

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1689

H. P. 1586

October 1, 1979

Governor's Bill. The Committee on Appropriations and Financial Affairs suggested and 3,000 ordered printed.

Presented by Mr. Martin of Eagle Lake, Speaker of the House, on behalf of the Governor.

Cosponsors: Mr. Garsoe of Cumberland, Mr. Morton of Farmington, and Mr. Pearson of Old Town.

EDWIN H. PERT, Clerk of the House

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Provide Funds for Emergency Home Heating Assistance for Elderly and Other Low-Income Households and for the Winterization, Housing Rehabilitation Technician and Citizens' Assistance Programs and to Correct an Error in the Energy Inventory Reporting Law.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after extremely cold winter weather has begun; and

Whereas, due to their extremely limited incomes and the dramatically increased cost of energy, many elderly, disabled and other low-income people are in imminent danger of being left without fuel or other energy sources for home heating during this coming winter; and

Whereas, federal energy assistance adequate to meet Maine's needs will not be available during the most critical winter months; and

Whereas, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Short title. This Act shall be cited as the Emergency Home Heating Act of 1979.

Sec. 2. Legislative purpose. This legislation recognizes that, although all Maine citizens are having to readjust their budgets to cope with dramatic increases in energy prices, many low-income Maine citizens, especially older persons on fixed incomes, are having to choose between fuel and food. For many poor families in Maine there is not enough income to meet the cost of basic necessities.

Accordingly, the immediate purpose of this legislation is to supplement federal programs aimed at lessening the impact of high energy costs on low-income households. The longer term purpose is to reduce the dependence of low-income households on increasingly scarce and expensive nonrenewable sources of energy through a strengthened program of home winterization and repair.

Sec. 3. Definitions. As used in this Act, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Aid to Families with Dependent Children related cases. "Aid to Families with Dependent Children related cases" means intact low-income families where deprivation of parental support does not exist and who have children under the age of 18 or under the age of 20 if the child is still attending school and not graduated from high school.

2. Community action agency. "Community action agency" means a Maine nonprofit corporation designated as a community action agency in accordance with the United States Economic Opportunity Act of 1964, Public Law 88-452, as amended.

3. Elderly household. "Elderly household" means a household in which the head of the household is 60 years of age or older.

4. Emergency assistance. "Emergency assistance" means the federal categorical program for assistance given to Aid to Families with Dependent Children recipients and Aid to Families with Dependent Children related cases with increased fuel or rental costs.

5. Household. "Household" means any individual or group of individuals who are living together as one economic unit for whom residential heating fuel or energy is purchased in common.

6. Income. "Income" means total cash receipts before taxes, as defined in 45 Code of Federal Regulations § 1060.2-2 (c) (1), as it existed on October 4, 1979.

7. **Low income.** "Low-income" means income at or below poverty guidelines.

8. **Poverty guidelines.** "Poverty guidelines" means the federal poverty guidelines set forth in the attachment to 45 Code of Federal Regulations § 1060.2-2, as it existed on October 4, 1979.

9. **Special circumstance allowance.** "Special circumstance allowance" means the federal categorical program for assistance given to Aid to Families with Dependent Children recipients with increased fuel or rental costs.

Sec. 4. Home Heating Crisis Assistance Program established.

1. **Establishment.** There is established a one-time special Home Heating Crisis Assistance Program for the months of December through February of the winter of 1979-80. This program shall be administered by the Executive Department, Division of Community Services, which shall coordinate its activities in administering this program with the Department of Human Services and other relevant state agencies.

2. **Binding grant agreements.** The Division of Community Services shall have authority to enter into binding grant agreements with municipalities and community action agencies to provide for the implementation of the Home Heating Crisis Assistance Program in accordance with applicable law and regulation.

3. **Entitlement to amount or form of assistance.** This one time program does not entitle any household to a certain amount or form of assistance.

Sec. 5. Rulemaking for the Home Heating Crisis Assistance Program.

1. **Promulgation of rules.** In administering this program, the Division of Community Services shall promulgate rules in accordance with the provisions of the Administrative Procedure Act, Maine Revised Statutes, Title 5, chapter 375 and so as to take effect no later than November 15, 1979, except that the 90-day period provided in the Maine Revised Statutes, Title 5, section 8054, subsection 3, shall not apply to rules promulgated under this section.

