Bill as Introduced

HJR 24 - AS AMENDED BY THE HOUSE

23march00.....3671h

2000 SESSION

00-2761
08/01

HOUSE JOINT RESOLUTION *24*

A RESOLUTION urging the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MTBE additive and to promptly eliminate Clean Air Act requirements for oxygenates in gasoline.

SPONSORS: Rep. Bradley, Carr 8; Rep. MacGillivray, Hills 21; Rep. Norelli, Rock 31; Rep. Maxfield, Merr 9; Rep. M. Downing, Rock 26; Sen. Wheeler, Dist 21; Sen. Below, Dist 5; Sen. Johnson, Dist 3

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This house joint resolution urges the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MTBE additive, and to promptly eliminate Clean Air Act requirements for oxygenates in gasoline.

This house joint resolution is a request of the study committee established by 1999, 55.

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00-2761
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

A RESOLUTION urging the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MTBE additive and to promptly eliminate Clean Air Act requirements for oxygenates in gasoline.

Whereas, the United States Environmental Protection Agency's National Blue Ribbon Panel on MTBE has recently examined oxygenates in gasoline in general, and methyl t-butyl ether (MTBE) in particular, and has concluded that the oxygenate requirement for gasoline of the federal Clean Air Act should be eliminated and that the use of MTBE in gasoline should be phased out; and

Whereas, state by state standards for gasoline composition would result in a complex and inefficient regulatory system for fuels, with negative financial effects on refiners and consumers; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the United States Congress should promptly eliminate the oxygenate requirement for gasoline of the federal Clean Air Act; and

That the United States Environmental Protection Agency should encourage the United States Congress to promptly eliminate the oxygenate requirement for gasoline of the federal Clean Air Act; and

That the United States Congress and the United States Environmental Protection Agency should work with the northeastern states and with gasoline refiners to promptly develop and approve a consistent, effective specification for gasoline containing significantly less or no MTBE additive; and

That copies of this resolution signed by the governor, the speaker of the house of representatives, and the president of the senate be forwarded by the house clerk to the Speaker of the United States House of Representatives, the President of the United States Senate, the President of the United States, the Administrator of the United States Environmental Protection Agency, and to each member of the New Hampshire congressional delegation.

Committee Minutes

Date: April 25,2000
Time: HJR24
Room: LOB104

The Senate Committee on Environment held a hearing on the following:

HJR24 (New Title) urging the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MTBE additive and to promptly eliminate Clean Air Act requirements for oxygenates in gasoline.

Members of Committee present: Senator Russman
Senator Krueger
Senator Pignatelli

The Chair, Senator Richard Russman, opened the hearing.

Senator Richard L. Russman, D. 19: We'll open the hearing on HJR 24 and we'll recognize one of the sponsors Representative MacGillivray.

Representative Jeff MacGillivray: Thank you Mr. Chairman. For the record, I am Representative Jeff MacGillivray and I am one of the sponsors of House Joint Resolution 24, a resolution urging the US EPA and Congress to work with the northeastern states and gasoline refiners, to authorize the use of a regional gasoline containing less or no MTBE additive and to properly eliminate Clean Air Act requirements for oxygenates in gasoline.

The original version of this resolution came out of the discussion of the Joint House/senate MTBE Committee, You will note that on here we have as sponsors, all five House members and three of the five Senate members of the committee and to be honest I'm not sure why it was that the other two aren't on here but I think it was a matter of timing rather than lack of support.

This resolution, calls upon the EPA and Congress to work with the northeastern states so that we wind up with a regional gasoline with substantially less MTBE in it.

Since you've all heard of the MTBE debate that has gone on I won't bring all of that back up but the EPA has stated at the beginning the EPA's

national blue ribbon panel looked at oxygenates in gasoline in general and MTBE in particular and concluded two things.

That the oxygenate requirement for gasoline of the Federal Clean Air Act should be eliminated, and two that the use of MTBE in gasoline should be phased out.

It has also been brought to our attention that state by state standards for gasoline competition given refueling points which serve more than one state that we would be better of if we could do this on a regional basis and we therefore believe that one, we should let the Senate and House of Representatives know that we believe that the US Congress should in accordance with this national blue ribbon panel, promptly eliminate the oxygenate requirement for gasoline.

