STATE OF MAINE
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Final Report
of the

Study Committee
on Gasoline and Fuel Prices

December 15, 2000

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EXECUTIVE SUMMARY

Petroleum is currently the largest single source of energy in the United States; it is used for, among other things, running vehicles, generating electricity and heating homes and businesses. When prices are stable and relatively low, as they were for much of the 1990s, they tend to be taken for granted and receive little attention. However, when prices are volatile, particularly when they spike as heating oil prices did last winter, they become the center of attention.

As a result of the concerns about volatile and rising fuel prices in Maine (see Appendix D for graph showing Maine retail fuel prices from 1/96 through 8/00), the 119th Legislature during its Second Regular Session established two study groups to examine the matter: this Study Committee and the Task Force to Reduce the Burden of Home Heating Costs on Low-Income Households.

This committee, created by Joint Order (see Appendix A for copy of the order), was directed to gather information on the changes in fuel prices and to develop recommendations for minimizing the effects of price changes or minimizing future price increases. The committee held public hearings in Bangor, Sanford and Lewiston and gathered information from federal and state agencies, the petroleum industry, the NYMEX, consumer advocates, and the trucking industry (summaries of the committee's four, information-gathering meetings are located in Appendix H). The committee also held a joint meeting in Augusta with the Task Force to Reduce the Burden of Home Heating Costs on Low-Income Households and subsequently reviewed the Task Force's final report. Due to the complex nature of the study issues, the committee sought from the Legislative Council an extension of its reporting deadline; the Legislative Council, at its September 26, 2000 meeting, approved an extension to December 15, 2000.

While this committee makes recommendations that would most appropriately be addressed to several committees of the Legislature, the Joint Order creating this study directs that this report be addressed only to the Joint Standing Committee on Transportation. The committee assumes the Joint Standing Committee on Transportation will take any steps it deems appropriate to involve other legislative committees in the review of these recommendations. Obviously any of the recommended legislation attached to this report that is ultimately introduced will find its way in the normal course of the referencing of bills to the appropriate committees.

Since the Joint Standing Committee on Transportation will not have an opportunity to act on any of the recommendations until January 2001, at the earliest, the Study Committee finds itself in an inauspicious position to propose options for addressing the fuel price issues as they relate to the current heating season. Consequently most of the committee's recommendations take a longer view of the issues surrounding fuel prices; the committee's recommendations focus primarily on future supply and process issues.

In summary, the committee finds:

- That heating oil inventories in Maine and New England provide an important cushion against supply disruptions and potential price spikes. When heating season inventories are low compared with historic averages, as they presently are, it poses a risk of contributing to price spikes during demand peaks.

- That severe volatility in gasoline and diesel fuel prices can adversely impact consumers and businesses, in particular trucking businesses. Gas and diesel taxes increase the ultimate price paid by consumers, but do not contribute to price volatility. Suspension of the federal taxes could be of some assistance; however, unless revenues from such taxes are made up from other sources, any reduction in the taxes would result in an undesirable reduction in federal highway funds.

- That, as a general rule, energy planning and energy efficiency-related functions should be handled by one agency. A transfer of the energy–efficiency responsibilities from the Department of Economic and Community Development to the State Planning Office would improve coordination and efficiency of energy-related functions. There is a need to examine the adequacy of funding for energy planning and energy efficiency-related functions of state government.

- That the more educated consumers become about energy matters and the more they make use of the conservation and energy assistance options available to them, the less vulnerable they will be to price volatility. Consumer education about available options and how to take advantage of them should be an important part of the State's effort to help consumers prepare for this and future heating seasons.

- That there is no evidence at this time that interruptible customers in Maine (large commercial and industrial customers who receive a rate incentive by agreeing to switch to a fuel other than natural gas during periods of peak demand and supply constraint) have negatively impacted or pose a serious risk of negatively impacting winter heating oil supplies or prices.

- That energy conservation reduces energy consumption and consumer bills. Reducing heat loss from low-income households through weatherization allows fuel assistance dollars to go further and reduces waste of energy as well as the funds spent on energy. Energy conservation and reduction in inefficient energy use should be a goal of the State.

In summary, the committee recommends:

- Adoption by the Legislature of the recommendations of the Task Force to Reduce the Burden of Home Heating Costs on Low-Income Households as they appear the Task Force's November 1, 2000 Final Report. Briefly, these are:

    - That the Legislature annually authorize a working capital advance of $10 million to the Low Income Home Energy Assistance Program to provide fuel assistance during the summer when prices are generally lower, thus increasing the assistant provided.
    - That the Maine State Housing Authority (MSHA) and Finance Authority of Maine (FAME) be directed to develop a proposal for establishing a program to provide low

interest loans or grants to individuals for the purchase of energy conservation improvements.
    - That the Legislature authorize the issuance of an $8 million General Fund bond, the proceeds of which would be used by the MSHA to fund the conservation loan and grant program.
    - That the MSHA and the State Planning Office (SPO) be directed to study the feasibility of establishing an Office of Energy Conservation within MSHA.
    - That the MSHA be directed to investigate during the month of April in each year for the years 2001 – 2003, the possibility of increasing the percentage of LIHEAP funds available for weatherization.
    - That the Public Utilities Commission be directed to continue to monitor the effects of gas interruptibles on the price and supply of heating oil in Maine.
    - That the SPO be directed to conduct a study to determine whether, and if so how, per capita residential energy consumption in the State could be reduced by at least 25% by the year 2011.

- That the Joint Standing Committee on Transportation report out legislation creating a task force to examine and, to the extent possible, to quantify the costs and benefits to the State of creating a State heating oil reserve and of purchasing options on heating oil futures.

- That the Joint Standing Committee on Transportation propose a Joint Resolution memorializing Congress to remove or reduce federal diesel taxes during the winter season in the Northeast, provided that the loss of revenues to the Federal Highway Trust Fund is otherwise made up so that the distribution of funds from the Trust Fund to the State is not diminished.

- That the Joint Standing Committee on Transportation report out legislation directing the State Planning Office and the Department of Economic and Community Development to develop a plan for the orderly transfer of the energy efficiency responsibilities of the DECD to the SPO and to recommend an appropriate funding level for the energy-related responsibilities of the SPO after the transfer.

- That the Legislature support cost-effective and reasonable steps to educate the public about energy assistance programs and methods of reducing energy use and costs.

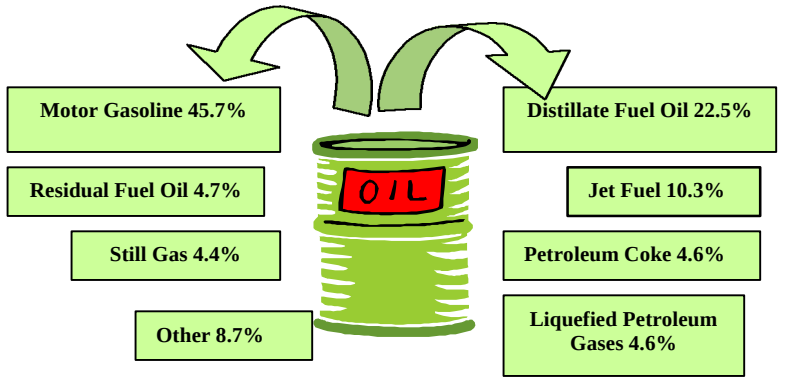
- That the Legislature pass a Joint Resolution encouraging Congress to establish a mechanism whereby the State of Maine obtains a right to heating oil distributed from the Northeast Heating Oil Reserve based on the amount of heating oil conserved in the State through the application of public funds.

I. Background: An Overview of the Petroleum Industry

A. Consumption.

According to the Energy Information Administration (EIA) of the Department of Energy, petroleum is currently the largest source of energy in the United States, representing roughly 40% of all energy consumed. Natural gas represents 25%, coal 23%, and nuclear, hydroelectric, geothermal and other sources represent the remaining 12%.[1] The EIA estimated that in 1999, petroleum demand in the U.S. averaged over 18.6 million barrels per day, and while the U.S. is one of the largest producers of petroleum, it consumes more than it produces.[2]

Chart 1. Product Yield from a Barrel of Crude Oil, 1997.



Source: Energy Information Administration, "Petroleum: An Energy Profile, 1999."
*Figures do not add up to 100% due to independent rounding and processing gain.

B. Crude Oil.

Through the petroleum refining process, crude oil produces heating fuel, transportation fuel, and various nonfuel products (including solvents, lubricating oils, and refinery gases). Nine out of ten barrels of petroleum are used to produce fuel products, with motor gasoline constituting 40 percent of the entire demand for petroleum products.[3]

i. A Brief History of Crude Oil Prices. Considerable stability existed in the crude oil market from the late 1940's to the early 1970's. From this point forward, crude prices have become less stable, reacting to changes in the U.S. and global economy, as well as to changes in governmental regulation.[4] The strain on crude oil inventory and supply caused by the energy crisis of the 70's resulted in the development of energy conservation programs, as well as the government's

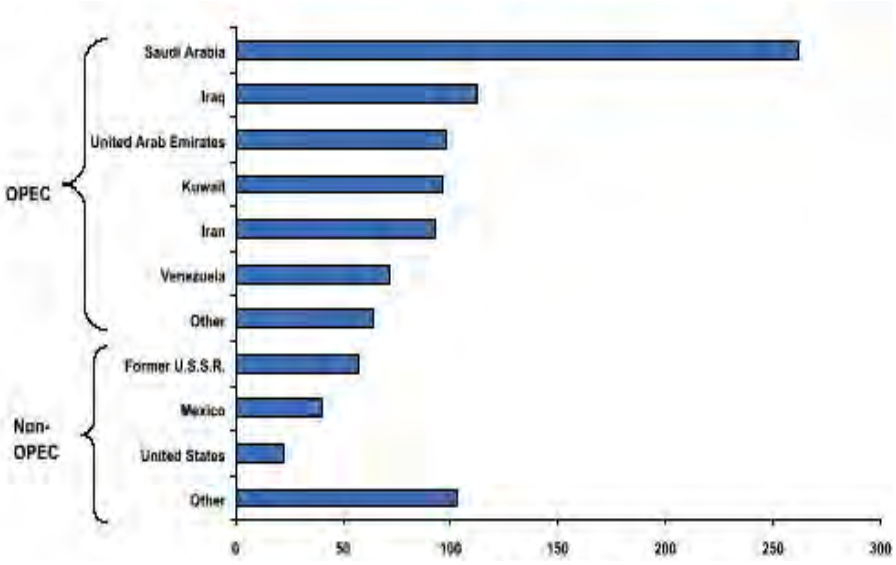
[1] Energy Information Administration, "*Petroleum, An Energy Profile, 1999*."
[2] Id.
[3] Id.
[4] Id.

involvement in the allocation of existing crude oil and product supplies to refiners. The government's inflation fighting wage and price control program placed restrictions on the price of domestic crude oil, while the price of crude on the global market was escalating. When these controls were lifted in the early 80's, domestic prices moved into line with foreign prices.[5] In the early 80's, a decrease in consumer demand for crude oil, coupled with an increase in crude production by non-OPEC countries, resulted in an over-abundance of crude oil in the world marketplace. In the mid-80's, OPEC increased production, and prices continued to fall until demand on the world market slowly began to increase. With the Iraqi invasion of Kuwait in the early 90's, and the United Nation's embargo that followed on crude products from both countries, crude oil prices began to steadily increase. Four months after the invasion, crude oil production from other countries stabilized prices in the world market.[6]

ii. Crude Oil Reserves and OPEC. It is estimated that the United States has some 22.5 billion barrels of proved crude oil reserves,[7] primarily in Texas, Alaska, and California.[8] The EIA estimates that the United States holds roughly 3 percent of the world's remaining crude oil reserves.[9] Members of the Organization of Petroleum Exporting Countries (OPEC) possess a large percentage of the world oil supply and consequently have great influence over world crude prices. Roughly 43% of crude production worldwide comes from OPEC member countries, and they hold roughly 67% of the world's crude reserves.[10] OPEC began its organization in 1960 working with large oil companies that had vested interests in their countries' crude production. OPEC members presently establish among themselves production guidelines to reach desired price levels.

[5] Id.
[6] Id.
[7] The EIA defines "proved crude oil reserves" as those which are recoverable under existing technological and economic conditions.
[8] Energy Information Administration, "*Petroleum, An Energy Profile, 1999*." The estimate is based on 1997 figures.
[9] Id.
[10] Id.

Chart 2. Estimated Reserves of Crude Oil by Nation, 1997.

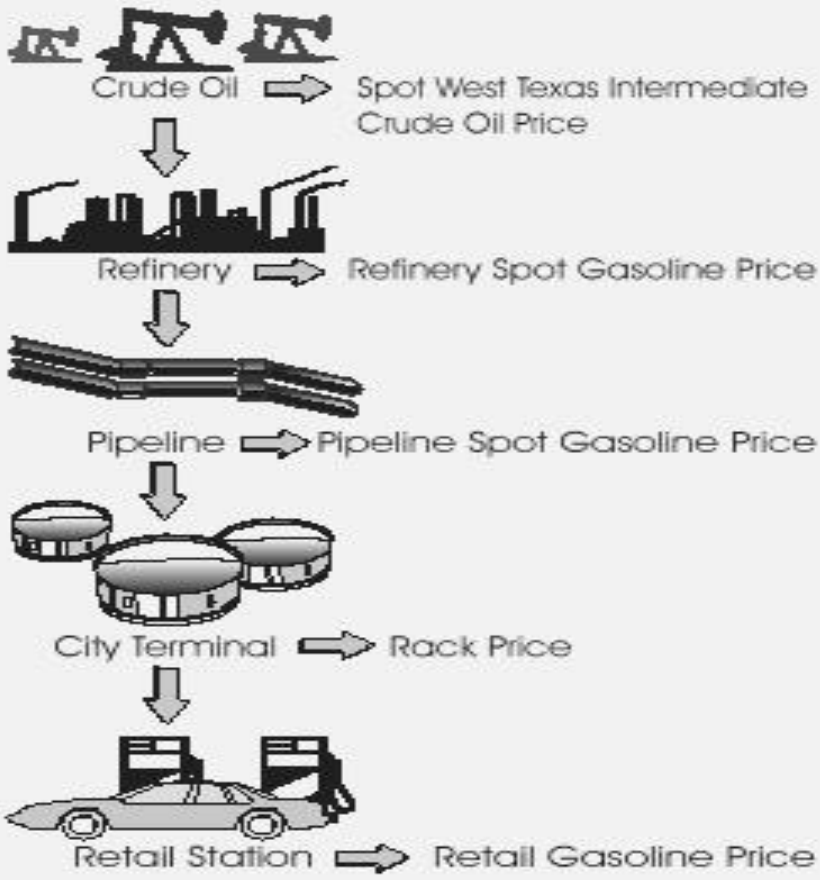


Source: Energy Information Administration, Petroleum: An Energy Profile, 1999.

iii. Crude Prices vs. Retail Prices. There are various costs associated with crude oil products as they are moved throughout the distribution process. When a product of crude oil is sold from a refinery or terminal loading rack, the rack price is paid, which includes the price the refinery paid for the crude (Spot West Texas Intermediate Crude Oil Price) as well as relatively low additional costs associated with storage, distribution, and production that were paid by the refiner.[11] Gasoline retailers pay the dealer tank wagon (DTW) price to refiners and distributors, which includes transportation and promotional costs above the rack price. The retail price, the price the consumer pays for gasoline, includes the DTW price paid by the retailer, additional operational costs, dealer margins, and taxes.

[11] Id.

Chart 3. Simplified Gasoline Market Structure.



Source: Energy Information Administration: An Energy Profile, 1999.

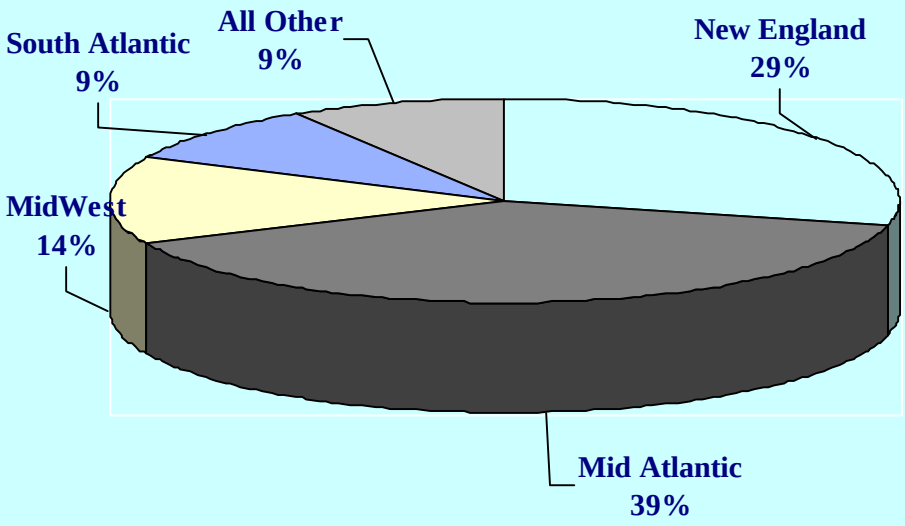
C. Heating Fuels.

i. Heating oil. Heating oil (number 1, 2 and 4 distillate fuel oil) can be used for residential and commercial heating purposes, and it is the predominant source of heating fuel used by residences and businesses alike in the Northeast. In 1997, 8 percent of all energy used for residential heating purposes in the U.S. came from heating oil and of that, 73 percent was utilized by the Northeast.[12] Heating oil use is most highly concentrated in the areas of the Northeast, the Mid-Atlantic, and the Great Lakes (see Chart 4: Sales of Heating Oil by Region). The average yearly consumption of heating oil for a single-family home is roughly 730 gallons, with an average cost in 1999 of $657.[13] On the East Coast, the heating

[12] Energy Information Administration, "The Northeast Heating Fuel Market: Assessment and Options," 2000.
[13] American Petroleum Institute, " Heating Oil in the United States" August, 2000.

oil supply is derived on average from the following: heating oil stocks provide roughly 10 percent of the total supply; local refinery[14] production provides 35 percent; transfers of heating oil from other regions provides 40 percent; and net imports provide 15 percent.[15] All heating oil consumed in New England must be delivered by tankers, barges, or ground transportation, since there are no refineries or pipelines in New England. There is a refinery located in St. John, New Brunswick that, based on anecdotal evidence received by the committee, appears to supply a significant amount of heating oil to the State.

