

Bill as Introduced

HB 1291-FN - AS INTRODUCED

2010 SESSION

10-2049

08/10

HOUSE BILL ***1291-FN***

AN ACT relative to the fuel oil importation fee.

SPONSORS: Rep. C. Christensen, Hills 19; Rep. Webb, Merr 2; Sen. Lasky, Dist 13

COMMITTEE: Ways and Means

ANALYSIS

This bill makes permanent an increase in import fees for the fuel oil discharge cleanup fund.

This bill is a request of the oil fund disbursement board and the department of environmental services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1291-FN - AS INTRODUCED

10-2049
08/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the fuel oil importation fee.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Fuel Oil Import Fees. Amend RSA 146-E:3,II to read as follows:

2 II. A fee of [~~\$.01~~] **\$0.0125** per gallon of fuel oil shall be assessed at the time of importation
3 into this state. [~~An additional fee of \$.0025 per gallon of fuel oil shall be assessed on imports after~~
4 ~~July 1, 2009. Assessment of this additional fee shall be discontinued on June 30, 2010.~~]

5 2 Effective Date. This act shall take effect July 1, 2010.

LBAO
10-2049
10/26/09

HB 1291-FN - FISCAL NOTE

AN ACT relative to the fuel oil importation fee.

FISCAL IMPACT:

The Department of Environmental Services states this bill will increase state restricted revenues and expenditures by \$683,075 in FY 2011 and each year thereafter. This bill may increase state, county and local expenditures by an indeterminable amount in FY 2011 and each year thereafter. This bill will have no fiscal impact on county and local revenues.

METHODOLOGY:

The Department of Environmental Services states this bill permanently increases fuel oil fees paid by licensed distributors from \$.01 per gallon to \$.0125 per gallon. The Department states the fee provides restricted revenues designated to the Fuel Oil Discharge Cleanup Fund. The Department expects fuel imports in FY 2011 and thereafter to at least equal FY 2008 imports (273,229,900 gallons). Under this assumption the Department estimates state restricted revenues will increase by \$683,075 (273,229,900 Gallons * \$.0025/Gallon) in FY 2011 and each year thereafter. The Department states expenditures for reimbursements will increase by an equal amount.

The Department states licensed distributors may pass all or a portion of the import fee increase to state, county and local governments. The Department has no information on how much fuel oil is purchased by state, county or local governments or the portion of the import fee that licensed distributors might pass to purchasers of fuel oil so the exact fiscal impact cannot be determined at this time.

HB 1291-FN – AS AMENDED BY THE HOUSE

17Mar2010... 0656h

2010 SESSION

10-2049
08/10

HOUSE BILL ***1291-FN***

AN ACT relative to the fuel oil importation fee.

SPONSORS: Rep. C. Christensen, Hills 19; Rep. Webb, Merr 2; Sen. Lasky, Dist 13

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill:

- I. Increases the import fees for the fuel oil discharge cleanup fund.
- II. Requires a report from the oil fund disbursement board on the administration of the fuel oil discharge cleanup fund.
- III. Repeals the increase in the import fees for the fuel oil discharge cleanup fund effective July 1, 2012.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1291-FN - AS AMENDED BY THE HOUSE

17Mar2010... 0656h

10-2049
08/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the fuel oil importation fee.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Fuel Oil Import Fees. Amend RSA 146-E:3,II to read as follows:

2 II. A fee of [~~\$.01~~] **\$0.0125** per gallon of fuel oil shall be assessed at the time of importation
3 into this state. [~~An additional fee of \$.0025 per gallon of fuel oil shall be assessed on imports after~~
4 ~~July 1, 2009. Assessment of this additional fee shall be discontinued on June 30, 2010.~~]

5 2 Fuel Oil Import Fees. Amend RSA 146-E:3, II to read as follows:

6 II. A fee of [~~\$0.0125~~] **\$.01** per gallon of fuel oil shall be assessed at the time of importation
7 into this state.

8 3 Report Required. The oil fund disbursement board shall make a report on or before
9 December 1, 2011 to the house ways and means committee reporting on the administration of the
10 fuel oil discharge clean-up fund, and detailing its adherence to fund guidance documents,
11 departmental rules, and chapter 146-E.

12 4 Effective Date.

13 I. Section 2 of this act shall take effect July 1, 2012.

14 II. The remainder of this act shall take effect July 1, 2010.

LBAO
10-2049
10/26/09

HB 1291-FN - FISCAL NOTE

AN ACT relative to the fuel oil importation fee.