Two, that the US EPA should encourage Congress to do this. In this past, Congress has shown a reluctance to act without the support of EPA and we are urging EPA to second the motion so to speak, and finally, we are aware that if the Northeast states come in as a group with a regional gasoline, that we are very likely to get the support of the refining industry. We have heard statements from them that they would be very opposed to one state having a requirement differ from the others but that when a regional gasoline over a multi-state area has been developed, that is something we can live with because we'll go to all refueling points within a region and it becomes something that they can work with and as a result, this resolution which was only slightly amended by our committees after it was brought it from the MTBE oversight Committee. Thank you very much.

Senator Richard L. Russman, D. 19: O.k., thank you very much. Questions? Thank you very much. The Chair would note that Dave Harrington does not wish to speak, is in favor of the bill, Ken Colburn from DES is here in favor of the bill.

Ken Colburn: Mr. Chairman, a letter from the commissioner and just the smallest of comments. I think I apologize to Representatives Bradley and MacGillivray for not having brought this up sooner, but on line 16 of the bill, given its title, I think it would be useful to insert after the word effective, the word region, so that we're emphasizing, as the title does, that we're looking for a regional solution.

Senator Richard L. Russman, D. 19: So we take that as a friendly amendment. I assume there is no objection.

Ken Colburn: Just the letter and Mr. Chairman, I understood that Governor's Representative was also going to be here today, she's not here but I think I can represent the Governor's office feels similarly about this bill. Thank you very much.

Senator Richard L. Russman, D. 19: Is there anybody else that wishes to speak on HJR24? I have one question Mr. Colburn, In view of what is going on down there in terms of the... [inaudible due to paper shuffling].

Ken Colburn: Good question Mr. Chairman, I don't think that it's necessary or will provide the... totally take the trig out of the wheel but I do think it is a strong statement by the Legislature which shows that this isn't just some Governor's whim or some DES's effort, that this is a unified state effort so I think it's worth while.

Senator Richard L. Russman, D. 19: Anybody else want to say anything about HJR24?

Bill Vance: Bill Vance from Stratford, New Hampshire. I've tried to get an answer to this question. I've asked numerous people and that is why are we considering phasing it out rather than eliminating it totally because the costs of it being in the gasoline at all, is going to end up costing us a lot more money in the long run between possible liability cases and clean up costs.

Senator Richard L. Russman, D. 19: Why don't know you talk with Mr. Colburn about that. He is the head of the Air Resources division here and there are others here from DES and you might just talk to them a bit about that and there's some economic, I know that you shouldn't put that above environmental interest but there are some other concerns, they're just starting to move the wheels, just not as quickly as sometimes we'd like to. As a matter of fact I think I was a co-sponsor with other members here of a bill that got eliminated a year or so ago and they said there wasn't enough evidence yet and so that was not acted on very well, but obviously as it turns out, it should have been acted on sooner and then obviously I think what we're trying to do is get it done as quickly as possible .... As I say Mr. Colburn is up to date eon stuff, there are some reasons for that.

Anybody else want any say on HJR24. I'll close the hearing.

HEARING CLOSED

Respectfully Submitted,

Anna-Maria Tsorvas
Committee Secretary

Attachment A

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-1370 FAX (603) 271-1381

April 25, 2000

The Honorable Richard L. Russman, Chairman
Senate Environment Committee
Legislative Office Building, Room 104
Concord, New Hampshire 03301

Re: HJR 24 – A resolution urging the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MtBE and to promptly eliminate the Clean Air Act requirement for oxygenates in gasoline

Dear Chairman Russman and Members of the Committee:

Thank you for this opportunity to testify in support of HJR 24. As you know, the New Hampshire Department of Environmental Services (DES) has been directly involved with issues concerning the gasoline additive methyl tertiary-butyl ether (MtBE) over the last two years, and has worked closely with the Legislature to assist it in making informed and prudent policy decisions within the context of existing federal law.

As you also know, Governor Shaheen and Maine Governor Angus King have recognized that the Northeast's regional fuel distribution infrastructure requires that fuel issues be addressed on a regional basis. As a result, they joined together in a November 1999 letter to their colleagues throughout the Northeast suggesting a multi-state initiative to consider a comprehensive regional fuel solution, covering all fuel issues and including both gasoline and diesel fuels. Initial meetings to launch this effort have been held, with many of the Northeast states, the gasoline refining and distribution industry, environmental organizations, and the U.S. Environmental Protection Agency (EPA) participating. DES believes HJR 24 is a strong legislative statement encouraging this approach.

The issues surrounding MtBE are complex and have diverse – often conflicting – health implications. The House Science, Technology and Energy Committee worked diligently to study this difficult issue and craft an effective legislative response during the 1999 session. Consistent with this legislative direction, DES has requested from the U.S. Environmental Protection Agency (EPA) an as-yet-unanswered, temporary waiver of the federal requirements that effectively mandate the use of MtBE. Even more importantly, following a comprehensive review of the available scientific knowledge and an extremely thorough health risk assessment by the Department of Health & Human Services (DHHS), DES has proposed a new, much more protective drinking water standard for MtBE.