2. **Scope of rules.** These rules shall incorporate the following policies and eligibility requirements.

A. Households whose head of household is receiving Supplemental Security Income or a 1979 elderly homeowners tax and rent refund pursuant to the Maine Revised Statutes, Title 36, chapter 901 and households whose income is at or below 100% of poverty guidelines are eligible to receive assistance under this program, except that households which are receiving energy assistance under section 7 of this Act are not eligible for the Home Heating Crisis Assistance Program.

B. The sum of all assistance provided under this program to or on behalf of any eligible household shall not exceed \$250.

C. Assistance is to be provided as follows:

(1) For certified eligible households, assistance shall be in the form of vendor payment to the household's energy supplier or suppliers for home heating. This payment shall be promptly applied by the vendor to the household's account as a future credit. These credits shall not be applied against surcharges or outstanding balances;

(2) A certified eligible household may choose to receive part or all of its assistance under this program in the form of a vendor payment for \$250 or the actual cost, whichever is less, of a woodburning or coal burning unit to be purchased and installed for heating the household;

(3) A certified eligible household may choose to receive part or all of its assistance under this program in the form of a vendor payment for \$250 or the actual cost, whichever is less, of insulating materials to be purchased and installed to improve the heating efficiency of the home; and

(4) For certified eligible tenant households which do not directly purchase energy for home heating, assistance shall be provided in the form of vendor payments to the household's designated supplier of food. This payment shall not be applied against any outstanding balances. Tenants whose rent is limited to 25% of income through a federal subsidy program are not eligible for assistance under this subparagraph. The sum of all assistance provided to or on behalf of any eligible household under this subparagraph shall not exceed \$125.

D. No direct cash payment shall be made to any household under this program.

E. Priority shall be given to eligible elderly households.

F. Assistance received under this section shall not be considered as income for purposes of determining eligibility or benefits under any income maintenance program, including but not limited to general assistance, veteran's benefits, food stamps, supplemental security income or Aid to Families with Dependent Children unless prohibited by federal law; nor shall it be considered income for state tax purposes.

G. Applications for assistance under this program must be made on or before February 29, 1980.

3. **Additional rules.** These rules shall also include, but not be limited to:

A. Procedures and requirements for applying for assistance under this program;

B. Procedures for certification of eligible applicants;

C. Criteria for selection of local program operators which may be municipalities or community action agencies. These criteria shall include, but are not limited to:

(1) An adequate accounting system with appropriate fiscal controls to ensure no overpayments on behalf of eligible applicants or of the total funds received from the Division of Community Services;

(2) Ability to employ a reasonable number of personnel to take applications for at least 40 hours per week;

(3) Ability to provide outreach for this program which shall include employing a reasonable number of personnel to make in-home visits upon request from elderly and disabled households;

(4) Sufficient administrative staff so that a person or persons not involved in intake of applications can be assigned to verify that applications are correct and complete and to certify as to eligibility for assistance;

(5) In the case of a municipality, written notice to the Director of the Division of Community Services of a vote, after notice and hearing of the municipal officers, as defined in the Maine Revised Statutes, Title 30, section 1901, subsection 7, that the municipality requests designation as a local program operator for this program. The notice must be signed by a majority of the municipal officers and be received by the Director of the Division of Community Services on or before November 1, 1979; and

(6) In the case of a community action agency, written notice to the Director of the Division of Community Services of a board vote at a duly held board of directors' meeting that the agency requests designation as a local program operator for this program. The notice shall be signed by the president or chairman of the board or his agent and be received by the Director of the Division of Community Services on or before November 1, 1979;

D. Allocation formula for the initial disbursement of program funds to local program operators. The formula shall include percentages of low-income and elderly population in the local area to be served and shall be developed in conjunction with the State Planning Office;

E. Reporting requirements of local program operators, which at a minimum shall include a breakdown every 2 weeks of all expenditures, accounts payable and number of households certified;

F. Conditions for participation in the program by vendors, which shall include at least:

(1) Reconnection of utilities or delivery of fuel is to be made upon vendor's receipt of notice of certification for payment;