FISCAL IMPACT:

The Department of Environmental Services states this bill will increase state restricted revenues and expenditures by \$683,075 in FY 2011 and each year thereafter. This bill may increase state, county and local expenditures by an indeterminable amount in FY 2011 and each year thereafter. This bill will have no fiscal impact on county and local revenues.

METHODOLOGY:

The Department of Environmental Services states this bill permanently increases fuel oil fees paid by licensed distributors from \$.01 per gallon to \$.0125 per gallon. The Department states the fee provides restricted revenues designated to the Fuel Oil Discharge Cleanup Fund. The Department expects fuel imports in FY 2011 and thereafter to at least equal FY 2008 imports (273,229,900 gallons). Under this assumption the Department estimates state restricted revenues will increase by \$683,075 (273,229,900 Gallons * \$.0025/Gallon) in FY 2011 and each year thereafter. The Department states expenditures for reimbursements will increase by an equal amount.

The Department states licensed distributors may pass all or a portion of the import fee increase to state, county and local governments. The Department has no information on how much fuel oil is purchased by state, county or local governments or the portion of the import fee that licensed distributors might pass to purchasers of fuel oil so the exact fiscal impact cannot be determined at this time.

HB 1291 FISCAL NOTE

AN ACT relative to the fuel oil importation fee.

FISCAL IMPACT:

The Department of Environmental Services states this bill, as amended by the House (Amendment #2010-0656h), will increase state restricted revenues and expenditures by \$683,075 in FY 2011 and by \$683,075 in FY 2012 and decrease state restricted revenue and expenditures by \$683,075 in FY 2013 and each year thereafter. This bill may increase state, county and local expenditures by an indeterminable amount in FY 2011 and FY 2012 and may decrease state, county, and local expenditures by an indeterminable amount in FY 2013 and each year thereafter. This bill will have no fiscal impact on county and local revenues.

METHODOLOGY:

The Department of Environmental Services states this bill maintains the increased fuel oil fees paid by licensed distributors from \$.01 per gallon to \$.0125 per gallon for FY 2011 and FY 2012 then reduces the fuel oil fees back to \$.01 per gallon in FY 2013 and each year thereafter. The Department states the fee provides restricted revenues designated to the Fuel Oil Discharge Cleanup Fund. The Department expects fuel imports in FY 2011 and thereafter to at least equal FY 2008 imports (273,229,900 gallons). Under this assumption the Department estimates state restricted revenues will increase by \$683,075 (273,229,900 Gallons * \$.0025/Gallon) in FY 2011 and FY 2012, then decrease by the same amount in FY 2013 and each year thereafter. The Department states expenditures for reimbursements will increase by an equal amount in FY 2011 and FY 2012 and decrease by an equal amount in FY 2013 and each year thereafter.

The Department states licensed distributors may pass all or a portion of the import fee increase to state, county and local governments. The Department has no information on how much fuel oil is purchased by state, county or local governments or the portion of the import fee that licensed distributors might pass to purchasers of fuel oil so the exact fiscal impact cannot be determined at this time. To the extent fuel oil is purchased and the increased fuel oil fee is passed onto purchasers, state, county and local governments may have an increase in expenditures in FY 2011 and FY 2012. State, county and local expenditures may decrease in FY 2013 and each year thereafter when the fuel oil fee is reduced back to \$.01 per gallon.

CHAPTER 130
HB 1291-FN - FINAL VERSION

17Mar2010... 0656h
05May2010... 1671eba

2010 SESSION

10-2049
08/10

HOUSE BILL ***1291-FN***

AN ACT relative to the fuel oil importation fee.

SPONSORS: Rep. C. Christensen, Hills 19; Rep. Webb, Merr 2; Sen. Lasky, Dist 13

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill:

I. Increases the import fees for the fuel oil discharge cleanup fund.

II. Requires a report from the oil fund disbursement board on the administration of the fuel oil discharge cleanup fund.

III. Repeals the increase in the import fees for the fuel oil discharge cleanup fund effective July 1, 2012.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 130
HB 1291-FN – FINAL VERSION

17Mar2010... 0656h
05May2010... 1671eba

10-2049
08/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the fuel oil importation fee.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 130:1 Fuel Oil Import Fees. Amend RSA 146-E:3, II to read as follows:

2 II. A fee of [~~\$.01~~] **\$0.0125** per gallon of fuel oil shall be assessed at the time of importation
3 into this state. [~~An additional fee of \$.0025 per gallon of fuel oil shall be assessed on imports after~~
4 ~~July 1, 2009. Assessment of this additional fee shall be discontinued on June 30, 2010.~~]

5 130:2 Fuel Oil Import Fees. Amend RSA 146-E:3, II to read as follows:

6 II. A fee of [~~\$0.0125~~] **\$.01** per gallon of fuel oil shall be assessed at the time of importation
7 into this state.

