authorized use of funds. An individual may use funds in that individual's account only for weatherization of that individual's residence or for payment of fuel or electricity costs incurred for heating that individual's residence. The residence must be located in this State.

5. Tax exemption only for funds used for authorized use. Funds deposited into an account are not subject to Maine income tax. Funds that are withdrawn from an account that are not used for the purposes specified in subsection 4 are subject to Maine income tax.

6. Rulemaking. The authority shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to implement this subchapter.

Sec. G-2. 36 MRSA §5122, sub-§2, ¶AAA is enacted to read:

AAA. For taxable years beginning on or after January 1, 2023, any amount up to \$2,500 for a single individual and \$5,000 for individuals filing married joint returns deposited annually in a home energy savings account established pursuant to Title 10, chapter 110, subchapter 15, to the extent included in federal adjusted gross income. The subtraction modification specified in this paragraph does not apply if funds in the account are withdrawn and used for a purpose other than those specified in Title 10, section 1100-HH, subsection 4.

Sec. G-3. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services, Bureau of 0002

Initiative: Provides one-time funding for computer programming costs to update individual income tax forms.

GENERAL FUND	2022-23	2023-24	2024-25
All Other	\$35,000	\$0	\$0
GENERAL FUND TOTAL	\$35,000	\$0	\$0

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment establishes the Home Energy Savings Account Program to allow individuals and married couples to open a home energy savings account into which annual deposits of up to \$2,500 for an individual and \$5,000 for a married couple may be made. The amount deposited is exempt from Maine income tax but may be used only for the weatherization of the account holder's residence or the payment of fuel or electricity costs incurred for heating the account holder's residence; funds withdrawn and used for any other purpose are subject to Maine income tax. The residence must be located in Maine. Balances in the accounts do not lapse but are carried forward each year. The Home Energy Savings Account Program is administered by the Finance Authority of Maine.

SPONSORED BY: _____

(Senator BRAKEY, E.)

COUNTY: Androscoggin



Approved: 12/16/22 *LMC*

131st MAINE LEGISLATURE

LD 1

LR 367(05)

An Act to Provide Funding for Winter Emergency Energy Relief and to Finalize the COVID Pandemic Relief Payment Program

Fiscal Note for Senate Amendment " " to Original Bill

Sponsor: Sen. Brakey of Androscoggin

Fiscal Note Required: Yes

Fiscal Note

	FY 2022-23	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)					
General Fund	\$35,000	\$42,750	\$293,550	\$350,550	\$407,550
Appropriations/Allocations					
General Fund	\$35,000	\$0	\$0	\$0	\$0
Revenue					
General Fund	\$0	(\$42,750)	(\$293,550)	(\$350,550)	(\$407,550)
Other Special Revenue Funds	\$0	(\$2,250)	(\$15,450)	(\$18,450)	(\$21,450)

Fiscal Detail and Notes

The amounts above reflect the incremental change from the original bill.

This amendment creates an income tax deduction of up to \$2,500 per individual, or \$5,000 per married couple, for individual contributions made into Home Energy Savings Accounts. It is estimated that this may result in revenue reductions of \$42,750 in fiscal year 2023-24 to the General Fund and \$2,250 to the Local Government Fund and reductions of \$293,550 in fiscal year 2024-25 to the General Fund and \$15,450 to the Local Government Fund. A General Fund appropriation to the Department of Administrative and Financial Services of \$35,000 is included in fiscal year 2022-23 for computer programming costs to update individual income tax forms.

The Finance Authority of Maine (FAME) anticipates that it will incur significant ongoing costs, including personnel, programming, marketing and rulemaking costs, necessary to establish and administer the Home Energy Savings Account Program beginning in fiscal year 2022-23. Additionally, given the amount of time required to conduct rulemaking, hire and train personnel, engage financial institutions, and implement an interface system with participating financial institutions, the ability of FAME to implement the requirements of this legislation in order for the program to be available during the 2022-2023 heating season is unlikely.

