

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1353 Fuel Storage

**SPONSOR(S):** Natural Resources & Public Lands Subcommittee, Fant, and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	9 Y, 6 N, As CS	Gregory	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices. These discharges pose a significant threat to groundwater quality, the source of 90 percent of Florida's drinking water. To fund the cleanup of contaminated sites, the Legislature created the Inland Protection Trust Fund (IPTF). An excise tax per barrel on petroleum and petroleum products in or imported into the state funds the IPTF.

In 1990, the Department of Environmental Protection (DEP) adopted rules to require facilities that store petroleum to install secondary containment devices to prevent the release of petroleum from their storage tank systems. Owners of petroleum storage systems spent significant sums of money to upgrade their storage tank systems to meet the new requirements. These upgrades and requirements lowered the number of reported spills in Florida from 400 releases per month to 120 releases per year.

In 2005, the United States Congress created the renewable fuel standard (RFS) program to reduce greenhouse gas emissions and expand the nation's renewable fuels sector while reducing reliance on imported oil. This program requires a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil, or jet fuel. This led to an increased use of ethanol and biodiesel as an additive to gasoline.

After the expanded use of these alternative fuels, the retail fuel industry observed unusual corrosion within their petroleum storage tank systems. The chemical characteristic of the alternative fuels may affect how they interact with petroleum storage tank systems. If petroleum storage tank materials are not compatible with substances stored in petroleum storage tanks, releases to the environment may occur. In 2015, the United States Environmental Protection Agency (EPA) updated the regulations for underground storage tanks to require owners and operators to use a storage tank system made of or lined with materials that are compatible with the substance stored in the storage tank system. These changes occurred after owners and operators upgraded their petroleum storage system systems to meet the secondary containment requirements.

The bill expands the use of the IPTF to authorize DEP to fund the repair and replacement of storage tanks, piping, or system components that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or to take preventive measures to reduce the potential for such damage. The bill establishes application procedures, DEP review requirements, limitations on use of the funds, authorization for DEP to seek third party assistance to implement the program, and requirements for DEP to ensure future petroleum storage systems meet new compatibility requirements.

The bill may have a significant negative fiscal impact on DEP by expanding the uses of the IPTF.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1353a.NRPL

DATE: 3/29/2017

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

###### Inland Protection Trust Fund

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices. These discharges pose a significant threat to groundwater quality, the source of 90 percent of Florida's drinking water. The identification and cleanup of petroleum contamination is particularly challenging due to the diverse geology in Florida, diverse water systems, and the complex dynamics between contaminants and the environment.

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases.<sup>1</sup> The Department of Environmental Protection (DEP) regulates these storage tank systems.<sup>2</sup> Further, DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of areas contaminated by leaking underground petroleum storage tanks.<sup>3</sup> The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup.<sup>4</sup>

An owner of contaminated land or the person who caused the discharge is responsible for rehabilitating the land, unless the site owner can show that the contamination resulted from the activities of a previous owner or other third party (responsible party), who is then responsible.<sup>5</sup> Over the years, DEP has implemented different programs to provide state financial assistance to certain eligible site owners and responsible parties for site rehabilitation. To receive rehabilitation funding assistance, a site must qualify for one of the Petroleum Cleanup Eligibility Programs:

- Early Detection Incentive Program (EDI), s. 376.3071(10), F.S.;
- Petroleum Liability and Restoration Insurance Program (PLRIP), s. 376.3072, F.S.;
- Abandoned Tank Restoration Program (ATRP), s. 376.305(6), F.S.;
- Innocent Victim Petroleum Storage System Restoration Program (Innocent Victim Program), s. 376.30715, F.S.;
- Petroleum Cleanup Participation Program (PCPP), s. 376.3071(13), F.S.; and
- Consent Order (aka "Hardship" or "Indigent"), s. 376.3071(8)(e), F.S.

To fund the cleanup of contaminated petroleum sites, the Legislature created the Inland Protection Trust Fund (IPTF).<sup>6</sup> The state levies an excise tax on each barrel of petroleum and petroleum products in or imported into the state to fund the IPTF.<sup>7</sup> The state determines the amount of the excise tax for each barrel based on a formula that is dependent upon the unobligated balance of the IPTF.<sup>8</sup> Each year, the Legislature deposits approximately \$200 million from the excise tax into the IPTF.<sup>9</sup>

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<sup>1</sup> Chapter 83-310, Laws of Fla.

<sup>2</sup> Sections 376.30(3) and 376.303, F.S.

<sup>3</sup> Section 376.3071(5), F.S.