8 130:3 Report Required. The oil fund disbursement board shall make a report on or before
9 December 1, 2011 to the house ways and means committee reporting on the administration of the
10 fuel oil discharge cleanup fund, and detailing its adherence to fund guidance documents,
11 departmental rules, and RSA 146-E.

12 130:4 Effective Date.

13 I. Section 2 of this act shall take effect July 1, 2012.

14 II. The remainder of this act shall take effect July 1, 2010.

15

16 Approved: June 9, 2010

17 Effective Date: I. Section 2 shall take effect July 1, 2012.

18 II. Remainder shall take effect July 1, 2010.

Committee Minutes

**SENATE CALENDAR NOTICE
WAYS AND MEANS**

- ✓ Senator Bob Odell Chairman
- Senator Lou D'Allesandro V Chairman
- ✓ Senator Harold Janeway
- Senator Deborah Reynolds
- ✓ Senator Peggy Gilmour
- ✓ Senator Michael Downing
- ✓ Senator Jeb Bradley

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: March 22, 2010

HEARINGS

Tuesday

3/30/2010

WAYS AND MEANS

SH 100

10:15 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

- ✓ 10:15 AM HB1291-FN relative to the fuel oil importation fee.
- 10:30 AM HB1445-FN-A-L eliminating the meals and rooms tax on campsites.
- 10:45 AM HB1518-FN increasing certain OHRV registration fees and fee for transfer of registration of an OHRV or snowmobile.

Sponsors:

- ✓ **HB1291-FN**
Rep. Chris Christensen Rep. Leigh Webb Sen. Bette Lasky
- HB1445-FN-A-L**
Rep. Herbert Richardson Rep. David Boutin Rep. Gene Chandler Rep. Paul Ingersoll
- HB1518-FN**
Rep. Dennis Reed Rep. Robert Letourneau Sen. John Gallus
- Rep. David Palfrey

revised fiscal note

Ways & Means Committee

Hearing Report

TO: Members of the Senate

FROM: Gene Martin, *Legislative Aide*

RE: Hearing report on **HB 1291-FN – AN ACT relative to the fuel oil importation fee.**

HEARING DATE: March 30, 2010

MEMBERS OF THE COMMITTEE PRESENT: Senator Odell, Senator D'Allesandro, Senator Janeway, Senator Gilmour, Senator Downing, Senator Bradley

MEMBERS OF THE COMMITTEE ABSENT: Senator Reynolds

Sponsor(s): Rep. C. Christensen, Hills 19; Rep. Webb, Merr 2; Sen. Lasky, Dist 13

What the bill does: I. Increases the import fees for the fuel oil discharge cleanup fund. II. Requires a report from the oil fund disbursement board on the administration of the fuel oil discharge cleanup fund. III. Repeals the increase in the import fees for the fuel oil discharge cleanup fund effective July 1, 2012.

Who supports the bill: Rep. Christensen; Rep. Price; Sen. Lasky; Timothy Denison, NHDES; Michael Ciata, BIA; Mike Wimsatt, NHDES.

Who opposes the bill: No one signed in opposition

Taking no position: Susan Olsen (NHMA)

Summary of testimony received:

Rep. Christensen (prime sponsor) is the Chair of the Oil Fund Disbursement Fund and this bill was introduced by the joint support of the Fund and DES. This bill makes the HB296's increase permanent. The Fund has an operating cost of roughly \$3 million. Starting in 2007 they started to

realize their expenses were greater than the revenue; however, they are still obligated to do the work on behalf of the state. In 2008, legislation was introduced but not enacted. In 2009, HB 296 came forward and increases the fee for a year as a temporary measure to keep the fund alive and it also asked for an audit by LBA. The result is that the fund is effective and efficient but not well-funded.

Rep. Price testified of the bill and supports it as amended. She explained the performance audit that was conducted in 2009 & identified areas in which the bureau was not operating efficiently or in full compliance with RSA 146-E.