Chart 4. Sales of Heating Oil by Region, 1998.



Source: American Petroleum Industry: Heating Oil in the United States, 8/00.

In the winter of 1999-2000, heating oil prices in the Northeast experienced a dramatic increase for a period of about four weeks (see section G-iii and Appendix E, Graph: Maine Retail Fuel Prices for 1/1996 through 8/2000). A relatively rapid change to colder than normal temperatures in the month of January, combined with low stock levels[16] and supply delivery difficulties due to the bad weather, caused heating oil prices to spike from $1.21 to $1.99 per gallon[17] (see Appendix D, Chart: Heating Oil Market Timeline, Factors Affecting Price Fluctuations). At the same time, many natural gas customers were also switching to heating oil (due to interruptible contracts or for cost reasons), which further increased the demand for heating oil. Projections by the EIA for this winter indicate that by the end of November, nationwide stocks levels will reach

[14] According to the EIA, as of January 1, 1999 there were 14 operating refineries in PADD 1 (the East Coast of the U.S.). Of these, 11 are located in the Delaware and New York City corridor and account for 95 percent of PADD 1 refinery capacity of 1.5 million barrels per day.
[15] American Petroleum Institute, " Heating Oil in the United States" August, 2000.
[16] The EIA in "The Northeast Heating Fuel Market," refers to stock level patterns for the years of 1989-99.
[17] API, "Heating Oil in the United States," 8/00.

127 million barrels, roughly 13 million less than the normal stock level for that time of year.[18] As of September 1, 2000, the EIA reports that distillate fuel stock levels nationally are close to 20 percent behind last year's levels, and about 15 percent lower than average stock levels for this time of year.[19] East Coast stock levels are also behind, roughly 39 percent lower than average stock levels for this time last year.[20] Without forecasting a colder than normal winter, the EIA has estimated that the Northeast will experience higher heating oil prices than last winter. (See Table 1. Consumer Winter Heating Oil Costs)

Table 1. Consumer Winter Heating Oil Costs,* Average Northeast Household Heating with Oil

	97-98	98-99	99-00	00-01
	Actual	Actual	Actual	Fcst (Base)
Gal	636	647	643	683
$/gal	$.93	$.80	$1.19	$1.32
Cost ($)	$591	$518	$765	$901

*Source: EIA *Winter Fuels Market Assessment 2000,* September 13, 2000.

ii. Kerosene and Propane. Number 1 and Number 2 kerosene fuel oils are petroleum distillates that may be used for residential heating (with space heaters, cook stoves, water heaters), and kerosene-type jet fuel is used for commercial and jet aircraft engines. Propane is produced as a by-product of both the oil refining process (when gasoline and heating oil are refined) and of the natural gas production process.[21] U.S. imports of propane provide roughly 10 percent of the total supply; imports are important in maintaining adequate supplies since, as a by-product fuel, production levels depend entirely on production levels of fuel oil and natural gas. The prices of propane are affected by crude oil prices and by the prices of competing fuels.[22] Similar to heating oil, its prices are also affected by low inventories and changes in weather patterns. Currently distillate fuel oil production is high as is natural gas production; thus propane production is also high. According to the EIA, propane stock levels in the U.S are the lowest they have been since 1996 and are 13 percent lower than year-ago levels.[23] East coast propane stocks, however, remain within the normal range for this time of year.[24]

[18] EIA, "Winter Fuels Market Assessment 2000, Presented to the Northeast-Midwest Congressional Coalition," September 13, 2000.
[19] Id.
[20] Id. Based on anecdotal evidence, it appears stock levels in Maine may also be low. As this report goes to press, the Study Committee awaits a report from the SPO on heating oil inventories in Maine. By statute the report is due at the beginning of January 2001; in September the committee requested the report be issued earlier (see summary of September 19th meeting in Appendix H).
[21] EIA, "Propane Prices: What Consumers Should Know."
[22] EIA, "Propane Market Status Report: Presentation to the Coalition of Northeastern Governors," July 26, 2000.
[23] Id.
[24] Id.

D. The Role of Natural Gas in the Northeast.

Oil has been the primary choice in the Northeast for energy, in part because it has been economical for consumers, and in part because natural gas has not been easily accessible. However, with the increase in the construction of natural gas pipelines over the past 20 years, consumers have increasingly been able to switch from oil to natural gas.[25] Between 1982 and 1998, 1.6 million consumers switched from oil to natural gas.[26] In 1997, over 7,300 homes in New England made the transition from heating oil to - natural gas, while 27 percent of all newly constructed homes in the Northeast in 1998 selected oil heat.[27] According to the Maine Public Utilities Commission, there are now an estimated 22,000 natural gas customers in Maine. The residential consumption levels for oil have dropped in the Northeast by 20 percent since 1980, due partly to warmer winters and greater efficiency; the number of heating oil consumers however has stayed relatively stable. Natural gas pipelines are constructed to handle fluctuations in consumer demand during the year, and natural gas contracts with large users often provide for service interruptions when the pipeline is operating under specific conditions and temperatures. Natural gas prices reflect three main factors: the actual cost of the fuel; the costs associated with transporting, storing and distributing the fuel, and the type of service contract (firm or interruptible) obtained by the consumer. Retail rates for natural gas are subject to Public Utility Commission regulation and so are not volatile in the manner that heating oil prices are. According to the American Petroleum Institute (API), natural gas prices nationwide have typically been lower than heating oil prices, though in the Northeast natural gas tends to be more expensive than elsewhere in the nation.[28] Costs comparisons for individual customers depend, of course, upon various factors, including not only the costs of the fuels, which are subject to change, but also the costs of conversion and the relative efficiencies of the heating systems used.

i. Natural Gas in Maine. Maine has recently experienced a substantial increase in natural gas supply as a result of the two interstate natural gas pipelines that were completed last year. Distribution of gas to retail consumers in the state was, until recently, provided by one company, Northern Utilities, Inc. With the advent of the new pipelines, two new distribution companies have appeared: Maine Natural Gas LLC and Bangor Gas Company LLC. New natural gas distribution infrastructure has been constructed and retail service initiated in numerous areas. Among the municipalities that have recently acquired or are scheduled to acquire natural gas service are these: Windham, Brunswick, Freeport, Pownal, Gorham, Bucksport, Rumford, Bangor, Brewer, Veazie, Orono, Sanford, and Old Town. Several other areas are under consideration for future development, including Augusta, Waterville, Skowhegan, and Bath. A number of large industries and government facilities have converted to or increased their use of natural gas. These include Maine Medical Center, Pike Industries, Philips Elment,

[25] EIA, "The Northeast Heating Fuel Market."
[26] Id.
[27] API, "Heating Oil in the United States," August, 2000.
[28] Id.

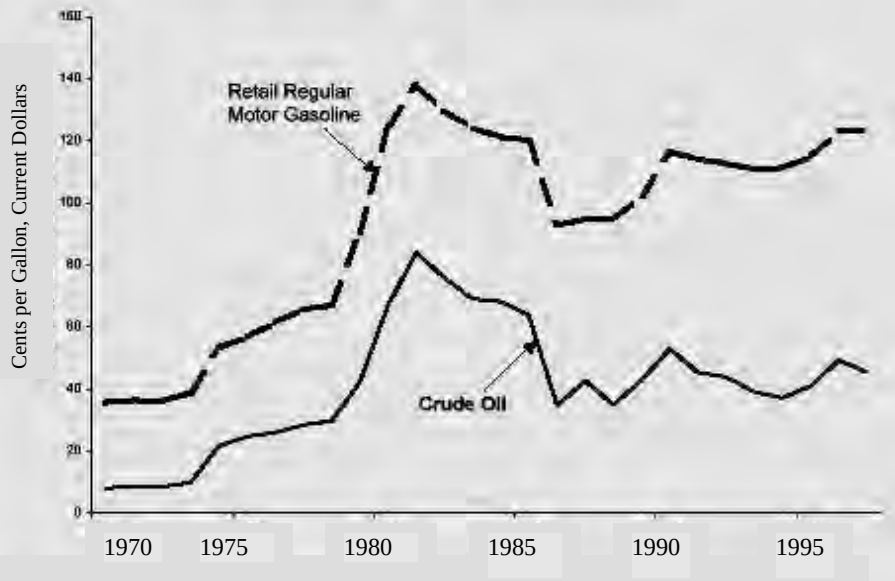
International Paper, Auburn VPS, Vishay Industries, International Brands Corporation, Fort James Corporation, the Brunswick Naval Air Station, the Portsmouth Naval Shipyard, and the University of Maine's Gorham and Orono campuses. The pipelines have also made possible five gas-fired electric generation facilities sited in various regions of the state. The collective capacity of these facilities will provide some 1650 MW of power to the New England region.[29]

E. Transportation Fuels.

i. Motor Gasoline. Motor gasoline represents almost 46 percent of the entire nationwide demand for petroleum fuels and products.[30] (See Chart 1: Product Yield from a Barrel of Crude Oil). Motor gasoline is used for powering automobiles, light trucks, boats, farm vehicles and other equipment. Gasoline is produced primarily in three grades: regular, midgrade, and premium. Gasoline prices vary by region due to state taxes, the number of competing gasoline retailers,[31] and whether or not the region is near a refinery. This year, gasoline prices have been higher than previous years, due to the dramatic increase in world crude oil prices (see Chart 5: Prices of Crude Oil and Retail Regular Motor Gasoline 1970-1997).[32] A combination of low crude and gasoline inventories have also contributed to the high prices seen this year. With the increase in production by OPEC this fall, the EIA projects that crude oil prices will begin to decline by the end of this year.[33] However, the low stock levels may provide for unpredictable gasoline prices this winter.

[29] Information on natural gas in Maine provided by the Public Utilities Commission.
[30] EIA, "Petroleum, An Energy Profile, 1999."
[31] The Attorney General, pursuant to 10 MRSA §1671, collects and analyses data relating to wholesale petroleum transactions to determine market concentration and competition in the State; an annual report on the matter is issued each January to the Legislature.
[32] EIA, "Update: A Year of Volatility: Oil Markets and Gasoline," June 2000.
[33] Id.

Chart 5. Prices of Crude Oil and Retail Motor Gasoline, 1970-1997



Source: EIA: "Petroleum, An Energy Profile, 1999."

ii. Diesel Fuel. Number 1, 2 and 4 distillate diesel fuel oil is used for diesel engines and firing industrial and electric utility boilers. Diesel fuel represents three-quarters of all refinery sales of distillate fuel oils.[34] Prices for diesel fuels tend to reflect the prices for heating fuels, and therefore tend to decline after the heating season.[35] This year diesel fuel prices were higher than last for many of the same reasons that drove the prices of gasoline higher.

F. Taxes on Motor Fuels.

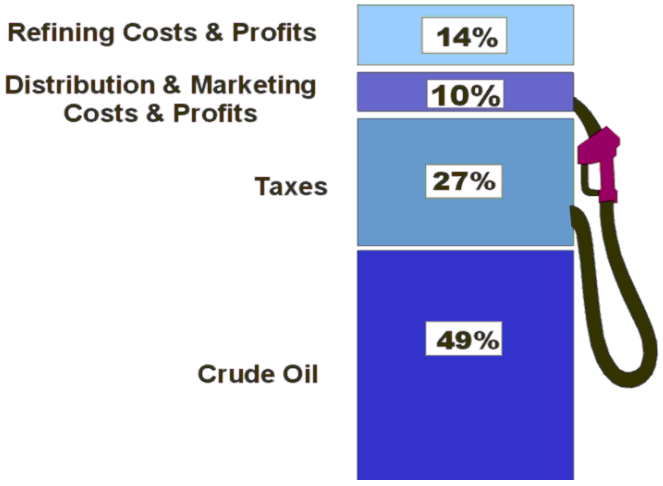
i. Brief History. Federal and State governments rely on motor fuels taxes to provide significant revenues. While motor fuels taxes in other many countries are significantly higher, taxes remain a significant portion of the price that consumers pay for motor fuel in the United States. The first federal excise tax on gasoline (1-cent-per-gallon) was instituted in 1932 to aid in the reduction of the deficit, and minor increases were made to the tax in the following two decades.[36] In 1951, the diesel fuel tax was created by the Revenue Act of 1951, authorizing that both gasoline and diesel fuel be taxed at 2 cents per gallon.[37] In 1956, the Federal Highway Fund was created, and motor fuels taxes began to be used to fund Federal highway construction. Motor fuels taxes were heavily relied upon after the recession of 1981-82, and in 1982 the Surface Transportation Assistance Act

[34] EIA, "Petroleum, An Energy Profile, 1999."
[35] EIA, "Update: A Year of Volatility: Oil Markets and Gasoline," June 20, 2000.
[36] EIA: "Motor Fuels Tax Trends and Assumptions, 1998".
[37] Id.

increased the tax rate on both gasoline and diesel fuel from 4 to 9 cents per gallon.[38] The Tax Reform Act of 1984 increased the diesel fuel tax to 15 cents per gallon; a competing proposal to increase taxes on trucks based on vehicle weights was defeated. Both gasoline and diesel taxes were increased in 1986 by 0.1 cent per gallon to fund the cleanup of underground storage tanks. The Omnibus Budget Reconciliation Act of 1990 increased both the gasoline and diesel fuel taxes by 5 cents per gallon, with half of the revenues going to the Highway Trust Fund and the rest toward general revenues. The Omnibus Budget Reconciliation Act of 1993 further increased the tax on gasoline and diesel fuels by 4.3 cents per gallon, predominantly funding the Federal Highway Trust Fund.

ii. Current State and Federal Taxes. The state excise taxes on gasoline and diesel fuel vary, ranging from 7.5 and 36 cents per gallon for gasoline and 7.5 and 29 cents per gallon for diesel.[39] Since 1970, state taxes on gasoline (adjusted for inflation) have represented between 7 and 21 percent of the end-use price (see Chart 6: What We Pay for in a Gallon of Gasoline, 10/00). The national average for state gasoline taxes is now 22.6 cents per gallon. State diesel taxes have ranged between 10 and 17 percent since 1983, and 16 and 17 percent since 1991. The average state tax nationwide on diesel is 23.1. Currently Maine's gasoline tax is 22 cents per gallon, and the diesel tax is 23 cents per gallon. The Federal gasoline tax is currently 18.4 cents per gallon; the federal diesel fuel tax is 24 cents per gallon.

Chart 6.* What We Pay for in a Gallon of Regular Gasoline (October 2000)



*Source: EIA: Gasoline and Diesel Fuel Update, 10/00.

[38] Id.
[39] Id.

iii. The Federal Highway Fund. According to the U.S. Department of Transportation, Federal Highway Administration, in FY 1997 (the latest year for which complete figures are currently available) Maine paid $108,547,000 in Federal taxes designated for the Federal Highway Trust Fund and received in Federal-Aid apportionments and allocations from the Highway Fund $138,617,000. The Federal Highway Trust Fund administers funding to the states based on formulas with weighted factors that take into account the state's contribution levels and transportation needs. For Maine, the cumulative ratio of apportionments and allocations to payments since 1956 is about 1.14 (for every $1 Maine has paid in, it has received, on average, $1.14). Federal Highway Funds are apportioned for the following programs: Interstate Maintenance, National Highway System, Surface Transportation Program, Bridge Replacement and Rehabilitation, Congestion Mitigation and Air Quality, Appalachian Development Highway System, Recreational Trails, and Metropolitan Planning.

G. Summary of Historical Price Spikes in the Northeast Distillate Fuel Market.

There have been three major distillate price spikes in recent history. According to the EIA, all three price spikes involved similar factors: unusually cold weather causing a large increase in demand; loss of power in refineries causing supply disruptions; and difficulties with transporting products due to inclement weather. The levels of distillate stocks have also played a role in each of the price spikes though in varying degrees. Historically, distillate stock levels have grown during the summer and fall, particularly in the Northeast, in order to accommodate the increase in demand during the colder winter months. Higher stock levels also function as a safeguard in the event of a supply disruption, which is shown in the following brief summary of the three most recent cases.

i. Winter of 1989-90. The winter season of 1989-90 began with distillate stock levels nationwide at 14 million barrels below average, and East Coast stocks were also low, averaging 7 million barrels below average.[40] Although refineries were increasing their production levels in November, below normal temperatures in the Northeast and other parts of the country began to spread to the Gulf Coast resulting in many refineries closing down and limiting production. In early December, distillate price spreads[41] had risen to 15 cents per gallon, and by the end of the month, it had peaked to over 41 cents per gallon.[42] By the end of December, the price spike was over.[43] Refiners on the East Coast hit production levels of 480,000 barrels per day before early February when their production began to slow.[44]

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[40] EIA, "Northeast Heating Fuel Market: Appendix C: Historical Distillate Price Spikes: December 1989-January 1990, January-February 1994, and January-February 2000."
[41] "Distillate price spread" is "the weekly average New York Harbor #2 heating oil price minus the West Texas Intermediate crude oil price." Id.
[42] Id.
[43] Id.
[44] Id.

ii. Winter of 1993-94. East Coast distillate stock levels remained at 7 million barrels above average until early January of 1994, when a cold snap in the Northeast drove temperatures down well below normal.[45] These extremely cold temperatures caused distillate East Coast stocks to fall by 31 million barrels.[46] While there was no interruption in supply, distillate price spreads increased from 15 cents per gallon in January to 28 cents per gallon in early February.[47] An increase in distillate imports as well as in refinery production on the East Coast brought a boost to distillate stocks during the month of February, yet they were still below average levels.[48]

iii. Winter of 1999-2000. From mid-December to early January, East Coast stock levels fell from average levels to 10 million barrels below average.[49] Demand for distillate increased dramatically in the end of January as severe weather took hold for several weeks and heating needs in the Northeast and Mid Atlantic rose by 40 percent. Supplies were interrupted as weather conditions prevented distillate deliveries. Distillate spreads at the end of January were rising by 14 cents per gallon weekly. The New York Harbor spot price for heating oil jumped from $.76 to $1.77 per gallon between January 14 and February 4, 2000.[50] By February 4th, East Coast stocks were 20 million barrels below average, and refineries on the East Coast were increasing production by 60,000 barrels per day in efforts to boost stock levels.[51] Although distillate stock levels typically decline during the first quarter of the year, East Coast stock levels increased somewhat in the first quarter, bringing stocks to more normal levels.

iv. Projection for winter 2000-2001: EIA and State Planning Office Information. As mentioned earlier, projections by the EIA for this winter indicate that by the end of November, nationwide stocks levels will reach 127 million barrels, roughly 13 million less than the normal stock level for that time of year.[52] As of September 1, 2000, the EIA reports that distillate fuel stock levels nationally are close to 20 percent behind last year's levels, and about 15 percent lower than average stock levels for this time of year.[53] East Coast stock levels are also behind, at roughly 39 percent lower than average stock levels for this time last year.[54] Without forecasting a colder than normal winter, the EIA has estimated that the Northeast will experience higher heating oil prices than last winter.