(2) For any remaining balances, the customer is to be offered a reasonable deferred payment arrangement or a level payment plan;

(3) A reconnection charge is to be paid by the customer only where such a charge was company practice prior to September 1, 1979;

(4) No security deposit is required to be paid except where the deposit was required by state law or explicit regulation prior to September 1, 1979 and, where so required, is included in a deferred payment arrangement; and

(5) Provision of continued energy service through April 30, 1980 to any customer receiving assistance under this Act;

G. Requirements for review of denials of assistance, which shall include at least:

(1) Provisions for notifying the applicant in writing of the reasons for denial of assistance, that he may request a review of the denial and may submit additional information, in writing or orally, or both, by which the applicant believes would warrant a favorable determination;

(2) Provisions for timely review of a denial by a person other than the one making the initial determination;

(3) Provisions for notifying the applicant in writing of the local program operator's final decision and that he may request a review of the denial by the Director of the Division of Community Services or his designee who shall have authority to override the decision of the local program operator; and

(4) The methods which the local program operator will employ to publicize the existence of the appeal process;

H. Requirements governing use of administrative funds, which shall not exceed 5% of the total funds allocated to a local program operator;

I. Provisions for distributing information to all applicants for assistance under this program on available home winterization and repair services and services offered by the State Office of Energy Resources, including the home energy audit service; and

J. Other matters relevant to the funding and operation of this program.

Sec. 6. Monitoring and accountability of Home Heating Crisis Assistance Program funds. The Division of Community Services shall assign adequate staff and establish appropriate internal procedures to assure adequate program monitoring, fiscal control and accountability of program funds.

Sec. 7. Emergency assistance for certain households receiving Aid to Families with Dependent Children and for intact families with children under 18.

1. Administration. The Department of Human Services shall administer a Special Circumstance Allowance or an Emergency Assistance Program, or both, as the commissioner deems appropriate for the months of December through February of the winter of 1979-80, subject to availability of federal matching funds. The department shall coordinate its activities in administering this program with the Executive Department, Division of Community Services and other relevant state agencies. The department is authorized, but not required, to

delegate the operation of all or part of its assistance program under this section to the Division of Community Services unless such delegation is prohibited by applicable federal law.

2. Rulemaking. The department shall promulgate rules to cover all aspects of administration of this program. These rules shall be issued so as to take effect on or before November 15, 1979 and in accordance with the Administrative Procedure Act, Maine Revised Statutes, Title 5, chapter 375, except that the 90-day period provided in the Maine Revised Statutes, Title 5, section 8054, subsection 3, shall not apply to the issuance of these rules.

3. Scope of rules. These rules shall be in accordance with existing department rules and applicable federal law and shall incorporate the policies and requirements included in section 5, subsection 2, paragraphs B, C, D, E, F and G and section 5, subsection 3 of this Act unless prohibited by applicable federal law.

4. Eligibility for assistance provided under this section. Rules promulgated under this section shall incorporate the following eligibility requirements unless prohibited by applicable federal law.

A. Households which are receiving Aid to Families with Dependent Children and whose income is at or below 100% of poverty guidelines are eligible to receive assistance under this section unless no adult is included in the household's grant of Aid to Families with Dependent Children.

B. Aid to Families with Dependent Children related cases with household income at or below 100% of poverty guidelines are eligible to receive assistance under this section.

5. Monitoring and accountability of funds appropriated to the Department of Human Services. The Department of Human Services shall assign adequate staff and establish appropriate internal procedures to assure adequate program monitoring, fiscal control and accountability of program funds.