The audit identified the following areas of concern:

- 1) an absence of quality control over work scopes and project documentation resulting in a lack of readily available project documentation and inaccurate work scopes
- 2) a lack of project cost documentation that reduces the ability to track the total cost of a project
- 3) an absence of a requirement to make contractors submit documentation of actual time worked on a project
- 4) weaknesses in allocating program management and administrative costs, tracking outstanding fund liabilities, and to assure revenues collected were accurately recorded
- 5) funds were used to pay property restoration costs that are not authorized for payment by statute
- 6) the bureau was not in compliance with certain statutes, administrative rules, and policies
- 7) the bureau was not complying with rules requiring proof of lack of private insurance coverage and that the responsible party had upgraded their tank system to fire code prior to releasing payment to contractors conducting the clean ups
- 8) The deductible paid by responsible parties was low in comparison to other New England states with similar programs. The cumulative effects of these issues, as well as a decrease in the amount of home heating oil purchased within the state, have contributed to the fund declining below levels sufficient to comply with RSA 146-E

Rep. Price continued by stating the bureau has responded to some of the issues identified in the audit; however, the House felt that enacting a permanent increase in the environmental fee without first receiving a report of progress on all of the issues identified in the audit was premature. The bill was amended to allow a temporary two year increase in the fee to alleviate the immediate need for funding and the submission of a progress report to the House Ways and Means Committee no later than December 1, 2011, to

allow the committee an opportunity to evaluate the bureau's corrective actions and to evaluate the need to increase or decrease the fee in the future

Senator Odell: Does the most recent FN reflect the amendment?

Rep. Price: Yes, the FN would not change.

Mike Wimsatt & Tim Denison of NHDES testified in support of the bill, due to the declining revenues that the fund is seeing, they believe the increase will help. However, the fund will continue to have revenue problems. They have had to curtail operations on 56 sites in low to medium priority areas due to funding issues. This fund also does a lot of preventive work; such as, the Safe Tank program.

Senator Janeway: Can you tease out which is causing the reduction in revenue, warmer days or people switching over to alternative fuel sources?

Mr. Wimsatt: Not able to say with certainty, but both.

Fiscal Impact: See fiscal note.

Future Action: The Committee took the bill under advisement.

2413

Date: March 30, 2010
Time: 10:15 a.m.
Room: State House Room 100

The Senate Committee on Ways and Means held a hearing on the following:

HB 1291-FN relative to the fuel oil importation fee.

Members of Committee present: Senator Odell
Senator Janeway
Senator Gilmour
Senator Downing
Senator Bradley

The Chair, Senator Bob Odell, opened the hearing on HB 1291-FN.

Senator Bob Odell, D. 8: Before I call Representative Christensen, I would like to just outline my basic plan for this morning and that is that we will hear this bill and we will hear the bill on the repeal of the campground tax and then, when we have the maximum number of Senators present, we will take executive action on the campground tax bill. So, we will start, however, with this bill and I will invite Representative Christensen to introduce his bill. Good morning, Representative Christensen.

Representative Christensen: Good morning, Senators. For the record, I am Representative Chris Christensen. I serve the people of Merrimack, which is Hillsborough District 19. I am on the Resources, Recreation and Development Committee and I am also Chairman of the Oil Fund Disbursement Board. HB 1291 is brought here at the request of the Board, as well as DES. We do have a joint letter of testimony which has been distributed. **Please see Attachment #1.**

The purpose of HB 1291 is to make permanent the temporary one and a quarter cent per gallon import fee on fuel oil that was enacted last year in HB 296. For purposes of clarification and background, this is the fund for the Fuel Oil Discharge and Clean Up Fund. We are basically talking about home and other heating oils as opposed to diesel fuel or some other kind of fuel. The purpose of the fund is for clean up and prevention and we operate on an annual budget of \$3 million.

In roughly 2007, the Board saw that we were coming up on times when our expenses were starting to exceed our revenues and we still had an obligation to do the clean up and the other things that we were charged with in the law. In 2008, the legislation was considered, but not enacted as the Governor was in favor of putting something in during a budget year rather than an off year. Consequently, in 2009, HB 296, which was previously referred to, came forward and, at that time, we added one year on a temporary basis a quarter of a cent per gallon import fee and we kept the fund alive, if you will, or floating by the transfer of \$400,000 from the Oil Pollution Control Fund.

That bill also asked for a performance audit by the LBA, which was one of the reasons for having one year fee change. The audit has been completed and the findings were that the fund operations were effective and efficient, but not adequately funded to fulfill all duties. Essentially, we have cut back on the prevention programs and put some projects on hold to stay within our revenue stream.

As mentioned, I do have a joint letter of testimony from the Board and from DES.

With your permission, I would like to introduce Michael Wimsatt, who is the Director of Waste Management at DES and Tim Denison, who is also with DES, if there are any questions and perhaps give some clarification on my remarks.

Senator Bob Odell, D. 8: I think what I would like to do is, is Representative Price here? Okay. Just let me, I'm going to, as Representative Christensen requested, let them speak.

