

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 6105-03  
Bill No.: HCS for HB 2257  
Subject: Environmental Protection; Department of Natural Resources; Mining and Oil and Gas Production  
Type: Original  
Date: March 16, 2018

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Bill Summary: This proposal modifies provisions relating to the Petroleum Storage Tank Insurance Fund.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
Petroleum Storage Tank Insurance Fund	\$0	(\$1,600,000)	\$4,150,000	\$9,900,000
Underground Storage Tank Regulation Program Fund	\$0	\$1,600,000	\$1,600,000	\$1,600,000
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,750,000</b>	<b>\$11,500,000</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Fully Implemented (FY 2022)</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Natural Resources** assume the following regarding this proposal:

#### §319.123

This section establishes the use of monies in the Underground Storage Tank Program Regulation Fund. Direct appropriations of the transport load fee would go into this fund and would be subject to the limitations established in this section. All uses of money allocated from the petroleum transport load fee would have to relate to the administration of sections 319.100 to 319.137

#### §319.129.4

No impact

#### §319.129.10

No impact foreseen

#### §319.129.13

No impact

#### §319.129.16

Authority for PSTIF extended from 2020 to 2030, providing fund benefits for eligible underground storage tanks for another ten years.

#### §319.131.1

No impact

#### §319.131.3

No impact

#### §319.131.5

No impact

#### §319.131.6

The proposed revision to 319.131.6 would leave it to PSTIF's discretion whether to defend insureds from third party claims.

ASSUMPTION (continued)

§319.132.1(2)

This change would provide a direct appropriation authority directly from the petroleum transport load fee to the Department in an amount of \$1.6 million annually for Underground Storage Tank (UST) related work, beginning in fiscal year 2020 and lasting through 2029.

§319.132.4(4)

A requirement to repay fund sweeps would improve the solvency of the fund for cleanups.

§319.133

No impact

The change in Section 319.312.1(2) would provide a direct appropriation authority directly from the petroleum transport load fee to the Department in an amount of \$1.6 million annually for Underground Storage Tank (UST) related work, beginning in fiscal year 2020 and lasting through 2029. The Department's FY 2020 budget request would then include an increase in the Underground Storage Tank Regulation Program Fund (0586) appropriations in the amount of \$1.6 million.

Officials from the **Petroleum Storage Tank Insurance Fund Board of Trustees** assume the following regarding this proposal:

§319.129.4

Would enlarge the pool of tank owners eligible to serve on PSTIF Board of Trustees.

§319.129.9

Would authorize PSTIF Board of Trustees to directly engage contractors to remediate or mitigate claims.

§319.129.13

Would authorize PSTIF Board of Trustees to place liens on properties and assign an insured's benefits.

§319.129.16

Would extend all of PSTIF Board's current operations for an additional ten years. (Under current law, the Board will no longer insure tank owners or accept new claims after 12/31/20; after that date, the Board will continue to pay "runout" for claims previously filed.)

ASSUMPTION (continued)

§319.131.1

Would clarify that airport hydrant systems are not eligible to obtain insurance from the PSTIF. (There is only one in the state, at Lambert Airport. Airlines have never paid the PSTIF transport load fee and have never been eligible for insurance; see 319.132.6, RSMo.)

§319.131.3

Would eliminate requirement for PSTIF Board to enforce EPA rules as a condition of PSTIF coverage.

§319.131.5

Would correct inaccurate reference.

§319.131.6

Would correct inaccurate reference. Would also authorize PSTIF Board to offer increased coverage.

§319.131.8

Would correct inaccurate reference.

§319.131.9

Would correct inaccurate reference and remove obsolete language.

§319.132.1

Would annually divert \$1.6 million in transport load fees from the PSTIF to a DNR fee fund used for regulatory oversight of UST operations and oversight of petroleum tank site cleanups. Specifies that if any of the money so diverted is not used in a given fiscal year, the unused portion will be returned to the PSTIF.

§319.132.4

Would require "sweeps" of money from the PSTIF for unrelated purposes to be repaid, presumably bolstering the likelihood the Board can meet its future obligations.

§319.132.5

If the PSTIF balance ever exceeds \$100 million, would require the PSTIF Board to pay \$1.6 million annually into DNR's fee fund.

§319.133.3

Would remove obsolete provision unrelated to PSTIF operations.

ASSUMPTION (continued)

§319.133.4

Would eliminate option for tank owners to pay participation fees in semi-annual installments; (none do so now).