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[45] Id.
[46] Id.
[47] Id.
[48] Id.
[49] Id.
[50] EIA, "The Northeast Heating Fuel Market: Assessment and Options."
[51] EIA, "Northeast Heating Fuel Market: Appendix C: Historical Distillate Price Spikes: December 1989-January 1990, January-February 1994, and January-February 2000."
[52] EIA, "Winter Fuels Market Assessment 2000, Presented to the Northeast-Midwest Congressional Coalition," September 13, 2000.
[53] Id.
[54] Id.

H. Brief Summary of the Strategic Petroleum Reserve and the Northeast Heating Oil Reserve.

i. Strategic Petroleum Reserve. The Strategic Petroleum Reserve (SPR) was established by the Energy Policy and Conservation Act of 1975 which provided for a maximum petroleum reserve of 1 billion barrels. The SPR was used for the first time during Operation Desert Storm in 1991. Currently, close to 570 million barrels are in the SPR, stored in various locations along the Gulf of Mexico coastline. In response to perceived inadequacies in world crude supplies, in particular from OPEC, on September 22, 2000 the President authorized the exchange of crude oil to companies who will be required to return the oil in the fall of 2001.[55] As of October 13, 2000 the SPR has financial guarantees for 23 of the 30 million barrels to be released, and 500,000 barrels have been transferred from the Strategic Reserve Bryan Mound site in Texas to Morgan Stanley Dean Witter. Companies are expected to fulfill the exchange no later than the end of November.[56]

There was some concern that refineries running at capacity would not be able to handle more crude and therefore that the release would not be of any help in increasing heating oil supplies. However, according to the most recent figures available from the Energy Information Agency (October), refineries appear to have sufficient capacity to process the crude. EIA's October 2000 fourth-quarter projection assumes refineries running an additional 10 million barrels from the SPR and still operating at less than full capacity (the estimated fourth quarter utilization rate is 95.4%).[57] It is worth noting that the EIA only tracks U.S. refineries; the refinery located in St. John, New Brunswick which supplies heating oil to the Northeast is not included in the EIA's calculations of refinery capacity.

ii. Northeast Heating Oil Reserve. The Energy Policy and Conservation Act of 2000 (Public Law 106-469) provides for the creation of a Northeast Home Heating Oil Reserve and the circumstances for releases from the Reserve. The Reserve may contain no more than 2 million barrels of petroleum distillate that may be released in one of two ways: sold through a competitive process, or through an exchange agreement. The Northeast Home Heating Oil Reserve is now full. The President may authorize a release from the Reserve should there be a "severe energy supply interruption" determined by the following: "a dislocation in the heating oil market has resulted from such interruption; or a circumstance…exists that constitutes a regional supply shortage of significant scope and duration and that action taken under this section would assist directly and significantly in reducing the adverse impact of such shortage."[58] Dislocation

[55] The statutory provisions authorizing an SPR drawdown are set forth in 42 USC §6214.
[56] Information on current status of releases from the SPR taken from the DOE web site, www fe.doe.gov/spr.
[57] See DOE/EIA written answers to questions propounded by the committee attached as Appendix L.
[58] Public Law 106-469, 11/9/00.

in the heating oil market is defined as " the price differential between crude oil…and No. 2 heating oil…increases by more than 60% over its five year rolling average for the months of mid-October through March, and continues for 7 consecutive days; and the price differential continues to increase during the most recent week for which price information is available."[59] While none of the Reserve oil is designated for use in any particular state (the market will determine where the oil flows), it is expected that because of its location in the Northeast and the fact that it will be released only when there is a supply need in the Northeast, releases will ameliorate, at least to some extent, a price spike in the Northeast.

II. Findings and Recommendations

1. Findings.

The committee makes the following findings.

A. Heating oil inventories. Heating oil inventories in Maine and New England provide an important cushion against supply disruptions and potential price spikes. When heating season inventories are low compared with historic averages, as they presently are, it poses a risk of contributing to price spikes during demand peaks.

As noted in the background section of this report, heating oil stocks are low. The petroleum industry has suggested that "weather, not inventories, was the principal reason for last year's home heating supply problems in the Northeast"[60] and have suggested more generally that stocks are not a significant factor in today's supply market. The industry has noted that it has moved to a just-in-time-inventory approach to meeting market needs (largely the result of increased transparency in the market, e.g., computerization which allows wholesalers to track oil supplies and manage stocks "better"). The committee, however, finds that while just-in-time inventories help the industry avoid the price risks associated with storage (buying high and selling low), in the event of high demand (such as during a cold snap), the further away the oil supply, the greater the likelihood of supply disruption (e.g. storms at sea keeping tankers in New York Harbor) resulting in significant price spikes. Historically (see background section of this report), low stocks have contributed to price spikes.

The committee notes that there have been several actions taken this year that may help alleviate the effects of the low inventories this winter.

[59] From DOE web site, www fed.doe.gov/spr/heatingoil/_salebasis.htm

[60] Statement of John Felmy, Director, Policy Analysis and Statistics, American Petroleum Institute, before Commonwealth of Massachusetts Joint Committee on Energy, September 12, 2000, p.3. Copy provided to the Study Committee by the Maine Petroleum Association.

- The Maine Oil Dealers Association has estimated that some 60% of customers have entered fixed-price contracts with dealers; these are presumably backed by dealer contracts with suppliers or options on contracts. These arrangements should assure supply and price predictability for these customers; price volatility, however, remains an issue for the remaining 40% of customers, who are presumably less sophisticated or less well off and so the more vulnerable customers.

- The Department of Energy has established a Northeast Heating Oil Reserve of 2 million barrels (see background section of this report).

- The President has arranged for release of 30 million barrels of crude from Strategic Petroleum Reserve (see background section of this report).

B. Volatility in diesel fuel prices. Severe volatility in gasoline and diesel fuel prices can adversely impact consumers and businesses, in particular trucking businesses. Gas and diesel taxes do not contribute to price volatility but do increase the ultimate price paid. Higher gas and diesel prices encourage conservation and fuel efficiencies, which reduce overall consumption of the fuels; however, there are limits to the conservation measures that can be taken by trucking companies. Reductions in diesel taxes could provide relief to trucking companies in Maine that are finding it financially difficult to adjust to quickly rising pump prices. On the other hand, unless revenues from such taxes are made up from other sources, any reduction in the taxes will result in a reduction in highway funds.

Trucking companies typically contract to provide services over a certain period at a certain price based on an estimate of fuel prices. If fuel prices spike up, this can significantly impact the bottom line for the trucking company. The committee received anecdotal evidence suggesting sharp increases in diesel prices have contributed to a number of trucking companies across the country filing for bankruptcy. The committee also heard that diesel prices vary from state to state and that truckers seek out lower prices when filling up truck tanks. To the extent Maine's prices are higher than prices in other states, truckers, it was suggested to the committee, may ultimately buy less fuel in Maine.

While the federal diesel tax is uniform across the country, state fuel taxes vary from state to state. Maine's fuel taxes are about at the national average (see background section of this report). There are states with lower taxes and states with higher taxes. However, reduction in state fuel taxes, though it might conceivably encourage some truckers to buy more gas in Maine, would reduce diesel tax revenues (which are dedicated to the Highway Fund) and would not directly address the issue of price volatility, which appears to be the major issue confronting the trucking industry. Also, since state diesel taxes are apportioned among states based a complex formula that factors in miles driven in each state, it is not clear how much benefit actually would be provided to interstate truckers if the tax in Maine were reduced.

C. Energy planning and efficiency. Energy planning and energy efficiency-related functions should, as a general rule, be under one agency. A transfer of the energy–efficiency responsibilities from the Department of Economic and Community Development to the State Planning Office would improve coordination and efficiency of energy-related functions. There is a need to examine the adequacy of funding for energy planning and energy efficiency-related functions of state government. State energy planning capacity can provide a source of accurate historical and contemporary energy information as well as a means of identifying and analyzing important trends and patterns and forecasting energy supplies, demands and prices. This information can assist policy makers in developing energy policies, allowing earlier awareness of emerging or changing trends and better understanding of the potential effects of energy policy choices.

> From 1974 – 89 Maine's Office of Energy Resources was responsible for state energy planning; duties included producing detailed energy resource plans (including long range forecasts), setting building and appliance efficiency standards and developing and coordinating state energy policy. In 1989 the Office was abolished; certain of its duties were eliminated with it and others have been eliminated in more recent years; certain responsibilities associated with energy efficiency were transferred to and remain with the Department of Economic and Community Development. Responsibility for energy policy coordination and the development of energy resource plans was transferred to and remains with the State Planning Office. Due to limited resources (almost all funding for energy planning activities comes from limited federal grants), these agencies indicate they are unable to undertake many these responsibilities.
>
> Last year, in response to the extraordinary heating oil price spike, the Joint Standing Committee on Utilities and Energy reported out and the Legislature enacted LD 2668 (PL 1999, Ch. 758) which directs the SPO to report annually to the Utilities and Energy Committee on petroleum product inventories in the State and to report any significant heating oil supply inventory shortfalls which the Office anticipates based on information available to it.[61] The SPO was required to collect this information under the prior existing law, but had done nothing with it. The Office has absorbed the cost of implementing the new law.
>
> Under the electric restructuring law (35-A MRSA §3211) the State Planning Office has also been given the responsibility for developing an energy conservation program to be implemented by transmission and distribution utilities using independent service providers. An assessment on the utilities covers SPO's costs of carrying out this responsibility.

D. Consumer awareness. The more educated consumers become about energy matters and the more they make use of the conservation and energy assistance options available to them, the less vulnerable they will be to price volatility. While there are

[61] See 5 MRSA §3307-C, sub-§5.

indications that heating oil consumers are growing more aware and taking increased advantage of contract options with oil dealers to reduce price risks, not all customers have the ability to take advantage of these options. It is also not clear that consumers are taking full advantage of the options available to them to improve home energy efficiency and thus reduce heating costs. Consumer education about available options and how to take advantage of them should be an important part of the State's effort to help consumers prepare for this and future heating seasons.

> The Governor has developed a so-called Bundle ME Up program to increase customer awareness and utilization of available energy assistance and conservation options. The program may be found on the web at http://www.bundlemeup.org/. The effort includes several avenues of public outreach (the internet site, a brochure, a toll-free information line, an email address, media ads, bill inserts and direct mailings).
>
> As noted above, many heating oil customers have taken steps to protect themselves from price spikes this winter by signing fixed-price contracts. The Maine Oil Dealer's Association has estimated that last year 25% signed such contracts; this year about 60% have apparently done so.

E. Natural gas interruptibles. There appears to be no evidence at this time that interruptible customers in Maine (large commercial and industrial customers who receive a rate incentive by agreeing to switch to a fuel other than natural gas during periods of peak demand and supply constraint) have negatively impacted or pose a serious risk of negatively impacting winter heating oil supplies or prices. However, with a number of new gas-fired electric plants coming on line that may make use of interruptible contracts, the issue deserves continued monitoring.

> Interruptible contracts in New York appear to have contributed to the oil price spike in New York last winter, raising concerns about whether the interruptible contracts in Maine pose a similar risk to Maine's oil market. According to the Maine Public Utilities Commission, Maine's situation is not analogous to that of New York.
>
> Interruptible consumers in New York have historically rarely been interrupted; last winter they were. The load that then suddenly switched from natural gas to oil constituted a very significant demand spike in the oil market. It is possible that the NY interruptibles had an impact on oil markets throughout the Northeast. The New York utility commission has issued an order requiring interruptibles in that state to have on hand or available by firm contract a 7-10 day oil supply. This was done to ensure protection of the natural gas market (some of the interruptibles did not in fact interrupt when required to under their contracts last winter, causing difficulties in the gas supply); this action by New York should also help address the ancillary effect on the oil market of unanticipated fuel switching by the interruptibles in that state.

Currently in Maine, interruptibles, when interrupted, constitute an insignificant portion (about 1%) of the oil market. Interruptions are scheduled every winter so demand on the oil market is predictable, and the interruptions are essentially for the entire heating season; by the time of a cold snap and a demand spike, they are already off line and oil supply has been arranged.

F. Demand-side management and low-income assistance. Energy conservation reduces energy consumption and consumer bills. Reducing heat loss from low-income households through weatherization allows fuel assistance dollars to go further and reduces waste of energy as well as the funds spent on energy. Energy conservation and reduction in inefficient energy use should be a goal of the State.

Energy conservation efforts often require an up-front capital expense (such as the purchase and installation of insulation) that can pose financial difficulties for persons of limited means. However, reduction in energy loss results in long-term cost savings from reduced fuel purchases; the capital costs of conservation often have a relatively short pay back period from the energy cost savings.

Last year the Utilities and Energy Committee proposed and the Legislature enacted a law creating an energy savings pilot program for State Government.[62] The new law establishes an energy savings goal for the State and requires the Department of Administrative and Financial Services to develop a pilot program to achieve significant energy savings at 10 state facilities. In addition to saving the State money and setting a worthwhile example for other energy consumers in the State, the achievement of significant energy savings by state government, a large consumer of energy, has the potential for reducing energy demand within the State, thus freeing those energy resources for other uses. Under the pilot program, performance-based contracts will be used. Such contracts allow for the assurance of energy savings equal to or in excess of contract payments.

2. Recommendations.

Many of the recommendations that follow would most appropriately be addressed to several committees of the Legislature. However, the Joint Order creating this study directs that this report be addressed only to the Joint Standing Committee on Transportation. The committee assumes the Joint Standing Committee on Transportation will take any steps it deems appropriate to involve other legislative committees in the review of these recommendations. Obviously any of the recommended legislation attached to this report that is ultimately introduced will find its way in the normal course of the referencing of bills to appropriate committees.

Since the Joint Standing Committee on Transportation will not have an opportunity to act on any of the recommendations until January 2001, at the earliest, the Study Committee finds itself in an inauspicious position to propose options for

[62] See LD 2446, as amended by Committee Amendment A, enacted as PL 1999, Ch. 735, and codified at 5 MRSA §1770.

addressing the fuel price issues as they relate to the current heating season. Consequently most of the committee's recommendations take a longer view of the issues surrounding fuel prices; the following recommendations focus primarily on future supply and process issues.

As a result of and in accordance with the findings described in the section 1 above, the committee makes the following recommendations.

A. Support for recommendations of the Task Force To Reduce The Burden Of Home Heating Costs On Low-Income Households. The final report (November 1, 2000) of the Task Force To Reduce The Burden Of Home Heating Costs On Low-Income Households offers eight recommendations dealing with issues associated with heating oil. The Study Committee, which met jointly with the Task Force on October 12th and reviewed generally with the Task Force the options that ultimately appeared as recommendations in the Task Force's report, has also independently considered the matters addressed by those recommendations and supports the recommendations. Rather than repeat what is laid out in that report, which the reader may consult directly, the following briefly summarizes the Task Force's recommendations (with the exception of Recommendation #2 in that report which relates to an issue that, as it turns out, is moot);[63] the Study Committee hereby endorses and incorporates into this report the Task Force's recommendations as they appear the Task Force's November 1, 2000 Final Report.

i. Working Capital Advance to LIHEAP. The Study Committee recommends the Legislature annually authorize a working capital advance, to be available by July of each year, of $10 million from the General Fund, Unappropriated Surplus, to the Low Income Home Energy Assistance Program. These funds should be available to provide fuel assistance during the summer when prices are generally lower, thus increasing the assistant provided. This program should be coordinated with the federal government to ensure repayment of the advance from federal LIHEAP funds.

ii. Loans and grants for energy conservation; bond. The Study Committee recommends that the Maine State Housing Authority (MSHA) and Finance Authority of Maine (FAME) be directed to develop a proposal for establishing a program to provide loan interest loans or grants to individuals for the purchase of energy conservation improvements. The FAME and the MSHA should be directed to provide a report with their proposal to the Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Appropriations and Financial Affairs.

The Study Committee also recommends that the Legislature enact legislation authorizing the issuance of an $8 million General Fund bond, the proceeds of

[63] Recommendation #2 relates to a proposal that was being considered by Congress to require a 25% state match for weatherization funding. Congress did not adopt the proposal, thus the issue addressed by recommendation #2 is moot.

which would be used by the MSHA to fund the conservation loan and grant program.

iii. Establishment of an Office of Energy Conservation. The Study Committee recommends the MSHA and the State Planning Office (SPO) be directed to study the feasibility of establishing an Office of Energy Conservation within MSHA. The MSHA and SPO should be directed to present their report to the Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Appropriations and Financial Affairs.

iv. Investigation of increase in weatherization portion of LIHEAP. The Study Committee recommends the MSHA be directed to investigate during the month of April in each year for the years 2001 – 2003, the possibility of increasing the percentage of LIHEAP funds available for weatherization. The federal cap on the percentage is 25%; increases up to the cap should be examined.

v. Monitoring interruptibles. The Study Committee recommends that the Public Utilities Commission be directed to continue to monitor the effects of gas interruptibles on the price and supply of heating oil in Maine.

vi. State-wide reductions in energy consumption. The Study Committee recommends that the SPO be directed to conduct a study to determine whether, and if so how, per capita residential energy consumption in the State could be reduced by at least 25% by the year 2011. The SPO should be directed to consider the effects of increasing efficiency requirements for heating systems, appliances and building standards. The study should also consider the value of tax incentives for energy efficiency improvements. The SPO should be directed to present its report to the Joint Standing Committee on Utilities and Energy, the Joint Standing Committee on Taxation, and the Joint Standing Committee on Appropriations and Financial Affairs.

B. Examine creation of state heating oil reserve and/or the use of hedging mechanisms. The Study Committee recommends that the Joint Standing Committee on Transportation report out legislation creating a task force to examine and, to the extent possible, to quantify the costs and benefits to the State of creating a State heating oil reserve and of the purchase of options on heating oil futures. The goal of the task force should be to determine whether either of these options could be used successfully to reduce or stabilize consumer costs.