Representative Price: Okay.

Senator Bob Odell, D. 8: Any questions for Representative Christensen?

Senator Harold Janeway, D. 7: Just for full disclosure, I am on the Oil Fund Disbursement Board.

Senator Bob Odell, D. 8: Okay. Representative Christensen, that's fine. Thank you very much.

Representative Christensen: Thank you.

Senator Bob Odell, D. 8: Thank you for being here. I will call on Representative Price. Good morning, welcome to Ways and Means Committee.

RHB

Representative Price: Thank you, Mr. Chairman. For the record, my name is Susan Price, representing District 3, Strafford County in the House. Thanks for considering my testimony this rainy morning.

I'm here to speak in support of HB 1291 as amended by the Ways and Means Committee. As you know, the Ways and Means Committee in the House was instrumental in requesting the performance audit and, for your information, I actually reprinted the blurb. I don't want to bore you with the extended details, but I have a copy of the blurb. **Please see Attachment #2.** It is three-hole punched.

But, in summary, basically the audit identified the following major areas of concern. There was an absence of quality control over work scopes and project documentation, a lack of project cost documentation that reduces the ability to track the total cost of a project, and absence of a requirement to make contractors submit documentation of the actual time worked on a project, weaknesses in allocating program management and administrative costs, tracking the outstanding fund liabilities, and to assure revenues collected were accurately recorded. Funds were also used in some instances to pay costs that were not authorized by statute.

There are some issues of compliance with certain statutes, administration rules and policies that I believe the DES is addressing. Also, the Bureau was not complying with rules requiring lack of private insurance coverage since the funds acts as access over primary insurance.

And, something that the DES has addressed in HB 1292, which you will be seeing after the crossover, is that when comparing the deductible to access to other states, it had been dropped to \$100. So, HB 1291 will increase that to \$500,000, more in line with Maine, Vermont. I believe Delaware was also looked at. There will be a means test for income though. So, anyone who cannot afford that deductible, they would not have to pay the full \$500,000. Basically, the cumulative effects of these issues, as well as just something that the DES can't control, which is the decrease in the amount of heating oil that is being purchased in the state. People are seeking alternative fuels and this is creating stress that the DES nor either body in the General Court can have much control over.

While the Department appears to have begun responding to the points brought up in the performance audit, the majority on House Ways and Means felt that certainly these issues didn't warrant another extensive audit, but we would like to have the Department come back with a report next year basically saying how they have addressed these issues.

Also, I would like to point out that in the House Ways and Means Committee, this passed 17-1 out of committee. Nineteen in attendance that day. Prior to the introduction of the amendment that sunsets this in another two years and also requires the report, the minority on the Committee were not prepared to vote for this. So, the amendment does create a bi-partisan agreement on the Committee at the House level.

I would be glad to take your questions.

Senator Bob Odell, D. 8: If I go to the blurb, and I appreciate having it. The bill was amended to allow a temporary two-year increase in fees to alleviate the immediate need for funding and the submission of a progress report. So, this fiscal note ties in to what the blurb is saying?

Representative Price: Mr. Chair, I cannot see your fiscal note. I don't have it in my paperwork.

Senator Bob Odell, D. 8: It is dated 3/22.

Representative Price: I would have to defer to Mr. Wimsatt or Mr. Denison on those specific issues.

Senator Bob Odell, D. 8: Okay.

Representative Price: Thank you. I believe that... Oh, yes. I am familiar with this. I believe that the expenditures, that doesn't change the expenditures, because this is tolling in two years into fiscal year 2013. So, the fiscal note would not change as a result of the termination.

Senator Bob Odell, D. 8: Okay. Senator Janeway, questions? If not, thank you very much for being here. We appreciate it.

Representative Price: Thank you, Senator Odell.

Senator Bob Odell, D. 8: Susan Olsen is signed in from the New Hampshire Municipal Association in support, as well as opposition, but does not wish to speak. Senator Lasky is signed in in support, but does not wish to speak. Michael Licata from the Business and Industry Association is signed in in support, does not wish to speak.

With that, we have two representatives from the Department. If you want to come up, Mr. Wimsatt and Timothy Denison. Good morning and welcome to the Ways and Means Committee.

RHB

Michael Wimsatt: Good morning. Thank you, Mr. Chair, Senators. Good morning. My name, for the record, is Mike Wimsatt. I am Director of the Waste Management Division for the Department of Environmental Services. I have with me Tim Denison, who is the Administrator of our oil fund programs.