<sup>4</sup> DEP, *Petroleum Restoration Program*, <http://www.dep.state.fl.us/waste/categories/pcp/default.htm> (last visited February 23, 2017).

<sup>5</sup> Section 376.308, F.S.

<sup>6</sup> Sections 376.3071(3) and (4), F.S.

<sup>7</sup> Sections 206.9935(3) and 376.3071(7), F.S.

<sup>8</sup> The amount of the excise tax per barrel is based on the following formula: 30 cents if the unobligated balance is between \$100 million and \$150 million; 60 cents if the unobligated balance is above \$50 million, but below \$100 million; and 80 cents if the unobligated balance is \$50 million or less, s. 206.9935(3), F.S.

<sup>9</sup> DEP, Agency Analysis of 2017 HB 753, p. 2 (March 3, 2017).

When DEP determines incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, or welfare; water resources; or the environment, it must obligate the funds in the IPTF for:

- Prompt investigation and assessment of contamination sites;
- Expeditious restoration or replacement of potable water supplies;
- Rehabilitation of contamination sites based on DEP's cleanup criteria. DEP may not obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing petroleum storage systems;
- Maintenance and monitoring of contamination sites;
- Inspection and supervision of activities conducted with IPTF funds;
- Payment of expenses incurred by DEP in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from cleanup activities;
- Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other assistance to DEP in the investigation of drinking water contamination complaints and costs associated with public information and education activities;
- Establishment and implementation of a compliance verification program including contracting with local governments or state agencies to provide for the administration of such program through locally administered programs, to minimize the potential for further contamination sites;
- Funding ATRP and PLRIP;
- Activities related to removal and replacement of petroleum storage systems, exclusive of costs of any tank, piping, dispensing unit, or related hardware, if soil removal is approved as a component of site rehabilitation and requires removal of the tank where remediation is conducted or if such activities were justified in an approved remedial action plan;
- Reasonable costs of restoring property as nearly as practicable to the conditions that existed before activities associated with contamination assessment or remedial action;
- Repayment of loans to the IPTF;
- Expenditure of sums to cover ineligible sites or costs for PRPP;
- Payment of amounts payable under any service contract entered into by DEP with the Inland Protection Financing Corporation;
- Petroleum remediation throughout a state fiscal year;
- Enforcement of the storage tank regulations by the Fish and Wildlife Conservation Commission; and
- Payments for program deductibles, copayments, and limited contamination assessment reports that otherwise would be paid by another state agency for state-funded petroleum contamination site rehabilitation.<sup>10</sup>

As of January 2017, 19,927 petroleum contaminated sites eligible for clean up under the IPTF existed throughout the state. DEP completed cleanup of 9,240 sites. DEP is currently working on eligible sites in the following categories: assessment 4,531; active remediation 1,044; and passive remediation 1,368.<sup>11</sup>

### Secondary Containment Upgrades

In 1990, DEP adopted rules to require facilities that store petroleum to install secondary containment devices to prevent the release of petroleum from their storage systems. "Secondary containment" is a release detection and discharge prevention system that meets DEP's performance requirements adopted in rule and includes dispenser sumps, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner or an impervious containment area surrounding

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<sup>10</sup> Section 376.3071(4), F.S.

<sup>11</sup> DEP, Agency Analysis of 2017 HB 753, p. 2 (March 3, 2017).

single-walled tanks, or integral piping.<sup>12</sup> The secondary containment rules require that petroleum storage systems must be constructed of materials impervious to the regulated substance being stored; use non-corrosive or corrosion protected materials; be designed and installed to direct any release to a monitoring point; meet certain requirements if they are single walled; be double walled if they do not meet single walled requirements; provide monitoring; use protective coating for certain materials; use spill containment systems; and use overfill devices and automatic shut offs.<sup>13</sup> Owners of petroleum storage systems spent significant sums of money to upgrade their storage systems to meet the new requirements. These upgrades and requirements lowered the number of reported spills in Florida from 400 releases per month to 120 releases per year.<sup>14</sup>

### New Fuel Standards

The United States Congress created the Renewable Fuel Standard program to reduce greenhouse gas emissions and expand the nation's renewable fuels sector while reducing reliance on imported oil. This program was authorized under the Energy Policy Act of 2005 and expanded under the Energy Independence and Security Act of 2007.<sup>15</sup> These acts amended the Clean Air Act to require a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil, or jet fuel.<sup>16</sup> This led to an increased use of ethanol and biodiesel as an additive to gasoline and diesel, respectively.

