

# Senate Energy and Natural Resources Committee

*Joshua Schauer 271-3077*

**HB 1620**, requiring the removal of residential heating oil underground after 12 consecutive months of non-use except in certain circumstances.

**Hearing Date:** March 24, 2026

**Time Opened:** 9:21 a.m.

**Time Closed:** 9:42 a.m.

**Members of the Committee Present:** Senators Avard, Pearl, McConkey, Watters and Rosenwald

**Members of the Committee Absent :** None

**Bill Analysis:** This bill requires the removal of residential heating oil underground if a change in the heating system removes it from use or if the owner does not intend to use it in the future except in certain circumstances.

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**Sponsors:**

Rep. Perez

Rep. Andrus

Rep. Dunn

Rep. Manos

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**Who supports the bill:** Representative Peter, Bixby (Straf. 13), Nathaniel Blair

**Who opposes the bill:** Cory Stone

**Summary of testimony presented:**

**Representative Peter Bixby, Strafford District 13**

- Rep. Bixby introduced the legislation on behalf of the prime sponsor, Rep. Perez. He explained that the bill was filed in response to a constituent's issue involving an underground residential heating oil storage tank. He noted that testimony from the Department of Environmental Services (DES) indicated neutrality on the bill, while also acknowledging that it addresses areas of law in need of clarification.
- He stated that he worked with Mr. Bishop from DES to resolve language issues in the bill. As revised, the legislation establishes a definition for "residential heating oil underground storage tank," which was previously absent from statute. It also requires the removal of such tanks when they are no longer in

service. A tank is considered no longer in service if a replacement tank has been installed or if a new property owner does not intend to use the existing tank.

- Rep. Bixby further explained that the procedures and requirements for tank removal are already outlined in the existing fire code, and the bill references those provisions in statute. In cases where structural obstacles are present, established procedures already govern how a tank may be removed or otherwise addressed.
- He added that if a discharge of oil is discovered prior to removal, it will be handled under existing statutes related to contaminated soil. He said the bill requires that, upon the transfer of property, the presence of an underground storage tank must be disclosed if one exists.

**Senator McConkey** asked if it is the odd fund he was referring to for remediation payments.

**Representative Bixby** said Yes.

**Senator McConkey** asked if there is a financial requirement to that, he did not recall that a person needed to be financially qualified to use that fund.

**Representative Bixby** was unsure of that and said Senator Watters could answer that question.

**Senator McConkey** asked whether, in cases where a structural obstacle prevents removal, it would be permissible to fill the tanks with an alternative material. He also asked whether this approach could apply to residential tanks.

**Representative Bixby** responded that the intent is for tanks to be removed whenever possible. However, if a structural obstacle makes removal impracticable, other options may need to be considered. He added that if a tank is leaking, it must be addressed. He noted that determining whether a tank beneath a building is leaking can be extremely expensive, particularly in low-probability situations where the tank is located under a structure and is structurally difficult or impossible to access.

**Senator McConkey** emphasized that any groundwater contamination is a serious concern, particularly in his area where many residents rely on private wells. He asked whether the department had been alerted to a problem that is not actually occurring, or if there is another issue at play. He wanted clarification as to what brought this issue about.

**Representative Bixby** said it was a constituent that had a problem with an existing underground heating tank and there was a problem with the authority of how it would be removed.

**Senator Rosenwald** asked why simply draining a tank that will no longer be used or purchasing a home with an already empty tank is not sufficient. She also questioned why a homeowner should be required to incur the additional expense of removing an empty tank.

**Representative Bixby** said there are two key considerations: first, ensuring that the tank is not leaking; and second, addressing infrastructure concerns. He noted that if there is a change in delivery companies, there may be different fill types that are not obvious to the new oil delivery company, which could lead to problems. He stated that removal is the best way to address these issues.