I don't have too much to add beyond what Representative Christensen had to say, other than that, obviously, the Department and the Oil Fund Disbursement Board are in support of this bill because of declining revenues. One of the things that our testimony letter identifies is the fact that we made estimates about what this temporary fee increase would raise on an annual basis and that's all we could do. We based it on an assumption of flat and continuing reports of fuel oil to the state. But, for a variety of reasons, probably including a little bit warmer winters and a lot of folks have perhaps changed over their home heating systems to wood pellets or other alternative fuel sources, we aren't really seeing the kind of increase in revenues that we had hoped we would see. Fuel oil imports are down about 12% so far for FY 2010 over last year.

It is possible that that percentage on annual basis for a fiscal year could grow because we are having a rather warm late winter here and the expectation is that there won't be much more in the way of fuel oil imports before the end of June when that tends to tail off quickly as the winter comes to an end and doesn't really ramp up again until the fall of the following year. So, as a result, we will continue to have some revenue problems for the Fund.

The way that we deal with that, obviously we can't spend any more money than we take in. The way that we have addressed that is to curtail projects that I would determine are medium and low priority sites that cleanup is required, but isn't necessarily immediately imposing a risk on someone's drinking water or any risk of exposure. So, we have about fifty-six sites in the state that are in that category right now that we are waiting on approval to move forward to do work.

Also, another area that I am concerned and continue to be concerned over time. One of the important things that this Fund does is provide preventive work, which I think makes a lot more fiscal sense. And, that is our Safe Tank Program where eligible low-income homeowners, probably disproportionately, tend to have the tanks that are most at risk, either because they can't afford to bring them up to code or because they are located outside where snow and ice falls in the winter and can unfortunately cause releases.

We, historically, have used the Safe Tank Program to upgrade those tanks, to protect them from snow and ice and to improve their foundations so they are less likely to fall over during flood events such as we are having now and cause an oil release. The average cost of a response when we have a release from a home heating tank is around \$17,000 and change. The cost for a safe tank upgrade is capped at about \$1,500 and it takes about that to really bring a tank right up to snuff and make it comply and much less susceptible to leaks. So, we essentially are only doing safe tank upgrades where we absolutely have to, where there has been a release and we need to help a low-income homeowner get their oil supply back on line and safe. So, that means that we aren't doing more of the proactive work on tanks, which we really should be doing.

So, with that, we certainly hope that winters are a little colder and fuel oil imports come up a little bit and that this increase will help provide the necessary resources to fulfill our obligations under the Fund.

Senator Bob Odell, D. 8: Mr. Denison, anything to add?

Tim Denison: I was just going to say that there is an amended fiscal note working its way through. It hasn't caught up yet. That 680,000 will go away after two years because ... (inaudible)...

Senator Bob Odell, D. 8: Okay. So, we need to, while we wait for that.

Mr. Denison: It is basically up to LBA.

Senator Bob Odell, D. 8: Okay. Thank you for that. Questions? Senator Janeway?

Senator Harold Janeway, D. 7: Thank you. Actually, all the efforts that you have been making around the state to reduce your consumption, this data should be cause for cheer as a problem for this particular problem. But, if we are using less imported oil, is there any way that you can tease out the 10% decline roughly how much of that is the bets measure and how much is used for efficiency... (inaudible)...

Mr. Wimsatt: Senator, that's a great question. I'm sure it is both. I'm not in a position to say what portion of the percentage is in each of those factors.

Senator Bob Odell, D. 8: Any other questions? Seeing none, thank you both for being here and thank you for your testimony.

Is there anyone who hasn't spoken who would like to speak on HB 1291?
Seeing none, I will close the public hearing on HB 1291.

Hearing concluded at 10:30 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "L. Gail Brown". The signature is written in a cursive, flowing style.

L. Gail Brown

Senate Secretarial Supervisor

7/14/10

2 Attachments

Attachment #1



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

Rep. D.L. Chris Christensen, Chairman

Oil Fund Disbursement Board

March 30, 2010

The Honorable Bob Odell, Chairman
Senate Ways and Means Committee
Room 100
State House
Concord, New Hampshire 03301

SUBJECT: HB 1291-FN, As Amended, Relative to the Fuel Oil Importation Fee

Dear Chairman Odell:

Thank you for the opportunity to testify in support of House Bill 1291-FN. As introduced, this bill made permanent a \$0.0025 per gallon increase to the heating oil import fee that provides income for the Fuel Oil Discharge Cleanup Fund (FODCF). The fee increase was approved by the Legislature under the Laws of 2009, Chapter 231, effective for FY 2010, and the Legislative Budget Assistant (LBA) was required to conduct a FODCF Performance Audit in 2009. The House amended HB 1291-FN to extend the fee increase through FY 2012, and require that the Oil Fund Disbursement Board (Board) submit a report on FODCF administration and performance by December 1, 2011.