§319.133.5

Would remove obsolete provision.

§319.133.6

Would broaden PSTIF Board's authority to require first-time applicants for coverage to demonstrate their site is not already polluted.

The proposal will have both positive and negative fiscal impacts on the PSTIF. Data are not available to fully evaluate the overall fiscal impact on the PSTIF.

Long-Term Cost

The PSTIF Board has traditionally given DNR money (essentially, a "grant"), for its tanks program; this proposal would instead divert a portion of transport load fees to DNR. Under current law, the Board would only consider giving DNR a grant for 2 to 3 more fiscal years; because this proposal extends the PSTIF's sunset date and diverts funding to DNR through FY 2029, there is a long-term cost to the PSTIF.

There are also negative fiscal impacts from extending the "sunset date." Because the PSTIF Board would continue to insure tank owners for ten more years, additional future liabilities would be incurred for leaks at insured sites occurring after 12/31/2020, and additional administrative costs will be incurred for insuring tank sites and processing new claims.

Long-Term Benefit

The majority of funding for the PSTIF's liabilities comes from the transport load fee, currently assessed at \$20 per 8,000 gallons on all fuel used in Missouri. Actuarial estimates indicate the current cash balance in the trust fund, plus anticipated revenues through the "sunset date" of 12/31/20, will be insufficient to meet long-term liabilities for all claims already filed plus those expected to be filed prior to the "sunset date." The estimated shortfall is approximately \$35 million. The PSTIF Board is currently considering an increase in the transport load fee, but is prohibited from increasing the fee more than \$15/year. Even if a \$15 increase is implemented in 2018 and again in 2019, and a \$10 increase in 2020, (to the maximum allowed by law), it is likely the Trust Fund would have unfunded liabilities and would run out of cash in future years while "claims runout" is being paid. The proposal would mitigate this long-term solvency issue by authorizing continued revenue into the PSTIF for an additional ten years.

### ASSUMPTION (continued)

If the PSTIF "sunsets" on 12/31/20, it is anticipated most or all insured tank owners who have never had a leak or filed a claim will have their property tested for "old pollution;" all of these claims would be filed in the next 36 months. If this proposal is enacted, most or all of these claims would still likely be filed, but would be presented over a longer period of time; this would stretch payout of liabilities over more future years, which would affect the PSTIF's solvency in a positive way.

### Mixture of Impacts on Long-term Liabilities from Other Changes in Bill

Several other provisions of the proposal would have a positive impact on the PSTIF's long-term liabilities. As an example, under current law and rules, a tank owner can operate many years without PSTIF coverage, then obtain PSTIF insurance right before removing his tanks/piping and make a claim with PSTIF for cleanup of leaks that may have occurred while he was not insured; this proposal would allow the Board to promulgate rules to prevent this.

One provision could have a negative impact on the PSTIF's liabilities and future solvency: If the Board chooses to increase its coverage, as would be authorized by language in 319.131.6, RSMo, its costs for some future claims will likely be higher

### Revenues

It is assumed revenues from the transport load fee and from participation fees would continue for ten more years. I.e., Revenues would be received from 1/1/21 through 12/31/30.

### Cost Impact from Extension of Sunset Date

Cost savings for FY 2019 through FY 2021 due to claim filings being delayed and/or spread over a larger number of future years were estimated as follows:

The Board currently insures 2,540 tank sites where there has never been a claim or cleanup; its actuary estimated the liability for future claims at these sites as of January 1, 2018 at approximately \$45 million, or approximately \$18,000 per site.

If the Fund "sunsets" on 12/31/20, as currently specified in state law, it is assumed all of these claims will be filed prior to that date, and that payout of that liability would occur over seven years. I.e., It is assumed 70.5 claims per month will be filed for 1/1/18 through 12/31/20, that the total cost for each claim is \$18,000, and that those costs will be paid out over a 7-year period.

If, however, operations are extended for ten more years, many of those claims will not be filed in the next 36 months, (i.e., in calendar years 2018-2020), but instead will be filed in future fiscal years. Specifically, it is assumed only 10% of those claims would be filed in FY 2019, 10% in



ASSUMPTION (continued)

FY 2020, and 10% in FY 2021, resulting in savings for each of those fiscal years. Again, it is assumed costs for each claim would be paid over a seven-year period. (Please note all \$45 million in claims costs would still be incurred.)

