



Underground Storage Tank Program Financial Outlook

ISSUE

Iowa's Underground Storage Tank (UST) Program was created in 1989. The main purpose of the Program is to reimburse owners and other responsible parties for the cost to clean up environmental contamination caused by leaking underground petroleum storage tanks. The Program receives \$14.0 million annually in funding from the Statutory Allocations Fund. This *Issue Review* explores the future financial condition of the UST Program.

AFFECTED AGENCIES AND FUNDS

Underground Storage Tank Fund Board

Statutory Allocations Fund

Road Use Tax Fund

CODE AUTHORITY

[Iowa Code chapter 455G](#) - UST Remediation Program

[Iowa Code section 321.145\(2\)](#) - Statutory Allocations Fund

BACKGROUND

The UST Program, UST Fund, and UST Fund Board were created in HF 447 (Petroleum Underground Storage Tank Act of 1989). The main purpose of the Program was to provide environmental remediation assistance, site insurance, and loan financing for underground petroleum storage tank locations.

The Program was originally designed to be financed in advance through the issuance of bonds, and the bonds were to be repaid by a new Environmental Protection Charge (EPC). The EPC is assessed on motor fuel deposited in underground storage tanks and is equal to \$0.01 per gallon.

Due to concerns that the EPC might be deemed a tax on motor vehicle fuel and therefore subject to Constitutional restrictions, the 1990 General Assembly changed the deposit destination for the EPC to the Road Use Tax Fund (RUTF).¹ In return, the UST Program was

¹ Article VII, Section 8 of the Iowa Constitution provides that "motor vehicle registration fees and all licenses and excise taxes on motor vehicle fuel, except cost of administration, shall be used exclusively for the construction, maintenance and supervision of the public highways exclusively within the state or for the payment of bonds issued or to be issued for the construction of such public highways and the payment of interest on such bonds."

provided an annual allocation of vehicle use tax.² With the 1990 change, there is no longer a financial connection between the EPC and the UST Program, and the sunset date of June 30, 2016, for the EPC only impacts the RUTF.³

To provide Constitutional protection to the revenue raised by the motor vehicle use tax, the 2008 General Assembly enacted SF 2420 (Transportation Fees, Funds, and Revenue Sources Act). That legislation redefined the motor vehicle use tax as a “fee for new registration” of a vehicle. As part of SF 2420, the source of funding for the UST Program was changed to the newly created Statutory Allocations Fund. The UST Program receives \$14.0 million annually from the Statutory Allocations Fund. That annual allocation does not sunset.

The Statutory Allocations Fund receives revenue from trailer registrations, driver’s license fees, title fees and surcharges, and vehicle rental taxes. Annual revenue for the Fund is currently distributed as follows:

- \$14.0 million to the UST Program.
- \$3.0 million to the Renewable Fuels Infrastructure Fund.
- Based on formulas, additional money is allocated to:
 - Public transit assistance
 - Motorcycle Rider Education Fund
 - Various specialty plate funds
- All revenue remaining after the above allocations is transferred to the RUTF.

CURRENT FUND STATUS AND PROJECTIONS

The UST Program has operated since FY 1989. The Program has an FY 2014 ending fund balance of \$29.2 million. The Program has annual costs for administration, various contracts, and is responsible for reimbursing owners and other responsible parties for cleanup costs associated with qualified UST remediation sites. At the conclusion of June 2014, the projected UST outstanding cleanup expense obligation was \$29.8 million.

Annually, the UST Program Administrator⁴ provides financial projections showing future UST revenue, expenditures, and fund balances. The Administrator also maintains a continuous calculation of remaining claim reserves.⁵ Claim reserves are the projected cost to the Program to complete the remaining remediation work on all open UST claims. With certain additional assumptions, the work of the Administrator can be combined to project the future funding needs for the UST Program as well as the financial condition of the UST Program at the end of each future fiscal year.⁶

The first projected funding scenario is based on current law and therefore does not assume a sunset for the annual \$14.0 million in Statutory Allocations Fund revenue. **Table 1** indicates that at the conclusion of FY 2019, the UST Fund will have a balance of \$59.0 million, \$52.9 million in excess of outstanding obligations (reserves).