Sec. 8. Federal expenditure limits raised. In order to implement the purposes of this Act and to provide for the expenditures necessary for the operation of State Government for the fiscal year 1979-80, the federal expenditure limits of the following accounts are increased by the following amounts:

POLICY AREA UMBRELLA PROGRAM APPROPRIATION	AMOUNT ADDED TO EXISTING FEDERAL EXPENDITURE LIMIT
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07 EXECUTIVE DEPARTMENT

1979-80

0052 Division of Community Services

3028.1	Community Services	
	Personal Services	\$ 100,000
	All Other	6,899,000
	Capital Expenditures	1,000
0052	Executive — Division of Community Services	
3028.2	Community Services — Energy	
	Personal Services	114,637
	All Other	3,496,363
03	HUMAN SERVICES	
0138	Social Welfare — Aid to Families with Dependent Children	
3319.1	Social Welfare — Aid to Families with Dependent Children	
	All Other	3,000,000

Sec. 9. 5 MRSA § 5010, sub-§ 4, as enacted by PL 1979, c. 372, § 2, is repealed and the following enacted in its place:

4. Penalty provisions. Any owner or lessee of a primary storage facility covered by this section who fails to provide the information required by this section or who knowingly or recklessly supplies false or misleading information shall be guilty of a violation of Title 17-A, section 453. Any owner or lessee of a primary storage facility who, in fact, supplies false or misleading information is subject to a civil penalty of \$2,500, payable to the State, to be recovered in a civil action.

Sec. 10. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act.

1979-80

EXECUTIVE DEPARTMENT

Division of Community Services

Home Heating Crisis Assistance

Personal Services	\$ 27,715
All Other	2,484,947
Capital Expenditures	1,750

Provides funds for the General Fund share of 10 project employees, who will operate both this program and the federal crisis program, needed office equipment and all other funds

for the Home Heating Crisis Assistance Program. Position count is omitted because of partial federal funding.

Home Winterization

Personal Services 10,681

All Other 1,038,398

Capital Expenditures 125

Provides funds for housing repair materials, partial funding of 3 existing staff positions, needed office equipment and all other funds for the Home Winterization Program. Position count is omitted because of partial federal funding.

Housing Rehabilitation Technician Program

Personal Services \$ 4,336

All Other 73,664

Provides state matching funds for continuation of Housing Rehabilitation Technician Program, including temporary partial funding of one existing staff position. Position count is omitted because of partial federal funding.

Citizens Assistance Service

All Other 2,628

Provides funds for telephone costs of expanded, toll-free Citizens Assistance Service.

TOTAL EXECUTIVE DEPARTMENT 3,644,244

HUMAN SERVICES, DEPARTMENT OF

All Other 2,603,125

Provides funds for Aid to Families with Dependent Children Fuel Assistance Program.

TOTAL GENERAL FUND APPROPRIATION \$6,247,369

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

There are at least 78,134 households in Maine which are presently living on total incomes at or below 125% of federal poverty guidelines (\$8,375 for a family of four and \$4,250 for an individual). Of these households, 55,700 are living on incomes at or below 100% of the poverty guidelines (\$6,700 for a family of four and \$3,400 for an individual). These households will be forced to spend between 11% and 48% of their total annual income for home heating costs in the winter of 1979-80. As a result of these energy costs, these households will not have sufficient funds for basic necessities such as food, clothing and medical needs.

The immediate purpose of this bill is to lessen the impact of high energy costs on these households. The bill appropriates funds to both the Division of Community Services and the Department of Human Services. The bill maximizes limited state resources by making use of all federal matching funds available for these types of programs for home heating and energy assistance programs.

The funds appropriated to Human Services will be used to match funds from the Federal Department of Health, Education and Welfare (on a 50/50 basis or 70/30 basis, if available) to provide energy assistance to recipients of AFDC and AFDC related cases. The Department of Human Services is authorized to delegate operation of its program to the Division of Community Services for the purpose of centralizing federal and state energy assistance program operations unless prohibited by federal regulations.

The appropriation to the Division of Community Services for the Home Heating Crisis Assistance Program will supplement anticipated funds from the Federal Community Services Administration's "Emergency Crisis Assistance Program."

Finally, the bill appropriates funds for the Home Winterization and the Housing Rehabilitation Technicians Programs. These appropriations will also allow full use of other available federal funds from the Departments of Energy and Housing and Urban Development. A significant problem with presently available federal winterization funds is that they are primarily restricted to the purchase of winterization materials and do not provide for labor costs in installing these materials. The appropriation under this bill will provide 100 slots for winterization labor through June 30, 1980.

The appropriation for the Housing Rehabilitation Technician Project will allow that project to continue for 4 months after which time federal funds will again be available for funding the project.