After the expanded use of these alternative fuels, the retail fuel industry observed unusual corrosion within their petroleum storage tank systems.<sup>17</sup> The chemical characteristic of the alternative fuels may affect how they interact with petroleum storage tank systems. Some materials in some petroleum storage tank systems may not perform as intended if storing certain fuels or blends and may be incompatible with those fuels. If petroleum storage tank system materials are not compatible with substances stored in petroleum storage tanks, releases to the environment may occur as a result of corrosion caused by alternative fuels. In 2015, the United States Environmental Protection Agency (EPA) updated the regulations for underground storage tank systems to require owners and operators to use a storage tank system made of or lined with materials that are compatible with the substance stored in the storage tank system.<sup>18</sup> These changes occurred after owners and operators in Florida upgraded their petroleum storage tank system systems to meet the secondary containment requirements.

### **EFFECT OF THE PROPOSED CHANGES**

The bill expands the use of the IPTF to authorize DEP to fund the repair and replacement of storage tanks, piping, or system components that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or taking preventive measures to reduce the potential for such damage. These changes take effect upon the expiration and reversion of funds appropriated to DEP for fiscal year 2016-17 to fund cleanup of petroleum contamination sites using contractors that employ non-traditional or innovative technologies.

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<sup>12</sup> Rules 62-761.200(53) and 62-762.201(67), F.S.

<sup>13</sup> Rules 62-761.500, 62-762.501 and 62-762.502, F.A.C.

<sup>14</sup> Marshall Mott-Smith and Edward W. English, *Alternative Fuels – How Ethanol Fuels and Biodiesel Are Damaging Our Petroleum Storage System Infrastructure*, p. 6, available upon request from the Natural Resources & Public Lands Subcommittee.

<sup>15</sup> EPA, *Renewable Fuel Standard Program*, <https://www.epa.gov/renewable-fuel-standard-program> (last visited March 21, 2017).

<sup>16</sup> EPA, *Program Overview for Renewable Fuel standards Program*, <https://www.epa.gov/renewable-fuel-standard-program/program-overview-renewable-fuel-standard-program> (last visited March 21, 2017).

<sup>17</sup> Marshall Mott-Smith and Edward W. English, *Alternative Fuels – How Ethanol Fuels and Biodiesel Are Damaging Our Petroleum Storage System Infrastructure*, p. 6, available upon request from the Natural Resources & Public Lands Subcommittee.

<sup>18</sup> EPA, *Alternative Fuels and Underground Storage Tanks (USTs)*, <https://www.epa.gov/ust/alternative-fuels-and-underground-storage-tanks-usts> (last visited March 21, 2017).

The bill creates s. 376.3071(1)(h), F.S., to find and declare that:

- Congress amended the Clean Air Act to establish a Renewable Fuel Standard requiring the use of ethanol and biodiesel as additives for gasoline and diesel fuels, respectively;
- The inclusion of ethanol in gasoline and biodiesel in diesel fuel led to the unintended consequence of causing, and potentially causing, significant corrosion and other damage to petroleum storage system components;
- Petroleum storage system components have been found by DEP in its equipment approval process to meet compatibility standards. However, these standards may have subsequently changed due to the introduction of ethanol and biodiesel;
- This state enacted secondary containment requirements before Congress mandated introduction of ethanol into gasoline and biodiesel into ultra-low sulfur 60 diesel fuel;
- Owners and operators of petroleum storage facilities who complied with the secondary containment requirements may not have evaluated the new equipment for compatibility with ethanol and biodiesel, cross-contamination due to the storage of gasoline and diesel fuel, and the effects of condensation and minimal amounts of water in storage tanks; and
- Owners and operators who installed the new secondary containment equipment are at a particular risk for having to repair or replace equipment or take other preventive measures in advance of the end of the equipment's expected useful life in order to prevent releases or discharges of pollutants.

The bill amends s. 376.3071(2)(a), F.S., to expand the purpose of the IPTF to respond to, without delay, damage or potential damage to storage tank systems caused by ethanol or biodiesel.

The bill amends s. 376.3071(4)(c), F.S., to authorize DEP to use the IPTF to repair, replace, or provide other preventive measures for petroleum storage systems that likely have been damaged by the storage of fuels blended with ethanol or biodiesel.

The bill amends s. 376.3071(4)(j), F.S., and creates s. 376.3071(4)(r), F.S., to expand the use of the IPTF to authorize DEP to fund the repair and replacement of storage tanks, piping, or system components that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or the use of preventive measures to reduce the potential for such damage.