² See Iowa Code section 423.24 as originally enacted by HF 2552 (Petroleum UST Act of 1990, section 8).

³ The sunset date is an enacted future repeal of existing Code provisions. See Iowa Code section [424.19](#) for the sunset date of the EPC.

⁴ The UST Program Administrator is AON, Inc.

⁵ The UST Program is in the process of exploring options for analyzing the accuracy of their current reserves estimate. A different reserve estimate may be produced sometime in the fall of 2014.

⁶ Line-item explanations and math assumptions for the projections detailed in **Tables 1** and **2** are provided in **Appendix A** attached to this document.

Table 1 - Underground Storage Tank Program Financial Condition - Current Law, No Sunset

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY15 through FY19
Fund Beginning Balance	\$ 29,237,188	\$ 31,095,932	\$ 32,969,850	\$ 39,739,941	\$ 48,799,796	
Statutory Allocations Fund	14,000,000	14,000,000	14,000,000	14,000,000	14,000,000	\$ 70,000,000
Interest and Other Revenue	584,744	621,919	659,397	794,799	975,996	3,636,854
Total Revenue	\$ 14,584,744	\$ 14,621,919	\$ 14,659,397	\$ 14,794,799	\$ 14,975,996	\$ 73,636,854
Administration	1,276,000	1,298,000	500,000	500,000	500,000	4,074,000
Contracts & Projects	1,500,000	1,500,000	1,500,000	1,000,000	1,000,000	6,500,000
Remedial & Retroactive Claims	6,850,000	6,850,000	4,568,035	3,148,847	2,269,987	23,686,869
Innocent Landowner/Other claims	3,100,000	3,100,000	1,321,271	1,086,097	963,977	9,571,345
Total Expenditures	\$ 12,726,000	\$ 12,748,000	\$ 7,889,307	\$ 5,734,944	\$ 4,733,964	\$ 43,832,215
Fund Ending Balance	\$ 31,095,932	\$ 32,969,850	\$ 39,739,941	\$ 48,799,796	\$ 59,041,827	
Remedial & Retroactive Reserves	17,139,804	11,420,088	7,872,118	5,674,967	4,314,337	
Innocent Landowner/Other Reserves	4,849,101	2,642,543	2,172,193	1,927,955	1,801,129	
Total Reserves	\$ 21,988,905	\$ 14,062,631	\$ 10,044,311	\$ 7,602,921	\$ 6,115,466	
Fund Balance in Excess of Reserves	\$ 9,107,027	\$ 18,907,219	\$ 29,695,629	\$ 41,196,874	\$ 52,926,362	

NOTE: Reserves equal the projected expenditure obligations remaining at the end of a fiscal year on open claims.

Given the large FY 2019 Fund balance shown for the current law projection, a second projection was developed assuming a sunset date of June 30, 2016, for the annual \$14.0 million Statutory Allocations Fund revenue. **Table 2** shows that at the conclusion of FY 2019, the UST Fund will have a balance of \$16.2 million, \$10.1 million in excess of outstanding obligations (reserves).

Table 2 - Underground Storage Tank Program Financial Condition - With Revenue Sunset