In assessing the variety of MtBE-related bills that were introduced in the 1999 session, it rapidly became clear that there was no simple, quick resolution to reducing the concentration of MtBE in gasoline. The most prohibitive obstacle, however, was found to be language within the federal Clean Air Act (CAA) requiring that reformulated gasoline (RFG) include 2% oxygen by weight. This requirement is often referred to as the "oxygenate mandate." RFG is used successfully in many areas, including southern New Hampshire, to reduce air pollution. Although other oxygenates can be used to formulate RFG, MtBE has been used by most refiners serving the Northeast due to its cost-effectiveness and desirable blending characteristics.

Since the 1999 session ended, two comprehensive studies on the use of MtBE as a gasoline additive have been released, one by the National Blue Ribbon Panel on MtBE, a panel of experts

commissioned by EPA, and one by the Northeast States for Coordinated Air Use Management (NESCAUM) at Governor Shaheen's request on behalf of the New England Governors' Conference. Chief among the recommendations of these comprehensive studies was that the oxygenate mandate for RFG should be eliminated.

DES concurs with this finding, and in order to eliminate any doubt, recommends a technical amendment to HJR 24 to make specific reference to applicable sections of the CAA. The oxygenate mandate actually appears in two sections of the CAA relative to RFG, Section 211(k)(2)(B), which provides general requirements, and Section 211(k)(3)(A)(v), which provides more detailed information on fuel formulations. The oxygenate mandate also appears in Section 211(m)(2) relative to oxygenated gasoline as a strategy for carbon monoxide nonattainment areas, which may be outside the scope of this resolution.

In addition to eliminating the oxygenate mandate, both major studies recommended that any regulatory changes in the formulation of gasoline be applied on a regional basis and with appropriate lead time for the industry to respond. By accentuating these two important points, HJR 24 not only concurs with these conclusions, it sends a strong message from New Hampshire's Legislature that in order for fuel formulation concerns to be resolved, action at the federal level – both by Congress and EPA – is necessary.

Thank you again for the opportunity to offer DES's support for HJR 24. Please contact me at 271-3503 with any questions you may have.

Sincerely,

Robert W. Varney
Commissioner

cc: Sen. Katherine Wheeler
Sen. Clifton Below
Sen. Carl Johnson
Rep. Jeb Bradley
Rep. Jeffrey MacGillivray
Rep. Terie Norelli
Rep. Roy Maxfield
Rep. Michael Downing

Speakers

SENATE ENVIRONMENT. COMMITTEE

Date April 25, 2000 Time 11:15am Public Hearing On HJR 24

Appearing in FAVOR: *(Please print)* **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☑	David Harrington	New Boston	A.P.I.
☑	Ken Colburn	NHDES	271-1380
☑	Rep J MacGillivray		
☐	Rep Bradley.		
☐	Bill Vance	Stratham	
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Appearing in OPPOSITION: *(Please Print)* **Please check box at left to speak.**

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Testimony

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-1370 FAX (603) 271-1381

April 25, 2000

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Senate Environment Committee
Legislative Office Building, Room 104
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Robert W. Varney
Commissioner

cc: Sen. Katherine Wheeler
Sen. Clifton Below
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Rep. Terie Norelli
Rep. Roy Maxfield
Rep. Michael Downing

Committee Report

Date: April25,2000 Time: 11:15am

The Senate Committee on Environment held its hearing in Room LOB104, Concord, New Hampshire.

BILL NO.: HJR24 TITLE: (New Title) urging the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MTBE additive and to promptly eliminate Clean Air Act requirements for oxygenates in gasoline.

Members of the Committee present: Senator Russman
Senator Krueger
Senator Pignatelli

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

☐	Ought to Pass	☐	Interim Study
☒	Ought to Pass w/ Amendment	☐	Continued Hearing
☐	Inexpedient to Legislate	☐	Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 25,2000

THE COMMITTEE ON Environment

to which was referred House Joint Resolution 24

AN ACT (New Title) urging the United States Environmental Protection Agency and Congress to work with the northeastern states and gasoline refiners to authorize the use of a regional gasoline containing less or no MTBE additive and to promptly eliminate Clean Air Act requirements for oxygenates in gasoline.

VOTE: 3-0

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Richard Russman
For the Committee