**Robert Bishop, Oil-Remediation-and-Compliance (NHDES)**

**Senator McConkey** asked about the Oil Discharge and Disposal (ODD) Fund and how it applies to residential spills from older tanks. He noted that there appears to be no financial threshold, which could place a significant burden on homeowners. He wanted clarification on when ODD Fund coverage would begin and what costs homeowners are responsible for under the program.

**Mr. Bishop** Mr. Bishop explained that the ODD Fund functions as an excess insurance fund. This means it applies in situations where no insurance coverage exists or a claim has been denied. For residential properties, there is a \$500 deductible, and the fund provides up to \$500,000 in reimbursement for corrective action. He clarified that the fund does not cover costs related to compliance issues. In those cases, assistance may be available through the Safe Tank Program for low-income homeowners, which can provide replacement tanks and contribute up to \$4,500 per tank.

**Senator McConkey** asked for clarification on eligibility, specifically whether homeowners are only eligible for ODD Fund coverage, subject to the \$500 deductible, if there is documented contamination, and whether the fund is available to cover tank removal in the absence of a spill.

**Mr. Bishop** explained that the fund is available to all homeowners for the cleanup of contaminated soil and oil releases. However, it does not cover the cost of tank removal if removal is the only need, unless the homeowner qualifies as low income. Cleanup of any spill is covered, subject to a \$500 deductible, but tank removal alone is not necessarily covered.

**Senator McConkey** asked what changes to regulations would be required, if the bill were enacted, to allow homeowners to have a tank removed at a cost of \$500 and no more than that.

**Mr. Bishop** explained that this would require a statutory change to RSA 146:D to modify the eligibility criteria for accessing the fund. He noted that this discussion applies specifically to the removal of a non-leaking tank.

**Senator McConkey** said he understood, but noted that this situation occurs frequently. During property sales, it is often disclosed that an underground tank exists, and the new owners are then required to remove it. He expressed that the cost should not fall on homeowners when the tank is not leaking.

**Mr. Bishop** said that would take a change to the ODD fund Statute to bring in new eligibility criteria.

**Senator Avard** asked of homeowners need to notify DES and then asked how many underground tanks there are in the state.

**Mr. Bishop** explained that tank owners are not required to identify all tanks, so the exact number in the state is unknown. He noted that there are typically 60–100 tank spills per year, but fewer than five involve underground storage tanks.

**Senator Avard** asked whether implementing the change recommended by Senator McConkey would have a significant fiscal impact.

**Mr. Bishop** responded that it likely would, but he did not know how many tanks are in the state, so calculating the cost would be difficult.

**Senator Watters** suggested continuing to work on the issue over the summer. He added that passing this legislation might not have the adverse effects that are anticipated.

**Mr. Bishop** said he does not believe there would be any adverse financial impact if the legislation passes, noting that it simply clarifies existing fire code and standard practices.

**Senator Watters** noted that the complexity of the ODD Fund's finances is due to the fact that it is funded by a fee applied to the importation of all fuels. The rate is carefully calculated to ensure the fund can sustain its outflows. He added that any changes to the fund would need to be carefully considered for their potential financial impact.

**Mr. Bishop** confirmed this and added that just last year, legislation was passed renewing the ODD Fund for another 10 years. The legislation also rebalanced the fees for different types of oil. Heating oil was placed in its own category, gasoline and diesel in another, motor oil in a separate category, and all other oils together. The purpose of this fee structure is for the board to ensure that fees collected from each type of oil are sufficient to cover releases related to that specific type.

**Senator Rosenwald** asked if she was correct in understanding that this legislation would not increase the draw on the ODD Fund, noting that if it did, she would have expected to see a fiscal note.

**Mr. Bishop** confirmed, saying he does not anticipate any increase in the draw on the fund.

**Senator Pearl** asked whether the department could provide a rough estimate of the potential cost impact on the ODD Fund without establishing a study committee.

**Mr. Bishop** replied that the department could do so, though it would be challenging. They would conduct research to determine a ballpark figure, focusing only on tanks being taken out of service, and he anticipated that the cost would likely be fairly low.