The FODCF under RSA 146-E is a dedicated environmental fund for heating oil contamination prevention and cleanup. The fund is available to low-income homeowners to replace substandard heating oil storage tanks, and provides very important and highly successful "excess insurance" for owners of heating oil storage tanks that leak. Due to FODCF income shortfalls, limits have been imposed on leak prevention assistance and many contamination cleanup projects are on-hold. In its December 2009 Performance Audit Report, the LBA concluded the FODCF is effective and functioning as intended, but income is not sufficient to fully support programs. The LBA also provided 16 observations/recommendations for improving efficiency that the Board has addressed or will address in the near future, but these improvements will not provide significant expenditure reductions. We believe the data developed for the 2011 Board report will re-affirm the 2009 LBA finding that income is not sufficient. Significant FODCF expenditure reductions to offset income shortfalls would require that the criteria for receiving assistance be changed, and/or environmental cleanup standards be modified, and/or payments to cleanup service providers be reduced below market rates.


Increasing the import fee to \$0.0125 per gallon was estimated to generate \$683,000 in supplemental FODCF income each year. However, through February 28th, FY 2010 income at the higher import fee is below expectations because heating oil imports declined 12% vs. FY 2009. It is important for the higher import fee to remain effective to at least maintain an already diminished level of FODCF services. The FODCF fiscal situation as of February 28, 2010 is shown in the table below. It should be noted that FY 2010 income also includes a \$400,000 transfer from the Oil Pollution Control Fund (RSA 146-A) to help stabilize the FODCF balance. Therefore, import fee income is only \$43,956 greater than expenses, which are below normal demand due to the limitations noted above.

Fiscal Year	Income	Expenses	Annual Income vs. Expense (Deficit) Surplus	Balance
2006	\$3,081,973	\$3,377,335	(\$295,362)	\$661,812
2007	\$3,171,445	\$2,970,517	\$200,928	\$862,740
2008	\$2,867,751	\$2,789,479	\$78,272	\$941,012
2009	\$2,743,665	\$3,301,932	(\$558,267)	\$382,745
2010	\$2,557,729	\$2,113,773	\$443,956	\$826,701

When fully active, demand for leak prevention funding is \$500,000 per year, demand for cleanup funding is \$2,500,000 per year, and administrative costs are budgeted at approximately \$400,000 for FY 2010, for a total of \$3,400,000 for the FODCF programs. If fuel oil imports return to FY 2009 levels, a \$0.0125 per gallon import fee would generate annual income of approximately \$3,420,000. The \$0.0025 per gallon import fee increase provides needed resources for maintaining and restoring environmental quality and protecting public health for all New Hampshire citizens. The consumer cost increase of \$2.50 per 1,000 gallons of heating oil purchased makes more funds available for tank replacements, limited to \$1,500 per location, and is quite small compared to the average \$17,300 in cleanup coverage provided per project.

Thank you for your careful consideration of this important bill. If you have questions, please contact Michael Wimsatt, Director of the Waste Management Division at (603) 271-2905 Michael.Wimsatt@des.nh.gov, or Timothy R. Denison at (603) 271-2570 Timothy.Denison@des.nh.gov. Detailed FODCF program operating reports are available.

Sincerely,


Rep. D.L. Chris Christensen, Chairman
Oil Fund Disbursement Board


Thomas S. Burack, Commissioner
Department of Environmental Services

cc: Members of the Ways and Means Committee
Rep. Leigh Webb
Sen. Bette Lasky
Oil Fund Disbursement Board

State of New Hampshire

HOUSE RECORD

Second Year of the 161st General Court
Calendar and Journal of the 2010 Session

Vol. 32

Concord, N.H.

Friday, March 12, 2010

No. 21

“WAYS AND MEANS

HB 1291-FN, relative to the fuel oil importation fee. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.**