Other near-term savings would accrue from the delayed filing of some "remedial claims," but extending the sunset date by ten years would result in more remedial claims being filed in total. No effort was made to estimate cost savings in the near term or increased costs in the long-term from this effect.

There would be near-term savings from reduced administrative costs associated with the delayed filing of claims; however, long-term administrative costs would increase. (The savings and costs are minor compared to claims costs).

Additional Costs for Future Leaks From Insured Sites

It is assumed 16 leaks per year occur at PSTIF-insured tank sites, and the average cost per leak will be \$100,000. This equates to an additional \$16 million in liabilities that will accrue between 1/1/21 and 12/31/30.

It is assumed the PSTIF Board would give DNR a "grant" in FY 2020 and FY 2021 equal to its FY 2019 "grant," which was approximately \$1,475,350, and that DNR would spend the entire \$1.6 million each of those fiscal years. The difference is \$124,651 and is shown as a new cost for FY 2020 and FY 2021.

Cost Impact from Other Provisions

It is not possible to project the combined fiscal effect of the entire bill on the PSTIF.

**Oversight** notes according to DNR reports, over the past three calendar years (2015 - 2017), an average of \$11.5 million has been collected for transport load fees and deposited into the Petroleum Storage Tank Insurance Fund (0585). Oversight will reflect this average as a revenue extension for FY 2021 (6 months) through FY 2022.

Oversight will also reflect a transfer of "Up to \$1.6 million" from the Petroleum Storage Tank Insurance Fund to the Underground Storage Tank Regulation Program Fund (0586) per \$319.132 (subject to appropriations) beginning in FY 2020.

Oversight notes the Petroleum Storage Tank Insurance Fund (0585) had a balance of \$49,752,552 as of June 30, 2017. The Underground Storage Tank Regulation Program Fund had a balance of \$256,582 as of June 30, 2017.

ASSUMPTION (continued)

Officials from the **Department of Agriculture, Department of Revenue, Department of Health and Senior Services, Office of Administration - Facilities Management, Design and Construction, Office of Administration - Division of Accounting and Department of Insurance, Financial Institutions and Professional Registration and Office of the Governor** each assume the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2019	FY 2020	FY 2021 (6 Mo.)	Fully Implemented (FY 2022)
<b>PETROLEUM STORAGE TANK INSURANCE FUND</b>				
<u>Revenue - PSTIF</u> Board of Trustees - <b>Extension of</b> transport load fee from 12/31/2020 to 12/31/203 <u>(\$319.129.16)</u>	<u>\$0</u>	<u>\$0</u>	\$5,750,000	\$11,500,000
<u>Transfer Out -</u> PSTIF - to the Underground Storage Tank Regulation Program Fund	<u>\$0</u>	<u>(\$1,600,000)</u>	<u>(\$1,600,000)</u>	<u>(\$1,600,000)</u>
<b>ESTIMATED NET EFFECT ON THE PETROLEUM STORAGE TANK INSURANCE FUND</b>	<b><u>\$0</u></b>	<b><u>(\$1,600,000)</u></b>	<b><u>\$4,150,000</u></b>	<b><u>\$9,900,000</u></b>

FISCAL IMPACT -  
 State Government

	FY 2019	FY 2020	FY 2021 (6 Mo.)	Fully Implemented (FY 2022)
<b>UNDERGROUND STORAGE TANK REGULATION PROGRAM FUND</b>				

Transfer In - DNR -  
 from the Petroleum  
 Storage Tank  
 Insurance Fund

	<u>\$0</u>	<u>\$1,600,000</u>	<u>\$1,600,000</u>	<u>\$1,600,000</u>
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**ESTIMATED NET  
 EFFECT ON THE  
 UNDERGROUND  
 STORAGE TANK  
 REGULATION  
 PROGRAM FUND**

	<u>\$0</u>	<u>\$1,600,000</u>	<u>\$1,600,000</u>	<u>\$1,600,000</u>
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FISCAL IMPACT -  
 Local Government

	FY 2019	FY 2020	FY 2021 (6 Mo.)	Fully Implemented (FY 2022)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that sell petroleum products could be impacted by this proposal.

FISCAL DESCRIPTION

This legislation modifies provisions relating to the Petroleum Storage Tank Insurance Fund.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources  
Petroleum Storage Tank Insurance Fund Board of Trustees  
Department of Agriculture  
Department of Revenue  
Office of Administration - Facilities Management, Design and Construction  
Department of Health and Senior Services  
Office of the Governor

Ross Strope



Acting Director  
March 16, 2018