The bill creates s. 376.3071(15), F.S., to authorize DEP to pay up to \$10 million each fiscal year to fund the repair or replacement of storage tanks, piping, or system components that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or the use of preventive measures to reduce the potential for such damage. An owner or operator of a petroleum storage system may request payment from DEP for:

- The repair or replacement of petroleum storage systems including tanks, integral piping, or related hardware that have likely been damaged, or are subject to damage, by the storage of fuels blended with ethanol or biodiesel; or
- For other preventive measures to ensure compatibility with ethanol or biodiesel.

To request payment for repair, replacement, or preventive measures, an owner or operator must submit to DEP:

- An affidavit from a petroleum storage system specialty contractor attesting to an opinion that the petroleum storage system has likely been damaged as a result of the storage of fuel blended with ethanol or biodiesel or is not compatible with fuels containing ethanol or biodiesel, or a combination of both. The affidavit must also include a proposal from the specialty contractor for repair or replacement of the equipment, or for the implementation of other preventive measures to reduce the probability of damage. If the specialty contractor proposes replacement of any equipment, the specialty contractor must state the reasons that repair or other preventive measures are not technically or economically feasible or practical;

- Copies of any inspection reports, including photographs, prepared by the specialty contractor, DEP, or local program inspectors documenting the damage or potential for damage to the petroleum storage system;
- A proposal from the specialty contractor showing the proposed scope of the repair, replacement, or other preventive measures, including a detailed list of labor, equipment, and other associated costs. The bill limits funding for preventive measures to an owner or an operator who has not already received funding for repair or replacement of petroleum storage systems that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or taking preventive measures to reduce the potential for such damage. The bill further limits funding for preventive measures to five years. Lastly, the bill prohibits the specialty contractor who prepared the proposed scope of work from performing the repair, replacement, or preventive measures. ; and
- For proposals to replace storage tanks or piping, a statement from a certified public accountant indicating the depreciated value of the tanks or piping proposed for replacement. Applications for such proposals must include documentation of the age of the storage tank or piping. Applications may use historical tank registration records to determine the age of the storage tank and piping. DEP may not pay more than the depreciated value of the storage tank and piping, including prorated labor costs. The bill states that tanks 20 years old or older are deemed to be fully depreciated and have no replacement value and are not eligible for funding for repair or replacement of petroleum storage systems that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or taking preventive measures to reduce the potential for such damage.

DEP must review the applications for completeness, accuracy, and the reasonableness of costs and the scope of work. DEP must approve, deny, or propose modifications to the application within 30 days after receipt.

If DEP approves the application, it must issue a purchase order to the petroleum storage system owner or operator that:

- Reflects a payment due to the owner or operator for the cost of the scope of work approved by DEP, less a deductible of 25 percent;
- States that moneys are not due to the owner or operator until the scope of work authorized by DEP has been completed in substantial conformity with the purchase order;
- Specifies that the work authorized in the purchase order must be substantially completed and paid for by the petroleum storage system owner or operator within 180 days after the date of the purchase order. After such time, the purchase order is void. This requirement does not apply to preventive maintenance contracts; and
- Develops a maintenance completion and payment deadline schedule for approved applicants for preventive measure purchase orders. The failure of an owner or operator to meet these scheduled deadlines shall invalidate the purchase order for all future payments due pursuant to the purchase order. The bill limits funding for preventive measures to five years. Further, the bill prohibits an owner or operator who previously received funding for replacement of their petroleum storage system from receiving funding for preventive measures.

Following completion of the work authorized by DEP the applicant may request DEP make payment in accordance with the purchase order. The applicant's request must include a sufficient demonstration that the work has been completed in substantial conformance with the purchase order and that the costs have been fully paid. Upon this demonstration, DEP must issue the payment in accordance with the terms of the purchase order. These requirements do not apply to maintenance contracts.

For maintenance contracts, DEP must make periodic payments in accordance with the schedule specified in the purchase order upon satisfactory showing that maintenance work has been completed and costs have been paid by the owner or operator as specified in the purchase order.

The bill authorizes DEP to develop forms that it may use for application and payment procedures. Until DEP develops those forms, the applicants may submit the required information in any format, so long as the application is complete.

The bill authorizes DEP to request the assistance of the Department of Management Services or a third party administrator to assist in the administration of the application and payment process. DEP must pay any costs associated with this administration from the IPTF. The bill limits the amount of funding that may be used for administration of the distribution of funds to three percent.

The bill states that the expanded use of the IPTF does not affect the obligations of a facility owner or operator or petroleum storage system owner or operator to timely comply with DEP rules regarding the maintenance, replacement, and repair of petroleum storage systems in order to prevent a release or discharge of pollutants.