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY15 through FY19
Fund Beginning Balance	\$ 29,237,188	\$ 31,095,932	\$ 32,969,850	\$ 25,739,941	\$ 20,519,796	
Statutory Allocations Fund	14,000,000	14,000,000	0	0	0	\$ 28,000,000
Interest and Other Revenue	584,744	621,919	659,397	514,799	410,396	2,791,254
Total Revenue	\$ 14,584,744	\$ 14,621,919	\$ 659,397	\$ 514,799	\$ 410,396	\$ 30,791,254
Administration	1,276,000	1,298,000	500,000	500,000	500,000	4,074,000
Contracts & Projects	1,500,000	1,500,000	1,500,000	1,000,000	1,000,000	6,500,000
Remedial & Retroactive Claims	6,850,000	6,850,000	4,568,035	3,148,847	2,269,987	23,686,869
Innocent Landowner/Other claims	3,100,000	3,100,000	1,321,271	1,086,097	963,977	9,571,345
Total Expenditures	\$ 12,726,000	\$ 12,748,000	\$ 7,889,307	\$ 5,734,944	\$ 4,733,964	\$ 43,832,215
Fund Ending Balance	\$ 31,095,932	\$ 32,969,850	\$ 25,739,941	\$ 20,519,796	\$ 16,196,227	
Remedial & Retroactive Reserves	17,139,804	11,420,088	7,872,118	5,674,967	4,314,337	
Innocent Landowner/Other Reserves	4,849,101	2,642,543	2,172,193	1,927,955	1,801,129	
Total Reserves	\$ 21,988,905	\$ 14,062,631	\$ 10,044,311	\$ 7,602,921	\$ 6,115,466	
Fund Balance in Excess of Reserves	\$ 9,107,027	\$ 18,907,219	\$ 15,695,629	\$ 12,916,874	\$ 10,080,762	

NOTE: Reserves equal the projected expenditure obligations remaining at the end of a fiscal year on open claims.

BUDGET IMPACT

Under current Iowa Code provisions, the UST Fund is projected to end FY 2019 with a balance of \$59.0 million and remaining obligations of \$6.1 million. From this projection, it is clear that a sunset date for the \$14.0 million Statutory Allocations Fund allocation could be enacted.

A second projection scenario that sunsets the \$14.0 million allocation at the end of FY 2016 concludes that the UST Fund will have an FY 2019 ending balance of \$16.2 million and remaining cleanup obligations at that time of \$6.1 million. Ending the annual UST Program allocation requires legislation. Ending the allocation will also increase annual revenue for other purposes of the Statutory Allocations Fund by \$14.0 million. Under current law, all excess Statutory Allocations Fund revenue remaining at the end of a fiscal year flows to the RUTF.

With the sunset of [Iowa Code chapter 424](#) at the end of FY 2016 (see *Issue Review* titled [Environmental Protection Charge – Future Repeal](#)), annual road funding in Iowa will decrease by approximately \$21.3 million beginning in FY 2017. Since excess funds in the Statutory Allocations Fund flow into the RUTF, this \$21.3 million revenue reduction could be partially offset by ending the annual \$14.0 million from the Statutory Allocations Fund allocation to the UST Program.

BEYOND FY 2019

As of the end of June 2014, the UST Program had 585 open claims within the remedial, retroactive, and innocent land owner components of the UST Program. Over the past three years, the number of open claims has decreased an average of 85 claims per year. It is very likely that at the conclusion of FY 2019, 100 to 200 remedial claims will remain open and the projections in this *Issue Review* account for this through the \$6.1 million in reserves remaining at the end of FY 2019.

- **New claims** - The projection accounts for \$1.6 million in new claims opened each year from FY 2015 through FY 2019. The projection does not account for new claims opened after FY 2019. While new claims continue to occur, it is unlikely that a significant number will be discovered and found eligible going forward. However, unless the UST Program is ended, funding for additional claims may always be necessary.
- **No Further Action (NFA) Certificate Reopened Claims** - [Iowa Code section 455B.474\(8\)\(a\)](#) provides in part that “An owner or operator shall not be responsible for additional assessment, monitoring, or corrective action activities at a site that is issued a no further action certificate.....” NFA certificates are issued by the Department of Natural Resources once a site cleanup achieves specified environmental requirements. An NFA certificate means the owner/operator will not be responsible for further cleanup costs associated with the old contamination should additional cleanup be required in the future. Experience has shown that in some instances additional cleanup is required at sites that were issued an NFA certificate. Over recent years, 49 NFA sites have been reopened, and the total costs associated with those sites (amount paid plus remaining reserves) totals \$1.3 million. As part of the \$1.6 million mentioned in the item above, the projection accounts for additional reopened NFA sites through FY 2019. It is likely there will be additional reopened NFA sites past FY 2019 and those sites will require a funding source to address the cleanup costs.