The examination of a heating oil reserve should include an assessment of the effect of just-in-time inventories on winter heating fuel stocks and price volatility, as well as an assessment of available tank storage capacity, and the necessary size of a reserve in order to address identified industry reserve deficiencies. The examination should also assess how a reserve would affect the heating oil market, including industry reserves, the costs and risks to the State, and an identification of possible funding sources.

The examination of the purchase of options on heating oil futures should include whether the purchase of call options on heating oil futures by the State, or by others under the direction of the State, could provide a cost-effect hedge against price spikes and, in a more targeted fashion, whether the purchase of such call options could be used to provide a hedge against price increases in the context of the administration of LIHEAP.

With the assistance of the SPO as staff, the task force should be directed to prepare a report and submit it to the Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Appropriations and Financial Affairs no later than March 9, 2001. These committees should be authorized to report out legislation in response to the report.

C. Seek seasonal suspension of federal diesel tax. The Study Committee recommends that the Joint Standing Committee on Transportation propose a Joint Resolution memorializing Congress to remove or reduce federal diesel taxes during the winter season in the Northeast, provided that the loss of revenues to the Federal Highway Trust Fund is otherwise made up so that the distribution of funds from the Trust Fund to the State is not diminished. The Study Committee recommends no change in the State diesel tax.

D. Consolidate responsibilities for energy planning and enforcement of energy efficiency standards; review adequacy of funding. The Study Committee recommends that the Joint Standing Committee on Transportation report out legislation directing the Department of Economic and Community Development and the State Planning Office develop a plan for the orderly transfer of the energy efficiency responsibilities of the DECD to the SPO so that these energy matters are consolidated within the SPO. In the plan, the Department of Economic and Community Development and the State Planning Office should review existing funding for energy-related responsibilities of the DECD and the SPO and make recommendations regarding the appropriate funding level for energy-related responsibilities of the SPO after the transfer of the DECD's energy efficiency responsibilities. (Attached as Appendix J may be found information supplied to the Study Committee by the DECD and the SPO estimating the additional costs required for meeting current statutory responsibilities.)

E. Support consumer education. The Study Committee recommends that the Legislature monitor the effectiveness of the Governor's Bundle ME Up campaign and support cost-effective and reasonable steps to educate the public about energy assistance programs and methods of reducing energy use and costs.

F. Seek right to oil in Northeast Heating Oil Reserve. The Study Committee recommends that the Legislature adopt a Joint Resolution encouraging Congress to establish a mechanism whereby the State of Maine obtains a right to heating oil distributed from the Northeast Heating Oil Reserve based on the amount of heating oil conserved in the State through the application of public funds for conservation and weatherization.

Appendix A

Joint Order Establishing Study Committee

H. P. 1774

Joint Order Creating the Study Committee on Gasoline and Fuel Prices

(Passed in both Houses of the 119th Maine Legislature on April 25, 2000.)

ORDERED, the Senate concurring, that the Committee on Gasoline and Fuel Prices is established as follows.

1. **Committee on Gasoline and Fuel Prices established.** The Committee on Gasoline and Fuel Prices, referred to in this order as the "committee," is established.

2. **Committee membership.** The committee consists of 13 legislative members. The President of the Senate shall appoint 3 members from the Senate and the Speaker of the House of Representatives shall appoint 10 members from the House of Representatives.

3. **Chairs.** The first Senate member named is the Senate chair and the first House member named is the House chair.

4. **Appointments; convening.** All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the study commission shall call and convene the first meeting of the study commission no later than June 30, 2000.

5. **Duties.** The committee shall:

   A. Gather information on the change in the prices of fuel oil, diesel fuel, propane, kerosene and natural gas;

   B. Gather information on the change in gasoline prices;

   C. Study and evaluate the effects and impacts of recent price changes on the people of the State; and

   D. Identify and recommend appropriate actions the State may take to minimize the effects of price changes or to minimize future price increases that could be detrimental to businesses or the people of the State.

6. **Staff assistance.** Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Members of the committee are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the committee.

8. Report. The committee shall submit a report along with any recommended legislation to the Joint Standing Committee on Transportation no later than November 1, 2000. If the committee requires a limited extension of time to make its report, it may apply to the Legislative Council, which may grant the extension. The joint standing committee of the Legislature having jurisdiction over transportation matters may introduce legislation during the First Regular Session of the 120th Legislature.

9. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council or the executive director's designee shall provide the committee chairs and staff with a status report on the committee budget, expenditures incurred and paid and available funds.

SUMMARY

This amendment replaces the joint order. The amendment clarifies that all appointments must be made within 30 days after passage of the joint study order and that the first meeting must be held no later than June 30, 2000. The amendment also clarifies the duties of the committee.

Appendix B

Members of Study Committee

COMMITTEE ON GASOLINE AND FUELS PRICES

H. P. 1774

Membership 2000

Appointment(s) by the President

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Appointment(s) by the Speaker

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Appendix C

Interested Parties

INTERESTED PARTIES

Committee on Gas & Fuel Prices

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(December 5, 2000)

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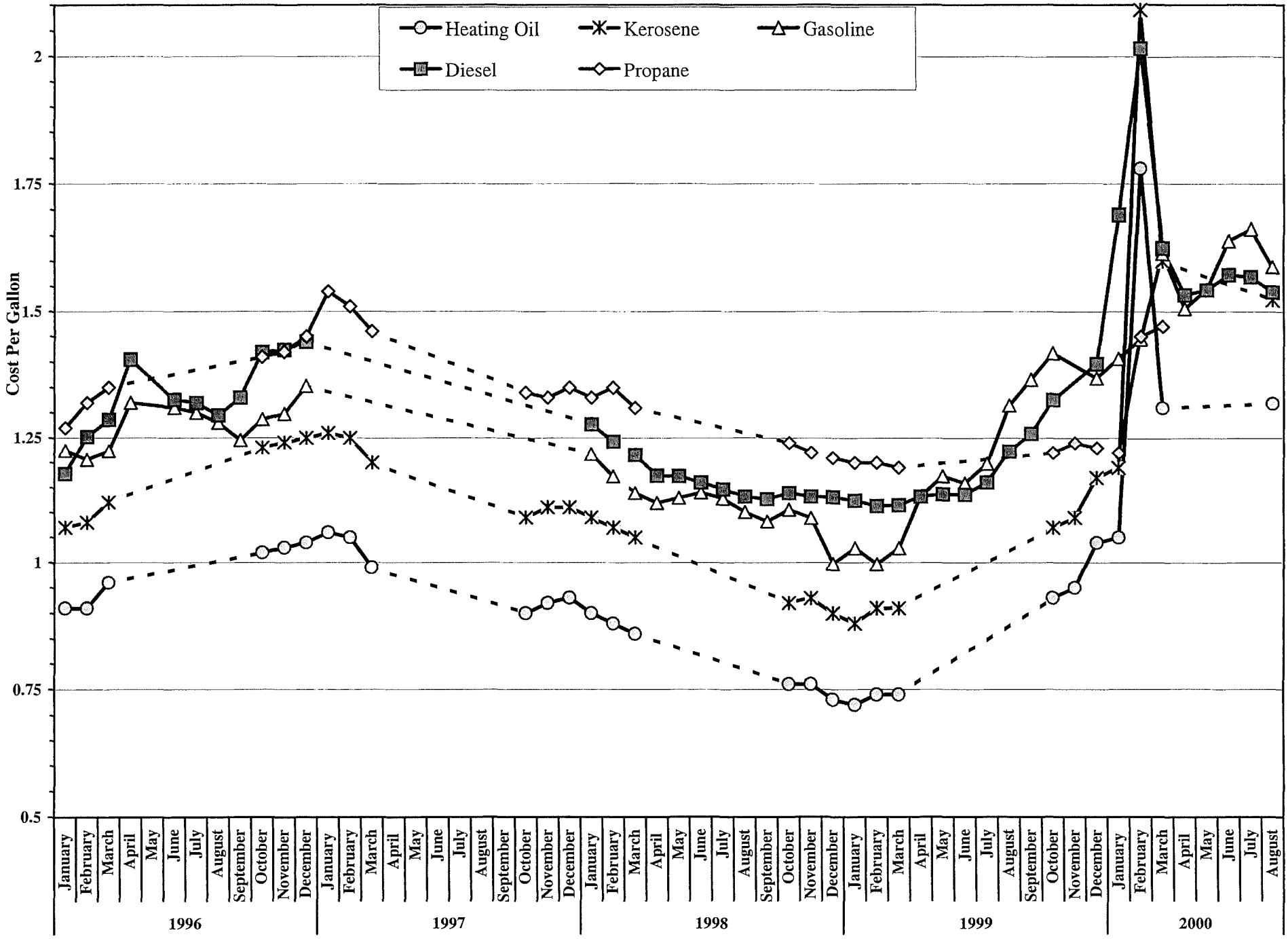
Appendix D

Graph: Maine Retail Fuel Prices for 1/1996 through 8/2000

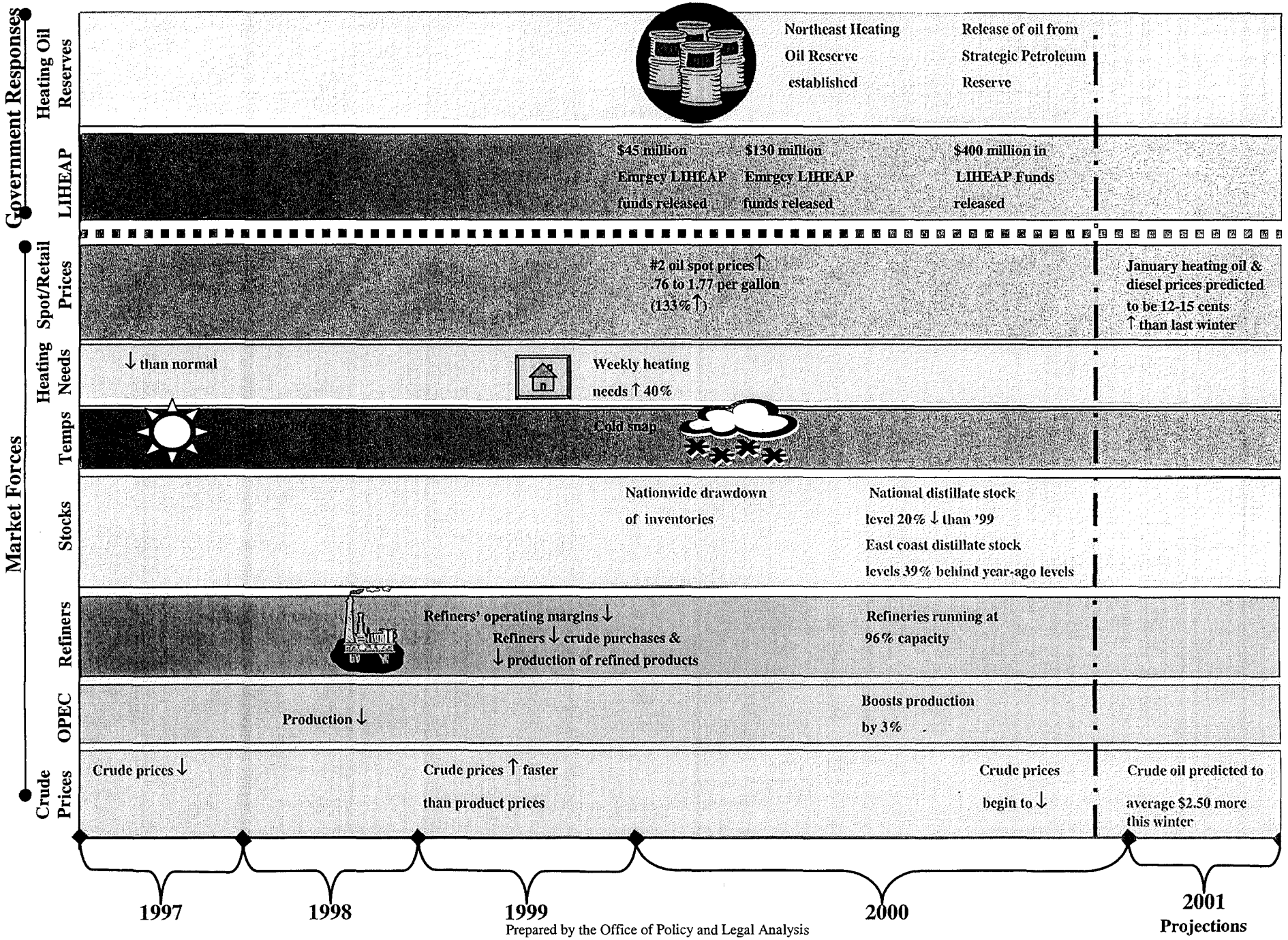
Maine Retail Fuel Prices for 1/1996 through 8/ 2000:
Cash* Prices for Home Heating Oil,Kerosene, & Propane; Retail Prices for Gasoline,*** & Diesel**



Appendix E

Chart: Heating Oil Market Timeline: Factors Affecting Price Fluctuations

Heating Fuel Market Timeline: Factors Affecting the Price Fluctuations



Prepared by the Office of Policy and Legal Analysis

Appendix F
Draft Legislation To Implement Study Committee's Recommendations

An Act to Implement the Recommendations of the Study Committee on Gasoline and Fuel Prices Relating to Energy Planning and Conservation

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

Whereas, as a result of recent events in energy markets, it is important to consolidate energy-related functions as soon as possible in order to coordinate state energy policy and planning; and

Whereas, in the judgment of the Legislature, 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. Transfer of energy functions of Department of Economic and Community Development to the State Planning Office. The Commissioner of the Department of Economic and Community Development and the Director of the State Planning Office shall prepare a plan, together with necessary implementing legislation, for the orderly transfer of energy conservation functions of Department of Economic and Community Development to the State Planning Office. The plan must identify existing funding available to the Department of Economic and Community Development to undertake energy conservation-related responsibilities, the adequacy of that funding and whether there are any restrictions that would affect the transfer of the funds to the State Planning Office. The plan must also identify all existing funding available to the State Planning Office for energy policy, planning or conservation responsibilities specified under existing law and the adequacy of that funding. The plan may include recommendations for increased funding for the State Planning Office to undertake its existing energy-related duties and responsibilities and the energy-conservation-related responsibilities transferred under the plan from the Department of Economic and Community Development. The plan must include recommendations for repeal or modification of any energy-related laws that are not proposed to be fully funded under the plan.

Sec. 2. Submission. The Commissioner of the Department of Economic and Community Development and the Director of the State Planning Office shall submit the plan developed under section 1 together with necessary implementing legislation to the Legislature by March 9, 2001.

Emergency Clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

SUMMARY

This act directs the Commissioner of the Department of Economic and Community Development and the Director of the State Planning Office to prepare a plan, together with necessary implementing legislation, for the orderly transfer of energy conservation functions of Department of Economic and Community Development to the State Planning Office. The plan must examine and include recommendations regarding funding issues associated with energy-related responsibilities under the law. The report and implementing legislation are due by March 9, 2001.

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Resolve, to Implement the Recommendation of the Study Committee on Gasoline and Fuel Prices to Create a Task Force on Heating Oil Price Stabilization

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

Whereas, heating oil prices are predicted to be volatile and to rise steeply during this heating season and it is essential that the State take whatever action it reasonably can to stabilize prices of this essential heating fuel; and

Whereas, before it can take action on proposals to create a heating oil reserve in the State or to authorize the State to become involved in the oil futures market as a means of hedging against price increases, the Legislature must have available to it an in-depth examination of the costs and benefits of these options; and

Whereas, the task force created by this resolve is directed to undertake such an examination and in order to have time to report to this Legislature and for the Legislature to respond to the report, the task force must be established immediately; and

Whereas, in the judgment of the Legislature, 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,

Sec. 1. Establishment. Resolved: That the Task Force on Heating Oil Price Stabilization, referred to in this resolve as the "task force", is established; and be it further

Sec. 2. Membership. Resolved: That the task force consists of 9 members as follows:

A. Two members of the Senate, appointed by the President of the Senate;

B. Three members of the House of Representatives, appointed by the Speaker of the House;

C. The Executive Director of the Maine Petroleum Association or the Executive Director's designee;

D. The President of the Maine Oil Dealers Association or the President's designee;

E. Three members, appointed jointly by the President of the Senate and the Speaker of the House of Representatives, who are either advocates for heating oil consumers or are heating oil consumers who do not represent any sector of the petroleum industry; and be it further

Sec. 3. Chairs. Resolved: That the first named Senate member is the Senate Chair of the task force and the first named House member is the House Chair of the task force; and be it further

Sec. 4. Appointments; convening. Resolved: That all appointments must be made no later than 5 business days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Counsel once all appointments have been made. When the appointment of all members has been completed, the chairs of the task force shall call and convene the first meeting of the task force no later than 10 business days following the effective date of this resolve; and be it further

Sec. 5. Duties. Resolved: The task force shall:

A. Examine and to the extent possible quantify the costs and benefits to the State and heating oil consumers in the State of creating a State heating oil reserve. The examination must include an assessment of the effect of just-in-time inventories on winter stocks of heating oil and price volatility as well as an assessment of available tank storage capacity and the necessary size of a reserve in order to address identified industry reserve deficiencies. The examination must also include an assessment of how a reserve would affect the heating oil market, including industry reserves, the costs and risks to the State and an identification of possible funding sources;

B. Examine whether the purchase of call options on heating oil futures by the State, or by others under the direction of the State, could provide a cost-effective hedge against price spikes and, in a more targeted fashion, whether the purchase of such call options could be used to provide a hedge against price increases in the context of the administration of LIHEAP. The examination must include an assessment of the costs and benefits to the State and to heating oil consumers in the State; and be it further

Sec. 6. Consultation. Resolved: That in undertaking its examination of these issues, the task force shall, to the extent possible within the time available:

A. Gather information on the efforts and success of other states to create reserves or to make use of hedging options in the oil futures market;

B. Consult with individuals or entities with expertise in the oil futures market, and in particular with expertise in trading on the New York Mercantile Exchange; and

C. Consult with state agencies with relevant expertise; and be it further

7. Staff assistance. Resolved: That the State Planning Office shall provide necessary staff services to the task force. The task force may request from the Legislative Council assistance with the preparation of any legislation recommended by the task force; and be it further

8. Compensation. Resolved: That members of the task force are not entitled to compensation; and be it further

9. Report. Resolved: That the task force shall submit a report along with any recommended legislation to the Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Appropriations and Financial Affairs no later than March 9, 2001. If the committee requires a limited extension, it may apply to the Legislative Council, which may grant the extension. In response to the report of the task force, the Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Appropriations and Financial Affairs may introduce legislation during the First Regular Session of the 120th Legislature.

