

IN THE SENATE

SENATE BILL NO. 1244

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1
2 RELATING TO UNDERGROUND STORAGE TANKS; AMENDING SECTION 39-8802, IDAHO
3 CODE, TO REVISE PROVISIONS REGARDING THE FUNDING OF THE STATE UNDER-
4 GROUND STORAGE TANK PROGRAM AND TO PROVIDE FOR REPORTING; AMENDING
5 SECTION 39-8807, IDAHO CODE, TO REMOVE A PROVISION THAT CERTAIN TRAIN-
6 ING BY THE DEPARTMENT SHALL BE OFFERED AT NO COST; AND AMENDING SECTION
7 39-8808, IDAHO CODE, TO REVISE A PROVISION REGARDING FEES FOR DEPART-
8 MENT INSPECTIONS.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 39-8802, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 39-8802. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature of the
13 state of Idaho finds:

14 (a) That the protection of the environment from leaking underground
15 storage tanks is a matter of statewide concern;

16 (b) That subchapter IX of the solid waste disposal act (42 U.S.C. 6991,
17 et seq. (2000)), as amended by the underground storage tank compli-
18 ance act, public law 109-58, title XV, August 8, 2005, and regulations
19 adopted pursuant thereto, establish federal law regulating underground
20 storage tanks; and

21 (c) That 42 U.S.C. 6991c(a) and 40 CFR part 281 allow the administrator
22 of the United States environmental protection agency to approve a state
23 program.

24 (2) Therefore, it is the intent of the legislature:

25 (a) To establish a state underground storage tank program to comply
26 with the requirements of the underground storage tank compliance act,
27 public law 109-58, title XV, August 8, 2005, and the regulations adopted
28 pursuant thereto, and 40 CFR part 280, so that the Idaho department
29 of environmental quality may promulgate rules, through negotiated
30 rulemaking, to implement a state underground storage tank program as
31 provided in section 39-8805, Idaho Code;

32 (b) That such program not constitute a new corrective action program;

33 (c) That such program qualify the state for federal funding from the
34 federal leaking underground storage tank trust fund; and

35 (d) That such program ~~not may be funded by user fees or other fees for~~
36 ~~service such as that provided in section 39-119, Idaho Code, not to ex-~~
37 ceed one hundred dollars (\$100) per tank per year. These funds shall
38 only be used for the underground storage tank program;

39 (e) A fee balance greater than thirty-five thousand dollars (\$35,000)
40 as of December 31 of each year, excluding any early payments for the fees
41 due January 2 of the following year, shall be used to reduce the follow-
42 ing year's fee; and

1 (f) Prior to February 1 of each year, the director shall report to the
2 governor and the legislature on the use of fees collected the previous
3 year. At a minimum, the report shall include:

4 (i) A list of all tanks subject to inspection;

5 (ii) The type of inspection and regulatory authority or guidance
6 used; and

7 (iii) A detailed accounting of how fee funds were spent.

8 SECTION 2. That Section 39-8807, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 39-8807. OPERATOR TRAINING. (1) The department shall adopt an opera-
11 tor training program to be conducted by either the department or a state of
12 Idaho approved third party to help underground storage tank system owners
13 and operators and their employees understand and comply with the require-
14 ments of this chapter and rules promulgated pursuant to this chapter. The
15 training shall be consistent with 42 U.S.C. 6991i(a).

16 (2) Training conducted by the department shall be offered ~~at no cost,~~
17 ~~on location,~~ to owners, operators, and employees of underground storage tank
18 systems regulated under this chapter. The training shall be specific to the
19 equipment on location.

20 SECTION 3. That Section 39-8808, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 39-8808. INSPECTIONS. (1) Underground storage tank systems regulated
23 under this chapter which have not been inspected by the department or the
24 United States environmental protection agency since December 22, 1998,
25 shall be inspected by the department in compliance with this chapter.

26 (2) After completion of all inspections required under subsection (1)
27 of this section, the department or a third party inspector certified by an
28 approved state or national program, shall conduct on-site inspections of un-
29 derground storage tank systems regulated under this chapter at least once
30 every three (3) years to determine compliance with this chapter.

31 (3) If the department conducts the inspection, it shall not charge ~~a~~ an
32 additional fee for the inspection.