Rep. Susan G Price for the **Majority** of Ways and Means: The fuel oil discharge cleanup fund administered by the NHDES oil remediation and compliance bureau (bureau) was established in 1993 to address converge gaps in personal and commercial property and casualty insurance policies for releases of fuel oil, also known as home heating oil. A performance audit was conducted in 2009 and identified areas in which the bureau was not operating efficiently or in full compliance with RSA 146-E. The audit identified the following areas of concern: 1) an absence of quality control over work scopes and project documentation resulting in a lack of readily available project documentation and inaccurate work scopes, 2) a lack of project cost documentation that reduces the ability to track the total cost of a project, 3) an absence of a requirement to make contractors submit documentation of actual time worked on a project, 4) weaknesses in allocating program management and administrative costs, tracking outstanding fund liabilities, and to assure revenues collected were accurately recorded, 5) funds were used to pay property restoration costs that are not authorized for payment by statute, 6) the bureau was not in compliance with certain statutes, administrative rules, and policies, 7) the bureau was not complying with rules requiring proof of lack of private insurance coverage and that the responsible party had upgraded their tank system to fire code prior to releasing payment to contractors conducting the clean ups, and 8) the deductible paid by responsible parties was low in comparison to other New England states with similar programs. The cumulative effects of these issues, as well as a decrease in the amount of home heating oil purchased within the state, have contributed to the fund declining below levels sufficient to comply with RSA 146-E. While the bureau has responded to some of the issues identified in the audit, the majority felt that enacting a permanent increase in the environmental fee without first receiving a report of progress on all of the issues identified in the audit, was premature. The bill was amended to allow a temporary two year increase in the fee to alleviate the immediate need for funding and the submission of a progress report to the house ways and means committee no later than December 1, 2011, to allow the committee an opportunity to evaluate the bureau's corrective actions and to evaluate the need to increase or decrease the fee in the future.” (17-2).

Speakers

Voting Sheets

Senate Ways & Means Committee

EXECUTIVE SESSION

1291
 Bill # HB ~~2182~~

Hearing date: 3/30/10

Executive session date: 4/13/10

Motion of: OTP

VOTE: 5-0

Made by Odell
Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Seconded Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Reported Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Motion of: _____

VOTE: _____

Made by Odell
Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Seconded Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Reported Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Odell, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro, Vice-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Janeway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reynolds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: April 13, 2010

THE COMMITTEE ON Ways and Means
to which was referred House Bill 1291-FN

AN ACT relative to the fuel oil importation fee.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 5-0

AMENDMENT # s

Senator Harold Janeway
For the Committee

L. Gail Brown 271-3076

New Hampshire General Court - Bill Status System

Docket of HB1291

Docket Abbreviations

Bill Title: relative to the fuel oil importation fee.*Official Docket of HB1291:*

Date	Body	Description
12/10/2009	H	Introduced 1/6/2010 and Referred to Ways and Means; HJ 6 , PG.235
01/26/2010	H	Public Hearing: 2/2/2010 10:00 AM LOB 202
02/02/2010	H	Executive Session: 2/11/2010 9:30 AM LOB 202
02/16/2010	H	Majority Comm Report: Ought to Pass with AM #0656h for Mar 17 (Vote 15-2; RC); HC 21 , PG.1196-1197
02/16/2010	H	Proposed Majority Committee Amendment #0656h; HC 21 , PG.1206
02/16/2010	H	Minority Committee Report: Ought to Pass; HC 21 , PG.1196-1197
03/17/2010	H	Amendment #0656h Adopted, VV; HJ 26 , PG.1385-1386
03/17/2010	H	Ought to Pass with AM #0656h: MA VV; HJ 26 , PG.1385-1386
03/17/2010	S	Introduced and Referred to Ways & Means, SJ 10 , Pg.171
03/22/2010	S	Hearing: March 30, 2010, Room 100, State House, 10:15 a.m.; SC13
04/14/2010	S	Committee Report: Ought to Pass 4/21/10; SC16
04/21/2010	S	Ought to Pass, MA, VV; OT3rdg; SJ 15 , Pg.323
04/21/2010	S	Passed by Third Reading Resolution; SJ 15 , Pg.325
05/05/2010	H	Enrolled Bill Amendment #1671 Adopted; HJ 38 , PG.1915
05/05/2010	S	Enrolled Bill Amendment #1671 Adopted; SJ 17 , Pg.405
05/12/2010	H	Enrolled; HJ 41 , PG.2097
05/12/2010	S	Enrolled; SJ 18 , Pg.504
06/15/2010	H	Signed by the Governor 06/09/2010; Chapter 0130
06/15/2010	H	I. Section 2 Effective 07/01/2012
06/15/2010	H	II. Remainder Effective 07/01/2010

NH House

NH Senate

Contact Us

New Hampshire General Court Information Systems
 107 North Main Street - State House Room 31, Concord NH 03301

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 1291 ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: _____

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

____ - AMENDMENT # _____ - AMENDMENT # _____
____ - AMENDMENT # _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
 FINAL VERSION _____ AS AMENDED BY THE SENATE

____ PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: _____

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

revised fiscal note

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK

8/17/02

Glenn Brewer
COMMITTEE SECRETARY