Emergency Clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

SUMMARY

This resolve implements the recommendation of the Study Committee on Gasoline and Fuel Prices to create a task force

1. To examine and to the extent possible quantify the costs and benefits to the State and heating oil consumers in the State of creating a State heating oil reserve. The examination must include an assessment of the effect of just-in-time inventories on winter stocks of heating oil and price volatility as well as an assessment of available tank storage capacity and the necessary size of a reserve in order to address identified industry reserve deficiencies. The examination must also include an assessment of how a reserve would affect the heating oil market, including industry reserves, the costs and risks to the State and an identification of possible funding sources; and

2. To examine whether the purchase of call options on heating oil futures by the State, or by others under the direction of the State, could provide a cost-effective hedge against price spikes and, in a more targeted fashion, whether the purchase of such call options could be used to provide a hedge against price increases in the context of the administration of LIHEAP. The examination must include an assessment of the costs and benefits to the State and to heating oil consumers in the State.

DRAFT

For consideration by the Joint Standing Committee on Transportation

JOINT RESOLUTION
MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO GRANT MAINE A RIGHT TO OIL IN THE NORTHEAST HEATING OIL RESERVE

We, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the members of the Congress of the United State, as follows:

Whereas, Congress has authorized the creation, and the United States Department of Energy has created, the Northeast Heating Oil Reserve in order to address potential heating oil supply problems in the Northeast; and

Whereas, Maine has no oil pipeline or refinery or major storage capacity and must rely on delivery of heating oil by sea or by ground transportation and presently has no direct access or right to any oil in the Northeast Heating Oil Reserve; and

Whereas, If Maine had direct access to oil in the Northeast Heating Oil Reserve during a supply shortage it could potentially provide significant assistance to Maine consumers; and

Whereas, Maine is conserving oil through a variety of publicly-funded weatherization and conservation programs; now, therefore, be it

Resolved: That We, your Memorialists, respectfully urge and request that the United States Congress enact legislation to grant the State of Maine a right to a portion of any heating oil distributed from Northeast Heating Oil Reserve based on the amount of heating oil conserved in the State through the application of public funds for weatherization and conservation; and be it further

Resolved: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation.

DRAFT

For consideration by the Joint Standing Committee on Transportation

JOINT RESOLUTION
MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO SUSPEND THE FEDERAL DIESEL TAX

We, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the members of the Congress of the United State, as follows:

Whereas, Maine industry, particularly the industry in northern Maine, relies heavily on trucks to move materials and products through and out of the State to market; and

Whereas, prices of diesel fuel, which is essentially the same petroleum distillate as number 2 heating oil, have risen dramatically and are subject to rapid price up-swings during the heating season and such volatility and elevation of prices cause substantial difficulties for trucking businesses serving Maine and threaten their continued viability; and

Whereas, the federal diesel tax increases the cost per gallon of diesel fuel by 24 cents per gallon and if suspended in Northeast during the heating season, could provide substantial relief to trucking companies and preserve their viability in serving Maine's vital industries; now, therefore, be it

Resolved: That We, your Memorialists, respectfully urge and request that the United States Congress enact legislation to suspend the federal diesel tax in the Northeastern United States during the winter months, provided that the revenues thereby forgone are otherwise replenished with other funds so that distributions to the State from the Federal Highway Trust Fund are not diminished; and be it further

Resolved: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation.

Appendix G

Copy Of Letter From Study Committee Chairs To Governor Encouraging Support For Targeted Release Of LIHEAP Emergency Funds

Sen. Judy A. Paradis, **Chair**
Sen. Richard J. Carey
Sen. Betty Lou Mitchell

Staff

Jon Clark, Senior Attorney
Natalie Hicks, Legislative Researcher

Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333-0013
tele 207-287-1670
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Rep. Albion D. Goodwin, **Chair**
Rep. Gerald N. Bouffard
Rep. John T. Buck
Rep. Ronald F. Collins
Rep. Patrick Colwell
Rep. Charles D. Fisher
Rep. Terrence P. McKenney
Rep. Eleanor M. Murphy
Rep. Stephen S. Stanley
Rep. Edgar Wheeler

State of Maine
One Hundred and Nineteenth Legislature

STUDY COMMITTEE ON GASOLINE AND FUEL PRICES

October 27, 2000

Honorable Angus S. King, Jr., Governor
State of Maine
Office of the Governor
#1 State House Station
Augusta, Me 04333-0001

Dear Governor King:

We write on behalf of the Study Committee on Gasoline and Fuel Prices to encourage you to work with the other Governors in the Northeast to seek a targeted release of the funds remaining in the LIHEAP Emergency Contingency Fund.

We understand some $155 million still remains in the Fund. As you know, the recent release of $400 million was distributed according to a national formula; of this, Maine's portion was only about $5.1 million (an additional amount, just under $200,000, was distributed to the Maine tribal governments).

Maine's low-income households face the prospect of a very difficult winter. We understand the number of requests for assistance for this time of year is very high (some 40,000 so far), and the number will surely increase as cold settles in. A targeted release to the Northeast of the remaining amount in the Contingency Fund could provide crucial assistance to our most vulnerable citizens in meeting their heating needs. We also believe it would be beneficial to maximize the utilization of the funds for weatherization to the extent this would not adversely impact the ability to address critical fuel assistance needs.

Thank you for your attention to this important matter. If you have any questions, please do not hesitate to contact us.

Sincerely,

Judy A. Paradis
Senate Chair

Albion D. Goodwin
House Chair

cc: Members, Study Committee on Gasoline and Fuel Prices

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Appendix H

Summaries of Study Committee Information-Gathering Meetings

OFFICE OF POLICY AND LEGAL ANALYSIS

State House Station 13
Augusta, ME 04333
voice 207-287-1670
fax 207-287-1275

MEMORANDUM

To: Members, Study Committee on Gasoline and Fuel Prices

From: Jon Clark, Senior Attorney

Date: September 12, 2000

Re: Summary of September 5th Meeting

Committee met in Bangor from 3:00 to 5:00 for an orientation discussion and reconvened briefly at 6:00 to take testimony in a public hearing. All members present except Representatives Buck, Collins, Murphy and Wheeler.

Staff distributed a notebook of background materials and these were reviewed briefly. A preliminary discussion of the scope of the study, issues and approach ensued. The second meeting having already been scheduled (September 19th in Sanford), there was a discussion of subsequent meetings and a decision made to hold the 3rd meeting in Presque Isle and the 4th meeting in Lewiston. A 5th meeting may be desired; if so, a request for additional funding will need to be made of the Council. The decision to seek such funding was held in abeyance.

The chairs of the committee encouraged members to hold public hearings in their districts on fuel price issues. These will be held at the discretion and expense of individual members.

Several requests for information were made (see attachment).

The committee indicated it wished to hear from at least the following at future meetings:

- Representative from the DOE
- Someone (probably from MSHA) to discuss current programs to support conservation (to reduce consumer fuel consumption)
- Oil and gas (including natural gas) industry representatives

At the hearing the committee heard brief presentations from staff representatives of Senator Collins and Congressman Baldacci (written statements were handed out and

read; copies attached). Dick Davies, at the invitation of committee member Senator Carey, spoke regarding the LIHEAP program and concerns about possible heating oil supply shortfalls this winter. He reminded the committee of the existence of the Task Force to Reduce the Burden of Home Heating Costs on Low-income Households and described a proposal currently being considered at various levels regarding applying fuel assistance during the warmer months when oil prices are lower.

No members of the public spoke.

Attachments

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Sen. Judy A. Paradis, **Chair**
Sen. Richard J. Carey
Sen. Betty Lou Mitchell

Staff

Jon Clark, Senior Attorney
Natalie Hicks, Legislative Researcher

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Rep. Eleanor M. Murphy
Rep. Stephen S. Stanley
Rep. Edgar Wheeler

State of Maine
One Hundred and Nineteenth Legislature

STUDY COMMITTEE ON GASOLINE AND FUEL PRICES

Summary of September 19th Meeting

Date prepared: September 25, 2000

Committee met in Sanford from 3:00 pm to 5:00 pm and reconvened from 6:00 pm to 9:00 pm. All members present except Senators Paradis and Mitchell and Representative Buck.

Staff distributed materials for members' notebooks, including a summary of the September 5th meeting and a staff paper listing information requests made at the Sept. 5th meeting and the information requested. There was a brief discussion of schedule: the October 4th meeting in Presque Isle canceled; a joint meeting with the task force on home heating costs scheduled for October 12th; a meeting in Lewiston to be scheduled the week of October 16th (presently scheduled for October 19th). Announced: chairs seeking an extension of the reporting deadline from Nov. 1 to Dec. 11 and authorization for 5 meetings; Council decision expected at Sept. 26th Council meeting. If request approved, 5th (last) meeting expected to be held after election in mid-November.

Betsy Elder, Planner, SPO, handed out written comments and gave a brief oral summary of the home heating oil and propane supply and price situation. Asked why it appears that many heating oil storage tanks appear to be half full, she indicated that just-in-time inventories have made current inventories practically irrelevant: inventory taken in the morning can be gone by the afternoon. She indicated that all storage capacity in the State could only hold 4-5 days of supply. She noted that oil companies have been for a number of years reporting inventories to SPO pursuant Maine law but that until this year nothing was done with the information. She indicated it might take her another month to sort through the information to arrive at good numbers.

At the request of Rep. Colwell, Ms. Elder agreed to provide a list of the companies that store distillate in Maine and the current inventories. At the request of Rep. Collins, she agreed to research the question how much distillate from the Montreal refinery comes to Maine and how that compares with the volume of crude oil that flows to Montreal through Portland. Rep. Mckenny questioned why the gathering of petroleum data was not more streamlined so that companies weren't reporting what may be essentially the same information to different agencies (e.g., SPO, DEP, MEMA, etc.) on different forms.

Lynette Miller, representing MEMA in Art Cleaves' absence, briefly described the inventory and storage capacity figures MEMA collects and indicated MEMA would provide the committee with MEMA's data on maximum capacities of storage tanks in Maine and average inventories.

The committee recessed for dinner.

The committee reconvened at 6:00 pm and opened the public hearing. Mark Ouellette, a staff representative of Congressman Allen, indicated he had come to listen and answer questions and not to give a presentation, but he did indicate that Congressman Allen was in favor of increased funding for LIHEAP and the establishment of the Northeast Heating Oil Reserve.

The committee heard from one member of the public, a local businessman who owns a dry cleaner. He indicated that the cost of energy was beginning to be a factor in doing business and suggested that the sales tax on electricity and fuels, including gasoline, be removed in winter.

Rep. Tuttle of Sanford spoke briefly of the importance of the fuel price issues and the need to find ways of dealing with these issues.

Tom Austin, Senior Analyst, PUC, provided an overview of the issues associated with natural gas interruptible customers (large commercial and industrial customers who receive a rate incentive by agreeing to switch to a fuel other than natural gas when demand peaks and supplies are short). He noted that the interruptible situation in New York that caused concern last winter is not analogous to the situation in Maine. He noted that interruptibles in New York historically have rarely been interrupted; last winter's interruptions were unusual and unexpected. The interruptibles in New York, when interrupted, constituted a very significant demand spike in the oil market. The NY PUC has issued an order requiring the interruptibles to have on hand or available by firm contract a 7-10 day oil supply. This was done to ensure protection of the natural gas market since some of the interruptibles did not in fact interrupt last winter causing difficulties in the gas supply. The US DOE is looking into the impact of the interruptibles on the oil market; it is possible that the NY interruptibles had an impact on oil markets throughout the Northeast. He noted that in Maine, the interruptibles, when interrupted, constitute an insignificant portion (about 1%) of the oil market, interruptions are scheduled every winter so demand on the oil market is expected, and the interruptions

are essentially for the entire heating season so by the time of a cold snap and demand spike they are already off line and their oil supply presumably arranged. Asked whether the new natural gas pipelines would "help" interruptibles, he agreed that it would help with supply, but Jill Duson of Northern Utilities suggested that interruptibles interrupt because of the high cost of gas in the winter, not lack of supply.

Mr. Austin noted that gas prices are regulated and so it takes months for increased gas prices to show up in customer bills, unlike oil prices that can fluctuate daily.

Peter Morin, staff representative from Senator Snowe's office, read a statement from Snowe indicating she would like more distillate stored in the Northeast Heating Oil Reserve, though she did not specify an amount, that she is in favor of establishing the Reserve on a permanent basis and that she is also in favor of drawing down the SPR to respond to OPEC. Her letter encouraged the PUC to examine the interruptibles issue. Asked if Snowe had information on interruptibles the PUC didn't have, Mr. Morin indicated he would get back to the committee.

Peter Merrill, Dir. of Planning and Gov. Affairs, MSHA, provided written materials summarizing MSHA's energy and weatherization programs. He indicated MSHA hoped the President would release $600 million in emergency funds soon. Asked whether Maine could increase the LIHEAP eligibility cap, he indicated the federal cap was 170% of poverty but that the state can (and often has) set the cap lower in order to increase the amount of funds available to each household. The state cap is set based on an evaluation of the amount of available funding. Asked whether the state could put money in the fund in order to have funds available earlier in the season, he indicated the answer was yes, but that the state could not assume that federal funds would be available to repay the state. Asked whether MSHA had data suggesting the benefits of weatherization, he indicated it did and would provide relevant information to the committee.

Gene Guilford, President, MODA, distributed a paper he authored suggesting neither the state nor the federal government has what he considers to be a coherent energy policy. He also gave the committee a MODA flyer on oil energy conservation. He indicated consumers could avoid price volatility with fixed price contracts with dealers; dealers, in turn, enter firm contracts with suppliers, guaranteeing supply. He suggested a need to re-institute tax incentives for energy conservation and that the US was not producing the amount of oil and gas that it should to meet the country's demand. Asked if he could guarantee that oil supply would be available this winter, he indicated that the industry may need to do "unusual things" to meet demand, but if the government provides "waivers" to certain regulations, the supply will be provided. Asked why tanks are sitting half full, he indicated that this was a "huge question" but offered that in previous warm winters companies absorbed losses associated with inventories, that the futures market is pricing oil lower than the current market and so dealers are not inclined to buy high, store and then sell low. He indicted that product that will be used this winter is not yet distilled. He suggested, without elaboration, that "the issue" is national stock levels, not Maine stock levels. Asked what portion of the oil refined in Canada comes to Maine, he indicated he would find out how much of Irving's refined product comes to Maine. Pattie

Aho, Maine Petroleum Association, noted that most of Maine's imports come from Canada. Mr. Guilford indicated that he would provide the committee with copies of the so-called "Reed Report" by the SPO on the natural gas industry which, he suggested, provides the "real story" on that industry.

Pattie Aho, Exec. Dir., Maine Petroleum Association, provided members a folder of information. She made several statements. Crude oil prices, she suggested, affect stocks: market signals determine stock levels. She indicated that over the years many refineries have closed and no new refineries have been built in the last 20 years, but she suggested that the refineries have kept up with demand. She suggested that neither Maine nor Washington had a coordinated all-fuels energy policy. She indicated that she could list perhaps nine different ways that petroleum companies report data to state agencies, indicating "the data is there" and perhaps there is a need to streamline reporting requirements. With regard to concerns about low inventories in Maine, she suggested that Maine is "in good shape" because of its shipping ports, Portland, Searsport and Bucksport, which can all bring in oil. She indicated that the oil in Maine's current inventories is not what will be used this winter and so inventory figures are not, in her opinion, particularly useful or indicative. Customers who don't contract with dealers, she suggested, would be subject to price volatility since dealers will obtain the fuel on the spot market. She noted that refineries are operating pretty much at peak and that most of the demand has been for gas; this has resulted in lower volumes of heating oil production. She suggested that natural gas, propane and heating oil stocks are all low. Asked whether other countries have national energy policies, she indicated that several do, including certain Scandinavian countries. Asked for her recommendation for an energy policy, she indicated she would provide a copy of the American Petroleum Institute's recommendation (the Me. Petro. Assoc. is a division of the API).

Marty DeBruin, Manager of Gas Supply, Bay State Gas/Northern Utilities gave a brief presentation (written materials provided to committee) on the natural gas industry and the rising price of gas. Asked whether there was an inventory problem in natural gas, he suggested there was not, that the industry would go into the winter with storage "full" based on calculations for a "design winter".

Committee adjourned at 9:00 pm

Sen. Judy A. Paradis, **Chair**
Sen. Richard J. Carey
Sen. Betty Lou Mitchell

Staff

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Natalie Hicks, Legislative Researcher

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Rep. Edgar Wheeler

State of Maine
One Hundred and Nineteenth Legislature

STUDY COMMITTEE ON GASOLINE AND FUEL PRICES

Summary of October 12th Meeting

Date prepared: October 16, 2000

Committee met in Augusta with the Task Force To Reduce The Burden Of Home Heating Costs On Low-Income Households (Task Force) from 9:00 am to 2:30 pm. All members present except Senators Mitchell and Representatives Buck and Wheeler.

Charles Pray, Special Assistant to the Assistant Secretary for Congressional/Public/ Intergovernmental Affairs, US DOE, provided an overview of the actions taken by DOE and the Administration to address oil supply and price issues this winter, including releases from the SPR, the creation of the Northeast Heating Oil Reserve and the release of $400 million in LIHEAP funds. He also provided an overview of DOE/EIA's October Winter Fuels Market Assessment 2000. He distributed copies of his remarks and of the EIA slides he used.

According to a member of the Task Force, of the $400 million released, only $5.3 million will come to Maine under the national formula. He also indicated that emergency releases are not governed by that formula; Maine received more actual funds last year through targeted emergency releases of smaller overall amounts. Releases under the national formula are distributed over the entire country, not merely the Northeast.

When asked how a release from the SPR would help distillate supply given that all refineries are already at or near capacity, Mr. Pray acknowledged the issue but indicated DOE was attempting to encourage refineries to squeeze out additional product and was exploring the possibility of bringing moth-balled refineries back on line. He did not indicate DOE had any success to report on these fronts.

Several requests were made for follow-up information that Mr. Pray agreed to provide: Information on the amount of distillate exported; EIA's evaluation of the effect of backwardization of the futures market on inventory levels; information on the manner of release of distillate in the Northeast Reserve (sealed bid, auction, fixed price or time swap); and how much of the total federal LIHEAP allocation for this year is still available.