The large majority of remaining UST claims should reach closure within the next five fiscal years. However, some claims will likely remain open at the end of FY 2019 and unless the Program is discontinued, new claims resulting in State-liability cleanup costs will continue to develop. In the **Table 2** projection scenario, funding will still be available after FY 2019, even if the annual \$14.0 million UST revenue allocation is ended at the conclusion of FY 2016.

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APPENDIX A – PROJECTION METHODS AND ASSUMPTIONS

The two projections are based on information provided by the UST Administrator to the UST Fund Board at the July 2014 Board meeting, supplemented by modestly different cleanup totals and the actual FY 2014 Fund ending balance. By spreadsheet line item:

1. **Fund Beginning Balance** - The FY 2015 Fund Beginning Balance is the accounting system UST Fund ending balance for FY 2014. Future fiscal years equal the Fund Ending Balance from the previous fiscal year.
2. **Statutory Allocations Fund** - Iowa Code provides \$14.0 million in revenue for the UST Program from the Statutory Allocations Fund. That annual allocation does not sunset. For the **Table 2** scenario, a sunset date of June 30, 2016, is assumed.
3. **Interest and Other Revenue** - Assumed to equal 2.0% of the Fund Beginning Balance for the fiscal year.
4. **Administration** - Payments to the UST Administrator and claims processor. The numbers used are from the latest UST Program annual projection (July 2014).
5. **Contracts and Projects** - Contracts with State agencies, other entities, and required transfers from the UST Fund. The numbers used are from the latest UST Program annual projection (July 2014).
6. **Remedial & Retroactive Claims** - Projects the actual payments that will be made for outstanding claims under the remedial and retroactive cleanup portions of the UST Program. For FY 2015 and FY 2016, the numbers used are the reported cleanup amounts expended during FY 2014 for the remedial and retroactive components. For FY 2017 through FY 2019, an amount equal to 40.0% of the claim reserves remaining at the end of the previous fiscal year is used as the projected cleanup expenditure.
7. **Innocent Landowner (ILO) and Other Claims** - For FY 2015 and FY 2016, the numbers used for these claims are the reported cleanup amounts expended during FY 2014 for the ILO, Global Opt-In, Unassigned Revenue Projects, and NFA Revaluation components. For FY 2017 through FY 2019, an amount equal to 50.0% of the claim reserves remaining at the end of the previous fiscal year is used.
8. **Fund Ending Balance** - Equal to the Fund Beginning Balance, plus revenues for the year, minus expenditures for the year.
9. **Remedial and Retroactive Reserves** - This represents the projected total cleanup expenditure obligations remaining to be paid from the UST Fund at the end of the fiscal year on all open claims. The amount is assumed to be:
 - a. The reserves at the end of June 2014 (\$22,751,385) as reported by the UST Administrator;
 - b. plus 1.927% times the previous year's reserves (inflation, or "development" adjustment, equates to 10.0% growth over five years);
 - c. minus Remedial and Retroactive Claims payments made during the fiscal year;
 - d. plus \$800,000 each fiscal year for new claims opened during that fiscal year.
10. **ILO and Other Reserves** - This represents the projected total cleanup expenditure obligation remaining to be paid at the end of the fiscal year on all open non-remedial or retroactive claims. The amount is assumed to be:
 - a. The reserves at the end of June 2014 (\$7,013,942);
 - b. plus 1.927% times the previous year's reserves (inflation, or "development" adjustment);
 - c. minus ILO and Other Claims payments made during the fiscal year;
 - d. plus \$800,000 each fiscal year for new claims opened during that fiscal year.
11. **Total Reserves (Outstanding Obligations)** – Sum of items 9 and 10 above.⁷
12. **Fund Balance in Excess of Reserves** - Equals the Fund Ending Balance for the fiscal year minus the Total Reserves at the end of that fiscal year. The calculation represents the UST Program financial resources available in excess of known obligations to be paid from those resources.

⁷ The UST Program is currently analyzing the accuracy of the reserve amounts and a different reserve estimate may be available in the fall of 2014. An alternative to the second scenario was conducted and concluded that if the current reserves were found to be 31.4% too low, the FY 2019 ending balance would equal the reserves remaining at the end of that fiscal year.