The bill prohibits DEP from paying for:

- Proposal costs or costs related to preparation of the application and required documentation;
- Certified public accountant costs;
- Any costs in excess of the amount approved by DEP in the purchase order or which are not in substantial conformance with the purchase order, except for costs incurred by an owner or operator who repaired, replaced, or took preventive measures during the period of July 1, 2015 through June 30, 2017 ;
- Costs associated with storage tanks, piping, or ancillary equipment that has previously been repaired or replaced using funds from this new procedure;
- Facilities that are not in compliance with DEP storage tank system rules, until the noncompliance issues have been resolved; or
- Costs associated with damage to petroleum storage systems caused in whole or in part by causes other than the storage of fuels blended with ethanol or biodiesel.

The bill requires DEP to review and approve on a first-come, first-served basis. However, DEP may not issue purchase orders unless funds remain for the current fiscal year.

The bill limits the funding an owner and operator may receive yearly to no more than \$200,000 annually for equipment replacement, repair, or preventive measures at any single facility, or \$500,000 annually in the aggregate for all facilities they own or operate. The bill limits funding for preventive measures to five years. Further, the bill prohibits an owner or operator who previously received funding for replacement of their petroleum storage system from receiving funding for preventive measures.

The bill authorizes an owner or operator who incurred costs for repair, replacement, or other preventive measure during the period of July 1, 2015, through June 30, 2017, to apply to request payment for such costs. DEP may not disburse payment for approved applications for such work until it pays all purchase orders for previously approved applications and funds remain available for the fiscal year. An owner or operator must pay a 25 percent deductible for the cost of the scope of work approved by DEP.

Lastly, DEP must ensure that petroleum storage systems approved after July 1, 2017, meet applicable standards for compatibility for ethanol blends, biodiesel blends, and other alternative fuels that are likely to be stored in such systems.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 376.3071, F.S., relating to the creation, purpose, and funding of the Inland Protection Trust Fund.

**Section 2.** Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill will likely have a significant negative fiscal impact on DEP by expanding the use of the IPTF to authorize DEP to fund up to \$10 million each fiscal year to repair and replace storage tank systems, piping, or system components that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or take preventive measures to reduce the potential for such damage.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have a positive economic impact on owners and operators of petroleum storage tank systems that have likely been damaged, or that could be damaged, by the storage of fuels blended with ethanol or biodiesel.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill authorizes DEP to develop forms for application and payment procedures. Forms that impose any requirement or solicit any information not specifically required by statute or existing rule are "rules" for the purposes of the administrative procedures act.<sup>19</sup> If DEP develops forms that meet the definition

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<sup>19</sup> Section 120.52(16), F.S.  
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of “rules,” it must follow the rulemaking procedures. DEP possesses sufficient rulemaking authority to amend its inland protection trust fund rules to conform to changes made in the statutes, if necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2017, the Natural Resources and Public Lands Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Corrects a reference to the Energy Policy Act of 2005;
- Authorizes DEP to use the IPTF to repair, replace, or provide other preventive measures for petroleum storage systems that likely have been damaged by the storage of fuels blended with ethanol or biodiesel;
- Replaces language to create consistent terminology;
- Assures that IPTF funds are used to repair or replace petroleum storage systems that have been likely damaged due to the storage of fuels blended with ethanol or biodiesel, or for preventive measures to reduce the potential for such damage;
- Limits funding for preventive measures to those owners and operators who have not already received funding for repair or replacement of petroleum storage systems that have likely been damaged by the storage of fuels blended with ethanol or biodiesel or taking preventive measures to reduce the potential for such damage;
- Limits funding for preventive measures to five years;
- Prohibits the specialty contractor who prepared the proposed scope of work from performing the repair, replacement, or preventive measures;
- Limits labor costs for the replacement of petroleum storage tanks to the prorated depreciated value of the petroleum storage tank;
- Specifies that petroleum storage tanks that are older than 20 years old are not eligible for funding;
- Authorizes operators of petroleum storage systems to receive funding;
- Prohibits an owner or operator who previously received funding for replacement of their petroleum storage system from receiving funding for preventive measures;
- Limits the amount of funding that may be used for administration of the distribution of funds to three percent;
- Authorizes DEP to pay for costs in excess of those approved by the purchase order for costs incurred by an owner or operator who repaired, replaced, or took preventive measures during the period of July 1, 2015 through June 30, 2017; and
- Requires DEP to review and approve applications on a first-come, first-served basis.

This analysis is drawn to the committee substitute reported favorably by the Natural Resources and Public Lands Subcommittee.