Thomas Martin, Petroleum Marketing Manager, NYMEX, provided an overview of the NYMEX and how the futures market is used to manage energy price risk. He noted that hedges (e.g., buying call options) are used to protect against price volatility but come at a premium, that hedging is best done as part of long-term strategy and not merely resorted to in times of crisis (e.g., premiums are presently high due to current market volatility). He noted that the loss of the premium is the risk associated with an option (if the market price drops, the purchaser is not required to take under the contract, but the premium is lost). He noted that the utilization of options is up 100% from last year. He distributed copies of his Powerpoint slides as well as a large packet of clippings concerning the heating oil market.

Asked if States can participate in the market, he said yes and that several states had entered or were thinking about entering the market in some form. Texas, he indicated, was a market participant on the supply side. He indicated he believed Delaware and Massachusetts were considering the purchase of options as part of their low-income programs. He agreed to provide further information on these states.

Greg Nadeau, Senior Policy Advisor to the Governor and Co-chair of the interagency "SWAT team" on home heating oil, provided an overview of the Governor's efforts to educate consumers about demand-side management. He noted that the Northeast Governors are discussing supply side options and examining emergency preparedness plans to ensure they are adequate to deal with any unexpected crisis this winter. He noted the CONEG was supporting increased base allocations for LIHEAP but were not seeking a change in the national distribution formula since such an effort might result in loss of support for LIHEAP in any state whose share was reduced. If the base amount was increased, he suggested CONEG could later seek emergency releases (not subject to the national formula) targeted to the Northeast.

Asked if the Governor was willing to consider the purchase of call options to provide a hedge for the state against price volatility, he indicated the Governor was open to all suggestions, but that at present the Governor was not eager to have the State involved directly in the oil business. He noted that Massachusetts was issuing an RFP to create a reserve; this might help Maine by relieving regional supply constraints in the event of a supply disruption. He also noted that many more customers were signing fixed price contracts with dealers this year.

Asked if the Governor would be willing to budget money up front for LIHEAP to be reimbursed later from federal funds, he indicated the Governor would need to look at the

issue in terms of overall budget priorities, but if it would result in increased benefits for dollars spent, it seemed worth it, provided the State could rely on sufficient federal allocations for reimbursement.

Asked if the Governor supported floating a bond to fund conservation projects, he suggested that while the Governor supported conservation in principle, he was not in a position yet to take a position on such a proposal.

There was a discussion of LD 1500 (a bill that failed enactment in both the 1st and 2nd sessions) which proposed to set aside one-time tax revenues to fund electric low-income programs.

Laurie Lachance, State Economist and Co-chair of the "SWAT team" provided an overview of the team's "bundle me up" consumer education campaign: it includes a new educational web site, toll-free number, email address, media advertisements, bill inserts and direct mailings. Funding for the campaign was discussed, and it was suggested the Governor may attempt to tap some of the ratepayer funds left over from a wires charge imposed in CMP's territory (about $500,000 currently unencumbered) to pay for further conservation measures in CMP territory and to fund the distribution of the educational brochures.

After the lunch break, the Committee reconvened with the Task Force to discuss overlapping jurisdiction and to listen to and comment on the Task Force's deliberations on developing recommendations concerning low-income heating assistance (the area of overlap).

Dick Davies of Public Policy Associates distributed a memo addressed to Tom Nelson (Sept. 29, 2000) and discussed it with the Task Force and the Committee. The memo outlines 4 "problems" and offers several proposals for solutions (see memo).

One Task Force member indicated that the Northeast may be approaching an energy crisis similar to the 1970s and that funding for low-income assistance is not comparable today to what it was then; perhaps the Task Force should recommend greater funding. The member also noted concern with increasing the percentage of LIHEAP used for weatherization (a proposal offered by Dick Davies) since this would reduce the amount available for direct fuel assistance, which she identified as a crucial need. She noted that with many low-income families it is not the case that reducing energy costs frees up funds to pay for other needs – the funds "are simply not there" and financial assistance is still needed. She asked to know what actual savings weatherization achieves and how much goes to administrative costs.

Mr. Davies agreed to provide a copy of an Aroostook CAP report on the cost effectiveness of weatherization. Asked if weatherization is available for rental properties, he indicated that it was at one point but he wasn't sure if it still is.

Tim Leet, staff of the Task Force, reviewed a memo (dated October 11, 2000) outlining issues so-far considered by the Task Force and outlining possible recommendations suggested by Task Force deliberations to date; this was briefly discussed and commented upon by the Task Force and the Committee.

Jon Clark indicated that the Committee might consider reviewing the final report of the Task Force, due Nov. 1, and supporting or commenting upon the Task Force recommendations in the Committee's report, which is due Dec. 11.

The meeting adjourned at approximately 2:30 pm.

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Sen. Judy A. Paradis, **Chair**
Sen. Richard J. Carey
Sen. Betty Lou Mitchell

Rep. Albion D. Goodwin, **Chair**
Rep. Gerald N. Bouffard
Rep. John T. Buck
Rep. Ronald F. Collins
Rep. Patrick Colwell
Rep. Charles D. Fisher
Rep. Terrence P. McKenney
Rep. Eleanor M. Murphy
Rep. Stephen S. Stanley
Rep. Edgar Wheeler

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State of Maine
One Hundred and Nineteenth Legislature

STUDY COMMITTEE ON GASOLINE AND FUEL PRICES

Summary of October 19th Meeting

Date prepared: October 23, 2000

Committee met in Lewiston from 3:00 pm to 5:00 pm. and reconvened from 6:30 pm to 8:30 pm. Members present: Senator Carey, Representatives Goodwin, Colwell, Murphy, Staley and Bouffard.

Staff distributed and reviewed additional background materials. Staff also reviewed memo dated October 2, 2000 that summarizes policy issues and options discussed by the committee or suggested by committee discussions to date.

Rep. Bouffard noted he had anecdotal evidence suggesting current heating oil inventories in Maine are 60% below last year. Staff noted that information from EIA is regional, not State specific, that the SPO has yet to develop figures for Maine and that there is no other known source for dependable figures on the matter. Rep. Bouffard suggested Maine should perhaps get a credit toward the distillate in the Northeast reserve based on the number of gallons saved through conservation. He noted that, while helping individual consumers, weatherization and fuel assistance did nothing to reduce the overall cost of fuel and that, in his view, is the major issue confronting the committee.

The committee discussed the fact that funds remain in the LIHEAP Emergency Contingency Fund and it was agreed that a letter should be sent by the committee to the Governor encouraging him to seek the release of those funds.

Chair Goodwin noted that the Washington County Delegation would be meeting with the Governor on October 31 to discuss the heating oil situation and that members of the committee were invited to attend.

There was a brief discussion of the issue whether some sort of tax incentive might be created to encourage wholesalers to increase winter heating oil stocks. Representatives of the Maine Petroleum Association and the Maine Oil Dealers Association agreed to consider the matter and to supply the committee, through staff, industry suggestions on the matter.

Chair Goodwin inquired how LIHEAP funds might be used to create a reserve to be drawn down in times of need. The representative of the Maine Petroleum Association agreed to examine the issue and provide comments.

The idea of re-establishing some sort of energy office or energy planning capacity in state government was discussed. Staff noted that while energy planning duties and conservation programs remained on the books (since the dissolution of the Energy Resources Office in 1989), neither SPO nor DECD has the resources to undertake the responsibilities identified in the laws. While the committee indicated no interest in re-establishing the Energy Resources Office, there was interest in learning how much greater resources would be required for SPO and DECD adequately to carry out the duties currently in law.

The idea of encouraging Congress to remove the federal diesel tax in the Northeast in winter was discussed briefly. Concern was raised that any modification in the tax should not result in a reduction in federal highway funds. Chair Goodwin indicated he would propose to encourage Congress to remove the federal diesel tax in the winter but to also seek an assurance that there would be no reduction in the distribution of federal highway funds to the State. The source of funding to make up the lost tax revenue would be up to Congress.

Staff noted that Portland Pipeline Company had indicated some interest in making a presentation to the committee, but nothing has been scheduled. It appears from information so far available that it is not possible to trace any of the crude transported to Montreal up the Portland Pipeline directly back in the form of refined product to the US.

Staff was asked to compose a draft report based on the staff memo and the above discussions. Staff indicated it would make every effort to get a draft in the mail to members prior to the next meeting, which will be scheduled in consultation with the chairs for sometime in late November.

After the dinner break, the committee reconvened for a hearing.

Rep. Cote spoke briefly, thanking the committee for holding a hearing in Lewiston. Rep. Jacobs spoke briefly, indicating she had not come to testify, but to listen to the proceedings.

Barry Pottle, owner of a trucking company in Bangor, testified that volatile diesel prices are very difficult to deal with because contracts for trucking services tend to be for a period of a year. If prices exceed the amount assumed for purposes of the contract, the company begins to lose money. Steep increases in prices, as have occurred in the last year or so, are particularly difficult to deal with. He noted that trucking for the mills in the northern part of the State is costly since there are so many "empty" (unloaded) miles getting the trucks to the mills. He estimated that on average 15% of his trucks' miles are "empty" miles. He noted that nationally many trucking firms have gone bankrupt, suggesting that fuel price volatility was a factor. He suggested that most trucking companies prefer not to go too far north of Boston and that if his company goes out of business it could impact the mills in northern Maine. He also noted that his older trucks averaged 7.2 mpg but his new trucks average only 6 mpg, the result, he suggested, of new required emissions equipment. He noted that gas prices are cheaper in other parts of the country (he mentioned Indiana) and that truckers try to fill up in low-cost areas. He indicated that he would not support a Maine distillate reserve because he feared it might hurt other businesses. He indicated that his company had done all it could in the way of conservation, including observing the speed limit and reducing his trucks' wind resistance.

Dale Harrington, President, Maine Motor Transport Association, testified that 9% of freight moved in Maine is by truck. He emphasized that the price of diesel is a pressing issue for the trucking companies. He noted that since diesel and heating oil are essentially the same, supply shortfalls of one affect the price of both. He noted that between August '99 and Feb. 2000, the price of diesel rose 80% ($1.18 – $2.12/gal). In Aug. 2000, the price was $1.51/gal. If the price increases 80% this winter, he suggested, it will reach $2.70/gal by Feb. If it is cold this winter, demand for heating oil will go up and this, he suggested, will affect not only heating oil prices but diesel prices. He indicated that railroads were unlikely to provide an alternative to trucking. He noted that in the '60s much of the track in northern Maine was pulled up because of changing economic conditions. In order for the railroads to become economic, he suggested, it would require new manufacturing businesses to attract them. He suggested that railroads would not compete with trucking for existing loads. When asked if he would support the creation of a reserve, he said it was perhaps worth examining, but that he was not prepared to make any judgment at present. When asked what the impact would be if trucking companies serving northern Maine went bankrupt, he suggested that as the capacity to handle loads was reduced, prices would rise.

Rep. Stanley read a statement by Dana Burleigh, Jr., Manager of Transportation, Great Northern Paper. The statement is dated October 19, 2000. The statement indicates that the rising diesel prices may cost GNP nearly $1 million this year. While offering no proposals for solutions, the statement encourages continued monitoring of the market to ensure no one takes inappropriate advantage of market volatility.

Deborah Simpson, a citizen of Auburn, testified she was concerned that people be able to afford to stay warm this winter and expressed concern about how costs will affect renters and tenants.

Alex Souter, Treasurer, Portland Air Freight, testified that diesel price spikes were an immediate problem requiring immediate solutions. He suggested the State should consider rolling back the recent 3 cent increase in the gas tax. He indicated that his trucks use on average about 750 gal/week/truck. He also indicated that other costs are rising, including trucking insurance, health insurance and employee wages. He suggested that contracting for fuel is risky since if business falls off, he still has to buy the fuel. He also suggested that Congress should roll back federal gas taxes. When asked how the State should replace the highway funds lost from a gas tax reduction, he suggested that when prices are high, truckers buy less gas, implying that if the taxes were lower more fuel might be purchased and revenues perhaps unchanged. He indicated diesel prices were lower in North Carolina.

The question was raised whether increasing the weight limit on the interstate would help truckers. Mr. Souter did not have an opinion; Mr. Pottle thought it would not help his business because his company loads trucks to meet requirements in other states, not just Maine, and the weight limit on the interstate is set federally.

Rep. Bouffard indicated that as a member of the transportation Committee he had been in favor of a 5 cent increase in the gas tax; he suggested there was a clear need for the additional revenue and that, in his opinion, since the gas tax is related to miles driven (as opposed to an increase in the registration fee which has no relation to use of the roads), it was an equitable tax.

Mr. Harrington noted that gas taxes differ from state to state. He suggested that only 2 states in New England have higher gas taxes than Maine: RI and VT. He indicated that NH's tax is 18 cents, MA's is 21 cents and CT's is 18 cents. He suggested gas taxes tend to be lower in the south. He suggested that the national average is 20.3 cents.

Committee adjourned at about 8:30 pm.

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Appendix I

Glossary Of Terms

GLOSSARY OF FUEL TERMS

(Extracted from DOE/EIA International Energy Annual 1998)

API: The American Petroleum Institute, a trade association.

Barrel (Petroleum): A unit of volume equal to 42 U.S. gallons.

British Thermal Unit (Btu): The quantity of heat needed to raise the temperature of 1 pound of water by 1 degree Fahrenheit at or near 39.2 degrees Fahrenheit.

Butane: A normally gaseous straight-chain or branch-chain hydrocarbon, (C4H10). It is extracted from natural gas or refinery gas streams. It includes isobutane and normal butane and is covered by ASTM Specification D 1835 and Gas Processors Association Specifications for commercial butane.

Conventional Gasoline: Finished motor gasoline not included in the oxygenated or reformulated gasoline categories. Note: This category excludes reformulated gasoline blendstock for oxygenate blending (RBOB) as well as other blendstock.

Crude Oil (including Lease Condensate): A mixture of hydrocarbons that exists in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Included are lease condensate and liquid hydrocarbons produced from tar sands, Gilsonite, and oil shale. Drip gases are also included, but topped crude oil (residual) and other unfinished oils are excluded. Liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded where identifiable.

Crude Oil Production: The volume of crude oil produced from oil reservoirs during given periods of time. The amount of such production for a given period is measured as volumes delivered from lease storage tanks (i.e., the point of custody transfer) to pipelines, trucks, or other media for transport to refineries or terminals with, adjustments for (1) net differences between opening and closing lease inventories, and (2) basic sediment and water.

Distillate Fuel Oil: A general classification for one of the petroleum fractions produced in conventional distillation operations. It includes diesel fuels and fuel oils. Products known as No. 1, No. 2, and No. 4 diesel fuel are used in on-highway diesel engines, such as those in trucks and automobiles, as well as off-highway engines, such as those in railroad locomotives and agricultural machinery. Products known as No. 1, No. 2, and No. 4 fuel oils are used primarily for space heating and electric power generation.

Domestic Inland Consumption (Petroleum): Domestic inland consumption is the sum of all refined petroleum products supplied for domestic use (excludes international marine bunkers). Consumption is calculated by product adding production, imports, crude oil burned directly, and refinery fuel and losses, and then subtracting exports and

changes in primary stocks (net withdrawals is a plus quantity and net additions is a minus quantity).

Gasohol: A blend of finished motor gasoline containing alcohol (generally ethanol but sometimes methanol) at a of 10 percent or less by volume. Data on gasohol that has at least 2.7 percent oxygen, by weight, is intended for sale inside carbon monoxide nonattainment areas are included in data on oxygenated gasoline.

Gasoline: See Motor Gasoline (Finished).

High Sulfur No. 2 Diesel Fuel: No. 2 diesel fuel that has a sulfur level above 0.05 percent by weight.

Kerosene: A light petroleum distillate that is used in space heaters, cook stoves, and water heaters and is suitable use as a light source when burned in wick-fed lamps. Kerosene has a maximum distillation temperature of 400 Fahrenheit at the 10-percent recovery point, a final boiling point of 572 degrees Fahrenheit, and a minimum point of 100 degrees Fahrenheit. Included are No. 1-K and No. 2-K, the two grades recognized by ASTM D 3699 as well as all other grades of kerosene called range or stove oil, which have properties similar those of No. 1 fuel oil. See Kerosene-Type Jet Fuel.

Kerosene-Type Jet Fuel: A kerosene-based product having a maximum distillation temperature of 400 degrees at the 10-percent recovery point and a final maximum boiling point of 572 degrees Fahrenheit and ASTM Specification D 1655 and Military Specifications MIL-T-5624P and MIL-T-8133D (Grades JP-5 and -8). It is used for commercial and military turbojet and turboprop aircraft engines.

Liquefied Natural Gas (LNG): Conventional natural gas that is liquefied by reducing its temperature to minus 260 Fahrenheit at atmospheric pressure. The volume of the LNG is 1/600 that of the gas in its vapor state.

Liquefied Petroleum Gases (LPG): Ethane, ethylene, propane, propylene, normal butane, butylene, and isobutane at refineries or natural gas processing plants, including plants that fractionate raw natural gas plant liquids.

Liquefied Refinery Gases (LRG): Liquefied petroleum fractionated from refinery or still gases. Through and/or refrigeration, they are retained hi the liquid state. The reported categories are ethane/ethylene, /propylene, normal butane/butylene, and isobutane. Excludes still gas used for chemical or rubber, which is reported as etrochemical feedstock, and also excludes liquefied petroleum gases intended for blending into gasoline, which are reported as gasoline blending components.

Low Sulfur No. 2 Diesel Fuel: No. 2 diesel fuel that has a sulfur level no higher than 0.05 percent by weight. It is used primarily in motor vehicle diesel engines for on-highway use.

Motor Gasoline (Finished): A complex mixture of relatively volatile hydrocarbons with or without small quantities additives, blended to form a fuel suitable for use in spark-ignition engines. Motor gasoline, as defined in ASTM D 4814 or Federal Specification VV-G-1690C, is characterized as having a boiling range of 122 to 158 degrees Fahrenheit at the 10 percent recovery point to 365 to 374 degrees Fahrenheit at the 90 percent recovery. "Motor Gasoline" includes conventional gasoline; all types of oxygenated gasoline, including gasohol; and gasoline, but excludes aviation gasoline. Note: Volumetric data on blending components, such as, are not counted in data on finished motor gasoline until the blending components are blended into the gasoline.

Natural Gas: A mixture of hydrocarbon compounds, primarily methane and small quantities of various nonhydrocarbons existing in gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions.

Natural Gas Dry Production: Gross withdrawals of natural gas from reservoirs less gas used for reinjection into reservoirs for repressuring, gas which is flared or vented, gas lost in transmission, and shrinkage. Derived by subtracting shrinkage or extraction loss from marketed production. It represents the amount of natural gas that can be marketed and consumed as a gas.

Natural Gas Gross Production: Total withdrawals of natural gas from oil/gas and gas reservoirs.

Natural Gas Liquids (NGL): Those portions of reservoir gas that are liquefied at the surface in lease separators, field facilities, or natural gas processing plants. Natural gas liquids include natural gas plant liquids and lease condensate.

Natural Gas Marketed Production: Gross withdrawals of natural gas from reservoirs less gas used for reinjection into reservoirs for repressuring, gas that is flared and/or vented, and gas that is lost in transmission before the natural gas liquids have been extracted.

Natural Gas Plant Liquids (NGPL): Products obtained from processing natural gas at natural gas processing plants, including natural gasoline plants, cycling plants, and fractionators. Products obtained include ethane, liquefied petroleum gases, (propane, butane, propane-butane mixtures, and ethane-propane mixtures), isopentane, natural gasoline, unfractionated streams, plant condensate, and other minor quantities of finished products, such as motor gasoline, special naphthas, jet fuel, kerosene, and distillate fuel oil.

Natural Gasoline: A mixture of hydrocarbons, mostly pentanes and heavier, extracted from natural gas, that meets vapor pressure, end-point, and other specifications for natural gasoline set by the Gas Processors Association. Includes isopentane, which is a saturated branch-chain hydrocarbon, (C5H12), obtained by fractionation of natural gasoline or isomerization of normal pentane.

No. 1 Diesel Fuel: A light distillate fuel oil that has distillation temperatures of 550 degrees Fahrenheit at the 90-percent recovery point and meets the specifications defined in ASTM Specification D 975. It is used in high-speed diesel engines generally operated under frequent speed and load changes, such as those in city buses and similar vehicles. See No. 1 Distillate.

No. 2 Diesel Fuel: A fuel that has distillation temperatures of 500 degrees Fahrenheit at the 10-percent recovery point and 640 degrees Fahrenheit at the 90-percent recovery point and meets the specifications defined in ASTM Specification D 975. It is used in high- speed diesel engines that are generally operated under uniform speed and load conditions, such as those in railroad locomotives, trucks, and automobiles. See No. 2 Distillate.

No. 4 Diesel Fuel: See No. 4 Fuel.

No. 1 Distillate: A light petroleum distillate that can be used as either a diesel fuel (see No. 1 Diesel Fuel) or a fuel oil (see No. 1 Fuel Oil).

No. 2 Distillate: A petroleum distillate that can be used either as a diesel fuel (see No. 2 Diesel Fuel) or a fuel oil (see No. 2 Fuel Oil).

No. 4 Fuel: A distillate fuel oil made by blending distillate fuel oil and residual fuel oil stocks. It conforms with ASTM Specification D 396 or Federal Specification VV-F-815C and is used extensively in industrial plants and in commercial burner installations that are not equipped with preheating facilities. It also includes No. 4 diesel fuel used for low- and medium-speed diesel engines and conforms to ASTM Specification D 975.

No. 1 Fuel Oil: A light distillate fuel oil that has distillation temperatures of 400 degrees Fahrenheit at the 10-percent recovery point and 550 degrees Fahrenheit at the 90-percent recovery point and meets the specifications defined in ASTM Specification D 396. It is used primarily as fuel for portable outdoor stoves and portable outdoor heaters. See No. 1 Distillate.

No. 2 Fuel Oil (Heating Oil): A distillate fuel oil that has distillation temperatures of 400 degrees Fahrenheit at the 10-percent recovery point and 640 degrees Fahrenheit at the 90-percent recovery point and meets the specifications defined in ASTM Specification D 396. It is used in atomizing-type burners for domestic heating or for moderate capacity commercial/industrial burner units. See No. 2 Distillate.

No. 4 Fuel Oil: See No. 4 Fuel.

Petrochemical Feedstocks: Products from petroleum refineries and natural gas liquids processing plants to be processed further at a petrochemical plant. Includes products primarily in the naphtha range, still gas (refinery gas), and liquefied gases for petrochemical use.

Petroleum: A generic term applied to oil and oil products in all forms, such as crude oil, lease condensate, unfinished oils, refined petroleum products, natural gas plant liquids, and nonhydrocarbon compounds blended into finished petroleum products.

Petroleum Products: Products obtained from the processing of crude oil, unfinished oils, natural gas liquids, and other miscellaneous hydrocarbon compounds. Includes aviation gasoline, motor gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene, distillate fuel oil, residual fuel oil, ethane, liquefied petroleum gases, petrochemical feedstocks, special naphthas, lubricants, paraffin wax, petroleum coke, asphalt and road oil, still gas, and other miscellaneous products.

Petroleum Stocks: Primary stocks of crude oil and petroleum products held in storage at (or in) leases, refineries, natural gas processing plants, pipelines, tankfarms, and bulk terminals that can store at least 50,000 barrels of petroleum products or that can receive petroleum products by tanker, barge, or pipeline. Crude oil that is in-transit by water from Alaska or that is stored on Federal leases or in the Strategic Petroleum Reserve is included. Primary stocks exclude stocks of foreign origin that are held in bonded warehouse storage.

Propane: A normally gaseous straight-chain hydrocarbon, (C3H8). It is a colorless paraffinic gas that boils at a temperature of -43.67 degrees Fahrenheit. It is extracted from natural gas or refinery gas streams. It includes all products covered by Gas Processors Association Specifications for commercial propane and HD-5 propane and ASTM Specification D 1835.

Proved Reserves of Crude Oil: Proved reserves of crude oil are the estimated quantities of all liquids defined as crude oil, which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Proved Reserves of Natural Gas: Proved reserves of natural gas are the estimated quantities which analysis of geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Residual Fuel Oil: The heavier oils, known as No. 5 and No. 6 fuel oils, that remain after the distillate fuel oils and lighter hydrocarbons are distilled away in refinery operations. It conforms to ASTM Specifications D 396 and D 975 and Federal Specification VV-F-815C. No. 5, a residual fuel oil of medium viscosity, is also known as Navy Special and is defined in Military Specification MIL-F-859E, including Amendment 2 (NATO Symbol F-770). It is used in steam-powered vessels in government service and inshore power plants. No. 6 fuel oil includes Bunker C fuel oil and is used for the production of electric power, space heating, vessel bunkering, and various industrial purposes.

Appendix J

Information From DECD And SPO Regarding Funding For Energy-Related Duties

MEMORANDUM

November 17, 2000

To: Jon Clark, Staff
Legislative Task Force on Gas and Oil Prices
From: Jim Connors, SPO
Julie Hashem, SPO

Cc: Laurie Lachance, Greg Nadeau, Tony VanDenBossche

Re: Inquiry Regarding Resources Needed to Fully Meet SPO's Statutory Mandate in the Area of Energy Resources

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This memo has been prepared in response to Jon Clark's request, on behalf of the Legislative Task Force on Gas and Oil Prices, for an estimate of the resources needed to meet SPO's statutory mandate in the area of energy resources. The analysis and cost estimates are based on a review of the Statute, the focus and funding of current positions, and the gap between State-funding and Statutorily mandated activities.

Summary of Estimates of Additional Resources Necessary for Meeting SPO's Statutory Mandates

In summary, the incremental cost to augment SPO's capacity to conduct a modest energy policy and planning program (consistent with its mission) is at least $205,000, and to fully meet all of the statutory mandates in the area of energy resources could be more than $466,500.

The following sections provide an analysis of the statutory mandates and our estimates of the resources needed to carry them out at a reasonable level of competency.

Energy Resources Mandates

A specific list of statutory responsibilities is provided below. Those responsibilities currently funded from the general fund and/or special revenues are highlighted in the first category. In the other categories, by necessity, staff is reactive to specific Executive, Legislative, and Stakeholder requests and the availability of supporting grant monies. The SPO currently lacks capacity to engage in proactive planning and project development , as well as , to conduct the more specific tasks and programs listed in the third category.

Mandates Currently Covered with General Fund and Special Revenue $$$:

- Coordinate the actions of state agencies that affect the consumption of energy with the objective of securing environmental and economic benefits (§ 3305-B).
- Develop energy conservation programs to be implemented by T&D utilities and administer program funds flowing from the state's system benefits charge (§ 3211).
- Report data on petroleum inventories and deliveries twice each month (§ 3307-C).

Mandates Currently Not Covered with State Funds, but clearly within the purview of the mission of the SPO, and pursued as resources allow:

- Coordinate the preparation of policies to guide and carry forward development of the State's energy resources (§ 3305).
- Provide technical assistance to the Governor, Legislature, interdepartmental committees, councils, and task forces by undertaking special studies and plans and preparing or analyzing policy alternatives (§ 3305).
- Collect and analyze energy data (§ 3305-B).
- Encourage, direct, or sponsor research, experiments, and demonstration projects within the state to develop alternate energy resources (particularly, but not limited to, those sources that rely on renewable resources of the State and other sources that to date have not been fully explored or utilized) (§ 3305-B).
- Provide assistance and support to the Governor and others in an energy emergency (37-B Ch 13, §742).

Additional Statutory Obligations not covered by available funds :

- Prepare and submit to the Governor and Legislature every 2 years an energy resources demand analysis (including historical and forecasted demand) (§ 3305-B).
- Administer the non lapsing Renewable Resource Fund and the seeking/acceptance of additional public or private funds for associated grants program use (35-A).
- Determine what solar energy equipment should qualify for Maine's minimum warranty on sale and installation (10 § 1491) [Obsolete?]
- Provide conservation alternatives to new proposed electric power generating plants and transmission and distribution facilities and assessing the short and long-term energy savings realized by conservation alternatives (§ 3305-B).
- Promulgate rules establishing a set-aside for petroleum products for delivery to consumers in the State under certain emergency or hardship circumstances, and administer any implementation of the rules (§ 3307-D).
- Promulgate rules establishing a set-aside for petroleum products for delivery to consumers in the State under certain emergency or hardship circumstances, and administer any implementation of the rules (§ 3307-D).

A large portion of SPO's statutory mandate is unfunded. Special projects (largely funded through federal grants) are designed to meet as many of the other statutory obligations as possible, and as funding allows. Current projects are addressing renewable resource development (including both renewable generation and alternative fuels), energy emergency planning, energy efficiency in residential buildings, and policy analysis related to emerging electricity markets. Because activities are dependent on federal grants, projects are, by necessity, driven as much by federal grant program objectives as they are by State priorities.

Current Resources for Meeting Statutory Obligations

In general, the State Planning Office's statutory obligations in the area of energy resources can be grouped in five general categories:

- Energy policy analysis and technical assistance (to the Governor, Legislature, interdepartmental committees, councils and task forces).
- Energy planning (including data collection, analysis, forecasting and reporting).
- Renewable resource development (special projects, Renewable Resource Fund Implementation, etc.).
- Energy conservation (including program development, administration, and evaluation).
- Energy emergency response (including technical assistance and the petroleum set-aside program).

SPO has only 0.5 general-funded positions to carry out these tasks. In addition, it relies on one position funded by special revenues (Utility Assessment Budget) to undertake electric energy conservation activities, and another position dependent on the availability of federal grants for special projects consistent with SPO's energy mandate.

Existing positions are :

Senior Planner (half time, General Fund cost $32,032) tasked with activities related to petroleum data collection and analysis and hydro re-licensing.

Policy Development Specialist (full time, State cost $0) funded through a utility-collected charge on electricity use) to undertake energy conservation activities.

Policy Development Specialist (full time, State cost $0) tasked with special projects consistent with grant opportunities and SPO's energy mandate.

Given the limited staff resources, the State Economist also provides assistance in the area of energy policy where time allows. This contribution is used as match for federal grants.

Narrowing the Gap Between Statutory Responsibilities and State Funding Resources Necessary for Meeting SPO's Statutory Mandate in the Area of Energy Resources

There is a significant gap between SPO's statutory mandate in the area of energy resources, and the financial and staff resources needed to meet it. Modest augmentation of the energy team would allow SPO to more fully meet its statutory responsibilities and make better use of federal funds. Augmentation of the SPO energy resources team to more fully address SPO's statutory mandate would require increased funding of approximately $205,000, including:

State funding of the existing Policy Development Specialist position currently reliant on federal grants. This would allow for proactive planning, policy analysis and more comprehensive assistance to Executive, Legislative, Industry and Public interests. Estimated cost: $70,636

Creation of a new Senior Planner position. This would provide continued opportunity to pursue federal funding for special projects consistent with statutory objectives. State funding of the position would increase SPO's ability to pursue those projects most consistent with State priorities. It would also allow federal funds to be used for on-the-ground implementation (e.g. demonstration projects, consumer education efforts, industry partnerships, etc.) rather than staff salary. [Estimated cost: $64, 064. Note: this position could also be created in the federal account and filled as funds become available. However, relying on federal grants for funding staff time would encourage the position to give higher priority to federal objectives and the securing of federal money than State objectives and the pursual of those projects most consistent with State needs.]

Creation of a new Planner II position. This would provide necessary data collection and research support to the energy team. Estimated cost: $55,286.

Addition of $15,000 to SPO's discretionary budget sufficient to support the indirect costs of the above positions.

Meeting the Need to Fully Fund Mandates

The cost to carry out all of the statutory mandates as described in statute would be very substantial. At a minimum to fulfill all of the statutory tasks and duties outlined above, we estimate it would require a general fund support of $466,500 (This includes the estimated $205,000 indicated above to more fully meet current needs).

In addition to the resources required to carry out statutory mandates that are consistent with the purposes and mission of the SPO as presented above, several of the more task and program oriented mandates in the statute would require additional specialized staff and supporting resources. Energy forecasting and related technical analysis, for example, would require a high-level staff position ($70,636), with access to an appropriate forecasting model and data ($50,000). Professional level positions would be needed to conduct energy analysis and prepare energy plans ($70,636), and to plan and administration projects ($55,286). And specialized help with promulgating rules for oil set asides and solar energy equipment certifications will be needed. This could amount to an additional cost of at least $261,500 for staff and supporting resources.

Conclusion

It might also be useful to consider whether to update statutory language to better reflect current energy priorities. For example, the statutory language related to the mandatory energy plan could be made more general to better reflect changing information and planning needs (e.g. the prescriptive forecasting provisions could be removed as well as the requirement that a plan be created every two years; instead, a plan reflective of current State priorities and needs should be prepared, reviewed annually, and updated as needed). It might also be appropriate to remove the reference to solar equipment (does the State "warranty" still exist?), and to revisit whether the petroleum set-aside program remains a desirable option.

Clark, Jon

From: Dancause, Brian K
Sent: Friday, November 17, 2000 10:03 AM
To: Clark, Jon
Cc: Brigham, Alan; Butera, John
Subject: DECD Energy Budget estimate

Jon-

newenergy.xls

The attached spreadsheet is a budget estimate for the additional costs associated with Energy Conservation tasks, which are in statute but which DECD is not now fully implementing. Specifically, these tasks are enforcing compliance with state energy efficiency standards for both new construction (commercial/institutional & multi-family residential) & appliances.

I will forward to you under separate cover background information regarding DECD Energy Conservation activities.

-Brian

Estimated Budget for Incremental Energy Tasks Performed by DECD

Category	Annual Cost
Salary (2 energy conservation specialists (Range 22))	$76,668.80
Fringe & Indirect	$38,334.40
Travel (in-state & out-of-state)	$6,140.00
Equipment (computers, furniture, etc.)	$8,000.00
Operating (phone, mailing, printing, supplies, etc.)	$6,828.00
TOTAL	$135,971.20

Clark, Jon

From: Dancause, Brian K
Sent: Friday, November 17, 2000 12:48 PM
To: Clark, Jon
Cc: Brigham, Alan; Butera, John
Subject: DECD Energy Conservation Division

Jon-

jonclark.doc

Attached is background info regarding DECD's Energy Conservation Division, including our FY 2000-2001 budget broken down by funding source. Please call (7-3149) or e-mail me with any questions.

-Brian

p.s. When will the committee be meeting?

Department of Economic & Community Development
Energy Conservation Division

Overview

Part of DECD's Office of Business Development, the Energy Conservation Division helps small businesses become more energy-efficient. It does this by conducting free walk-through energy audits of small commercial and manufacturing facilities. Energy audits are followed up with written reports identifying low-cost/no cost energy conservation measures, and in cases where capital investment is required in order to achieve energy savings, small businesses are offered low-interest (5% APR) Energy Conservation Loans. (27 projects totaling $525,152 at 26 small businesses have benefited from this pilot Energy Conservation Loan fund, which was exhausted this past summer.)

In addition to assisting small businesses, the Energy Conservation Division provides technical assistance and information (on energy conservation matters) to Maine residents and businesses, produces and distributes various energy publications, delivers workshops for local code enforcement officers and building industry professionals, certifies energy auditors and solar installers through the Residential Conservation Program and administers Maine's mandatory energy efficiency building standards. Also, as the state agency responsible for administering the federally funded State Energy Program (SEP), DECD's Energy Conservation Division staff assist Maine businesses and other organizations in applying for and administering various projects funded via grants from the U.S. Department of Energy.

DECD's Energy Conservation Division consists of four staff plus a supervisor, who also serves as DECD's small business advocate. The SEP grant from the U.S. Department of Energy accounts for the majority of funding for the Division.

DECD Energy Conservation Division
Sources of Funds -- FY 2000-2001 Budget

Source	Amount
U.S. Dept of Energy (State Energy Program grant)	$304,000
General Fund	$70,527
PVE (Petroleum Violation Escrow)	$28,000
Loan repayments	$30,000
Revolving Publications Fund	$16,000
TOTAL	$448,527

Appendix K

Copy Of Memo From Office Of Attorney General Regarding Authority Over Petroleum Pricing And Competition

Dept. of Attorney General

Andrew Ketterer
Attorney General

Public Protection Division
6 State House Station
Augusta, Maine 04333

Phone: 626-8847
Fax: 624-7730
email: francis.ackerman@state.me.us

Memorandum

To: *Members, Study Committee on Gasoline and Fuel Prices*

From: *Francis Ackerman, Assistant Attorney General, Chief, Public Protection*

Date: *September 18, 2000*

This memorandum is intended to address, in rough outline, the scope of the Attorney General's authority in the area of petroleum pricing and competition. Petroleum prices are not subject to cost based regulation. However, excessively low or excessively high prices may raise issues under consumer or antitrust statutes, as briefly described below. In addition, the Attorney General monitors levels of competition in petroleum markets around the state under the Petroleum Market Share Act.

1. **Price-fixing**. Any agreement among competitors with regard to pricing is violative of the prohibition against contracts and combinations in restraint of trade, 10 M.R.S.A. § 1101.

2. **Monopolization.** Maine antitrust law also prohibits monopolization of trade or commerce in the State. 10 M.R.S.A. § 1102. Sustained below cost pricing by a monopolist or quasi-monopolist, for the purpose of forcing competitors out of business, may violate this provision. This is known as predatory pricing.

3. **Unfair sales practices.** Another statute, the Unfair Sales Act, 10 M.R.S.A. § 1204-A, offers another enforcement option to attack below cost pricing. The penalty for a violation is a $500 fine. Injunctive relief is also available.

4. **Price-gouging.** Maine has on the statute books a venerable consumer protection law, which forbids "profiteering in necessities" 10 M.R.S.A § 1105. Under this law, it is a crime (3 years incarceration, $1,000 fine) "to exact or demand any unjust or unreasonable profit" in the sale of necessities including "fuel of all kinds."

5. **Unfair trade practices.** Exorbitant prices may be unconscionable and therefore violative of the prohibition on unfair trade practices, particularly in time of emergency (e.g., pricing generators way above market prior to its disruption by storm). See 5 M.R.S.A. § 207.

6. **PMSA.** Under the Petroleum Market Share Act, the Attorney General oversees a program which collects and analyses data relating to wholesale petroleum transactions. The purpose is to provide a basis for an annual assessment as to how well competition is working in retail petroleum markets around the state. See 10 M.R.S.A. § 1671. A copy of our most recent report is attached. This shows that as of mid-1999, HHO and MFO markets in the state were relatively concentrated. Some are more concentrated than others; highest concentration levels tend to occur in more remote areas including Aroostook County and the Downeast region.

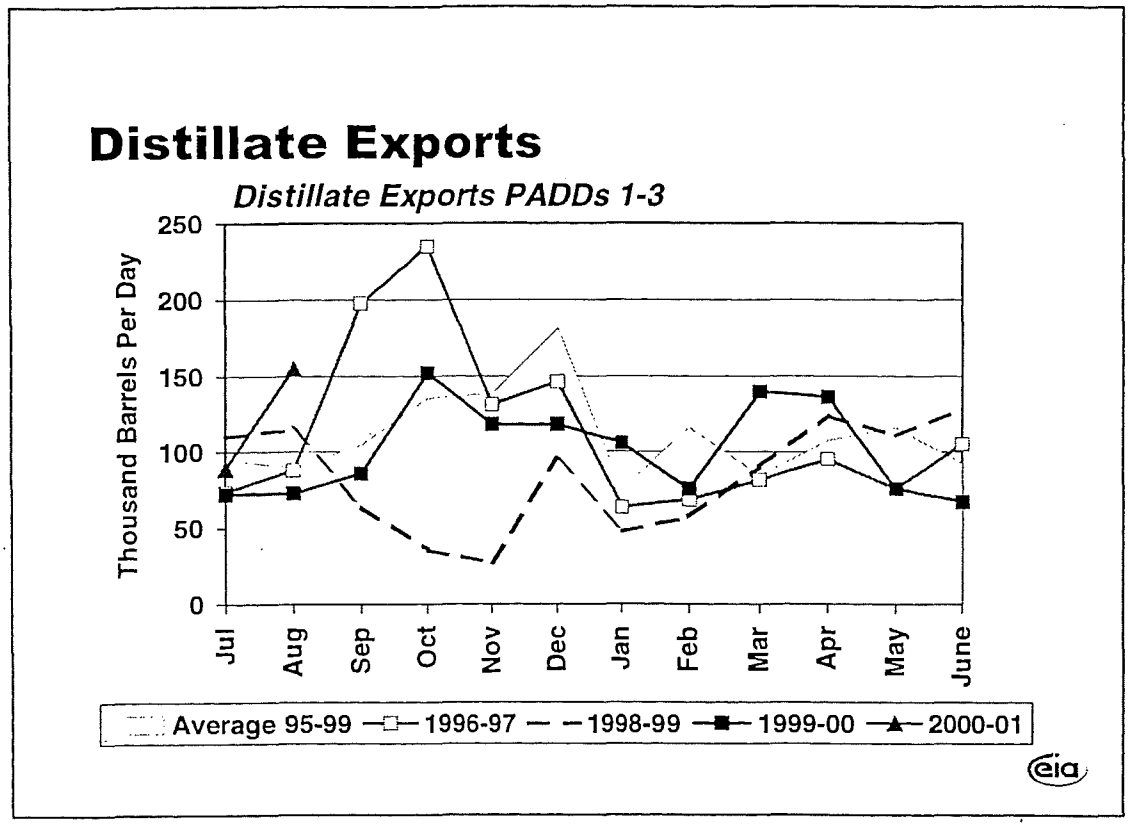
Appendix L

Copy Of DOE/EIA Responses To Questions From Study Committee

RESPONSES FROM DOE/EIA TO QUESTIONS PRESENTED BY THE STUDY COMMITTEE[1]

Q: What is happening to distillate exports?

A: The latest actual data that are available are for August. Distillate exports from PADDs 1-3 popped up a bit in August – about 40 thousand barrels per day over levels two years ago, and about 50 thousand barrels per day over the prior 5- year average for August.



We may also see some higher exports in September based on high distillate prices in Europe relative to the United States (see next figure). Since the end of August, prices in Europe averaged about 6 cents per gallon higher than in the U.S. – up from about 2-2.5 cents per gallon in July and most of August. (The differential peaked on September 12 at almost 10 cents per gallon.) A 6-cent average difference is enough to overcome transportation costs and provide an incentive to export. In 1996, when we saw similar spreads, distillate exports to Europe averaged about 75 MB/D higher than we would normally expect. However after the SPR release, that differential collapsed. It only increased briefly when when trouble in the Middle East occurred. But it fell back again.

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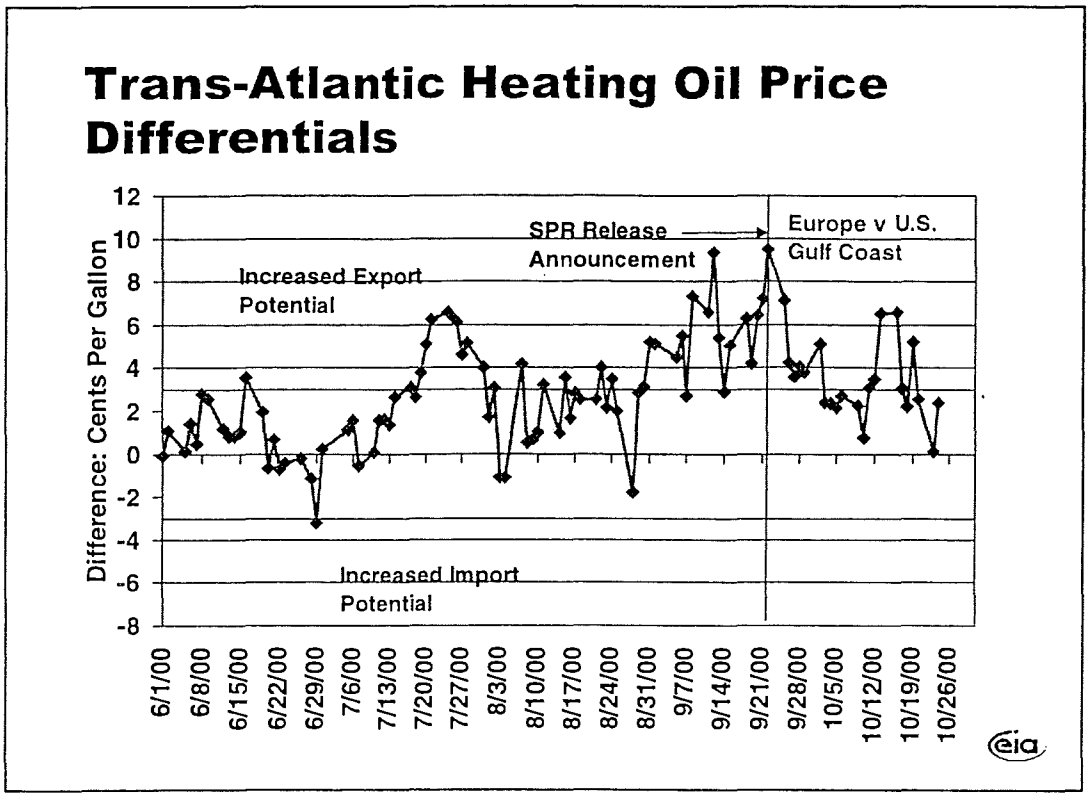
[1] This was provided as an attachment to an email from John Cook of EIA to Jon Clark; copy of the email exchange may be found at the end of this document. The document contained no title; a title is supplied here for purposes of clarity; otherwise the document is unchanged from original. For a list of the questions presented by the committee, see the email exchange.



Q: Is the futures market the cause of low inventories in the Northeast?

A: The low inventories in the Northeast and worldwide were the simple outcome of product demand exceeding crude oil supply, which resulted in demand being met from inventories of crude oil to produce product and from inventories of product. As inventories of both crude and products fell, prices rose. But crude oil prices rose more quickly than product prices, depressing refining margins, which, in turn, further discouraged product production.

EIA has looked at relationships between market fundamentals and futures prices in the past. For example we studied whether low stocks "preceded" or "followed" the futures market, and the statistics showed the low stocks preceded the futures market changes. That is, the futures market represents people's view of what might happen, and that view is being influenced by the fundamentals.

Q: What will be the process for the heating oil reserve release?

The process that is being proposed is fully outlined on DOE's website. You can access this plan at the following location:

http://www.fe.doe.gov/spr/heatingoil/heatingoil_salesplan.html

Also note that comments on the process are being accepted through November 3.

Q: Even if you provide more crude oil, can refiners run more crude oil? Are refineries not working at capacity?

A: There are some misconceptions over this point. U.S. refiners typically run at their maximum utilization rates during the summer months, peaking around August – the high gasoline demand season. Less crude oil is run during the fourth quarter normally (although refiners adjust their distillate yields to produce more distillate, even though less crude oil is going through the refinery). EIA's September forecast, which did not reflect the SPR crude oil release, projected refiners averaging 94.7% (crude inputs/**operating** capacity) during the fourth quarter, which is 3 % lower than they ran during fourth quarter 1997. The October forecast has refiners running an additional 10 million barrels of SPR crude oil. The fourth quarter utilization only reaches 95.4%. The major point is that refineries can and have run at higher utilization rates during the fall than EIA was projecting, and can increase yields as well as crude throughputs over those assumed in the September forecast. There is room for the 10 million barrels of additional crude oil that EIA estimated would be run from the SPR release.

Note: During this past year, refineries ran at strong utilization rates over the summer, but could have run at higher rates. In September 2000, operating capacity utilization was at 97%, which is about average for September. In September of 1997, they ran at over 100%. The industry was trying to recover from the gasoline shortfall that occurred in late August that year. Utilization during the first week in October is at 94.6%, which probably reflects the beginning of some maintenance.

Fig 1.

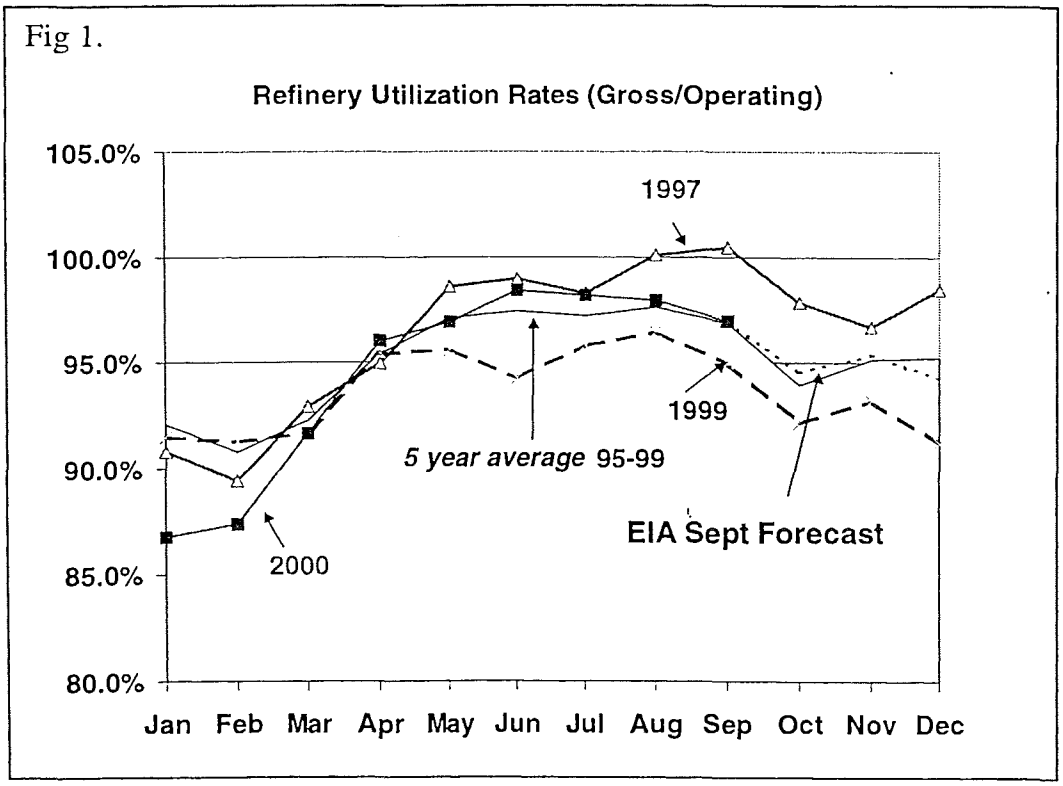
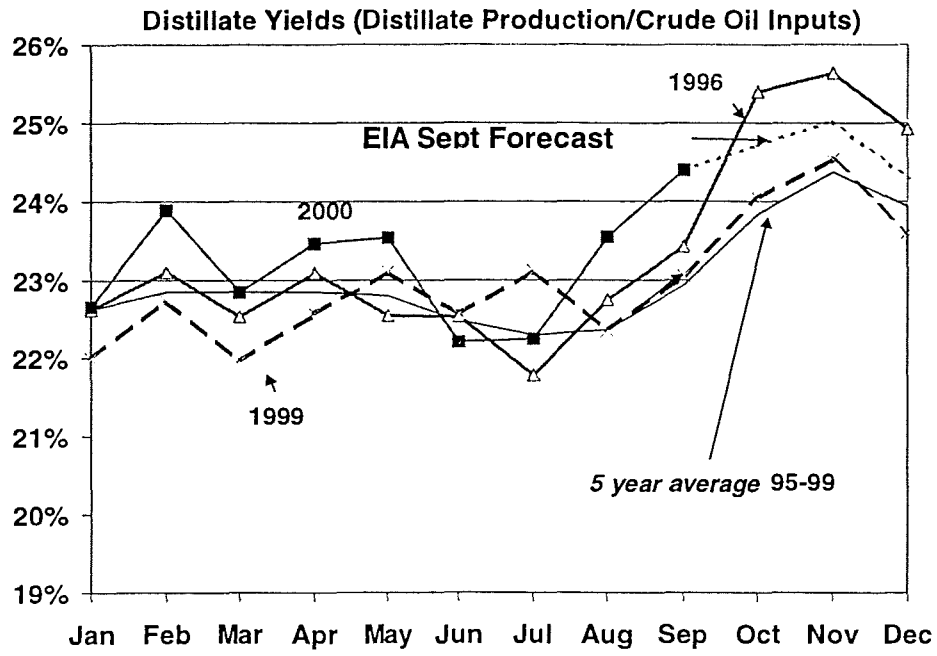


Fig 2.


Distillate Yields (Distillate Production/Crude Oil Inputs)
26%
25%
24%
23%
22%
21%
20%
19%
Jan
Feb
Mar
Apr
May
Jun
Jul
Aug
Sep
Oct
Nov
Dec
1996
EIA Sept Forecast
2000
1999
5 year average 95-99

Clark, Jon

From: JOHN.COOK@hq.doe.gov
Sent: Tuesday, November 07, 2000 11:29 AM
To: Clark, Jon
Cc: Charles.Pray@hq.doe.gov
Subject: RE: Information requests

CHARLI1.DOC

Jon,

Our response to these questions is as follow:

John

-----Original Message-----
From: Jon.Clark@state.me.us_at_internet at X400PO
Sent: Thursday, November 02, 2000 3:52 PM
To: Cook, John
Cc: Charles Pray_at_HQ-EXCH at X400PO
Subject: FW: Information requests

Mr. Cook,

Can I tell the Maine Legislature's committee that it can expect a response from DOE on the requests I outlined in the previous (attached) email?

Jon Clark, Senior Attorney
Office of Policy and Legal Analysis
Maine State Legislature
13 State House Station
Augusta, ME 04333
jon.clark@state.me.us
207-287-1670

-----Original Message-----
From: Clark, Jon
Sent: Thursday, October 26, 2000 1:49 PM
To: 'JOHN.COOK@hq.doe.gov'
Subject: Information requests

Following up on some information requests that were made by the legislative Gas and Fuel Price Study Committee to Charlie Pray at the Oct. 12th meeting here in Maine. I understand that he forwarded these requests to you.

The committee had its next-to-last meeting last Thursday and members were eager to know if any of the information was available. The requests were these:

-- figures on the volume of distillate exported from this country

-- EIA's evaluation of whether the futures market (falling futures prices) was a chief cause of low inventories in the Northeast (companies not wanting to buy high and sell low)

-- information on the manner in which the Northeast Heating Oil Reserve will be released (fixed price, time swap, auction or sealed bids)

-- progress of DOE in dealing with the problem that since refineries are pretty much at output capacity, releases from the SPR may not help distillate supplies (it was suggested that DOE was working with refineries and was also exploring whether it might be possible to bring back on line some moth-balled refineries).

If you forward the information to me, I'll see that it is distributed to the committee.

Thanks,

Jon Clark, Senior Attorney
Office of Policy and Legal Analysis
Maine State Legislature
13 State House Station
Augusta, ME 04333
jon.clark@state.me.us
207-287-1670