STATEMENT OF PURPOSE

RS23993C1

The Department of Environmental Quality's (DEQ) Underground Storage Tank (UST) Program regulates approximately 3,350 tanks at approximately 1,180 facilities throughout the state. DEQ operates this program in lieu of the Environmental Protection Agency (EPA), to the benefit of Idaho's regulated facilities and the environment. The program is currently funded by a federal grant and state matching funds, however, successive federal grant reductions have made it impossible to maintain the minimum program effort necessary to retain state program authorization (primacy). Furthermore, EPA recently released new UST rules that increase requirements and costs for the agency. The purpose of this legislation is to provide DEQ the authority to begin collecting tank fees to supplement the remaining federal grant dollars and state matching funds. If approved, the UST fee program will be developed through negotiated rulemaking and brought to the legislature for approval. DEQ has requested general fund appropriations to support the UST program while a fee program is developed and implemented. If the proposed fee program is not approved, ongoing general fund appropriations will be necessary to maintain program primacy.

FISCAL NOTE

DEQ needs approximately \$700,000 to operate the UST program. Federal funds are anticipated to be reduced to \$250,000; while state general fund support is expected to remain at about \$150,000. This legislation will allow DEQ to establish an UST fee collection program to assess annual fees to tank owners, and provide the additional \$300,000 needed to maintain program primacy.

Fees to tank owners are limited to one hundred dollars (\$100) per tank per year, and are the only fees that may be assessed by DEQ for the UST program. There are, on average, about 2.8 tanks per facility, meaning the average facility owner would pay approximately \$300 per year. If the year-end fee balance exceeds \$35,000, fees for the following year will be reduced to avoid excessive buildup of funds. All fees must only be used for the UST program. These fees will support the existing UST program and eliminate the need for additional general fund appropriations above \$150,000 once the fee program is established. Fees will be collected on a calendar year basis. It is projected that the first fees will be collected on January 2, 2018, prior to the state fiscal year 2019 budget cycle.

Contact:
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Statement of Purpose / Fiscal Note S1244

SENATE BILL 1244Full Bill Information**Individual Links:**[Bill Text](#)[Statement of Purpose / Fiscal Note](#)

S1244.....by RESOURCES AND ENVIRONMENT COMMITTEE

UNDERGROUND STORAGE TANKS - Amends existing law regarding provisions relating to the funding of the state underground storage tank program and provide for reporting; to remove a provision that certain training by the department shall be offered at no cost; and to revise a provision regarding fees for department inspections.

02/02Introduced; read first time; referred to JR for Printing

02/03Reported Printed; referred to Resources & Environment

02/11Reported out of Committee with Do Pass Recommendation; Filed for second reading

02/12Read second time; filed for Third Reading

02/19Read third time in full - **PASSED - 32-0-3**

AYES -- Anthon, Bair, Bayer, Brackett, Burgoyne, Davis, Den Hartog, Guthrie, Hagedorn, Harris, Heider, Hill, Johnson, Jordan, Keough, Lacey, Lakey, Lee, Lodge, Martin, Mortimer, Nonini, Nuxoll, Patrick, Rice, Schmidt, Siddoway, Souza, Stennett, Vick, Ward-Engelking, Winder

NAYS -- None**Absent and excused** -- Buckner-Webb, McKenzie, Thayn**Floor Sponsor - Siddoway**

Title apvd - to House

02/22Received from the Senate, Filed for First Reading

Read First Time, Referred to Resources & Conservation

03/04Reported out of Committee with Do Pass Recommendation,
Filed for Second Reading

03/07Read second time; Filed for Third Reading

03/08U.C. to hold place on third reading calendar one legislative day

03/09Read Third Time in Full - **PASSED - 39-29-2**

AYES -- Anderson, Anderst, Andrus, Bell, Beyeler, Burtenshaw, Chew, Clow, Dayley, Erpelding, Gannon, Gestrin, Gibbs, Hartgen, Horman, Jordan, Kauffman, King, Kloc, Malek(Chadderdon), McCrostie, McDonald, Miller, Nye, Pence, Perry, Raybould, Romrell, Rubel, Rudolph, Rusche, Shepherd, Smith, Troy, VanOrden, Wills, Wintrow, Wood, Mr. Speaker

NAYS -- Barbieri, Bateman, Batt, Boyle, Chaney, Cheatham, Collins, Crane, DeMordaunt, Dixon, Harris, Hixon, Holtzclaw, Kerby, Luker, McMillan, Mendive, Monks, Moyle, Nate, Nielsen, Packer, Palmer, Redman, Scott, Sims, Thompson, Trujillo, Vander Woude

Absent -- Loertscher, Youngblood**Floor Sponsor - Erpelding**

Title apvd - to Senate

03/10Returned From House Passed; referred to enrolling

Reported enrolled; signed by President; to House for signature of Speaker

03/11Received from Senate; Signed by Speaker; Returned to Senate

03/14Reported signed by the Speaker & ordered delivered to Governor

Reported delivered to Governor at 10:40 a.m. on 03/14/16

03/17Signed by Governor on 03/16/16

Session Law Chapter

Effective: