

Iowa Underground Storage Tank Fund, Repeal Bill House File 2337

Last Action:
Senate Appropriations
Committee
May 18, 2022

An Act relating to underground storage tanks, including by creating the Iowa tanks fund and Iowa tanks fund financing program, repealing the Iowa comprehensive petroleum underground storage tank fund, and eliminating the Iowa comprehensive petroleum underground storage tank fund board, requiring a study, making appropriations, and including effective date and transition provisions.

**Fiscal Services Division
Legislative Services Agency**

NOTES ON BILLS AND AMENDMENTS (NOBA)

Available online at www.legis.iowa.gov/publications/information/appropriationBillAnalysis

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FUNDING SUMMARY

House File 2337 repeals the Iowa Comprehensive Petroleum Underground Storage Tank (UST) Fund, UST Program, and the Iowa Comprehensive Petroleum UST Fund Board on July 1, 2023. Creates a new Iowa Tanks Fund and Iowa Tanks Fund Financing Program that will be administered by the Department of Natural Resources (DNR). On July 1, 2023, all moneys remaining in the existing UST Fund will be transferred to the Iowa Tanks Fund. Any new claims filed on or after January 1, 2023, will not be eligible for payment from the UST Fund.

PROGRAM HISTORY: The UST Program and Board were created in HF 447 (Leaking Underground Storage Tank Act of 1989). The UST Program was created to address both the legacy of petroleum contamination that had developed over decades and the inability of UST site owners to obtain environmental contamination insurance coverage. The UST Program was financed through bonding and the debt repaid with revenue from the vehicle use tax. An environmental charge that equaled \$0.01 per gallon of motor fuel sold at retail reimbursed the Road Use Tax Fund for the motor vehicle use tax diversion. The bond debt has since been retired, and the motor vehicle use tax funding ended in December 2016.

As of the end of calendar year 2021, the DNR was supervising 343 open UST sites, with 65 of those sites currently eligible for UST Program funding. The 65 open UST remediation claims have a total projected UST Program liability of \$3.4 million. In addition to the 65 UST Program sites, the Board transferred the liability associated with several groups of sites over the years to the Petroleum Marketers Management Insurance Company (PMMIC), and 119 of the transferred sites remain as open remediation claims.

FISCAL IMPACT: As of December 31, 2021, the balance in the UST Fund was \$10.1 million. Any funds remaining on July 1, 2023, will be transferred to the new Iowa Tanks Fund. The Bill creates a General Fund standing limited appropriation of \$250,000 beginning with FY 2024 to the Department of Agriculture and Land Stewardship (DALs) to be used for the sole purpose of inspecting fuel quality at pipeline terminals and renewable fuels production facilities. The current \$250,000 annual appropriation from the UST Fund to the DALs for the same purpose is repealed on July 1, 2023.

NEW PROGRAMS, SERVICES, OR ACTIVITIES

Creates definitions and policies related to the new Iowa Tanks Fund and the Iowa Tanks Fund Financing Program, which will be administered by the DNR. States that the General Assembly recognizes that the financial resources available to complete remediation are limited and will eventually be depleted.

Page 1, Line 5

Creates a new Iowa Tanks Fund and Iowa Tanks Fund Financing Program that will be administered by the

Page 2, Line 34

EXECUTIVE SUMMARY

HOUSE FILE 2337

IOWA UNDERGROUND STORAGE TANK FUND, REPEAL BILL

DNR. There is no new funding for the UST Program provided in the Bill, but the funds in the UST Fund will be transferred to the Iowa Tanks Fund for purposes similar to the existing Program. Unexpended funds at the end of a fiscal year do not revert, and the Fund retains any interest earned on the balance. Any remediation claims filed on or after January 1, 2023, will not be eligible for payment from the new Fund.

Creates annual and program limitations on future expenditures from the new Fund. Not more than \$150,000 per fiscal year may be expended on administration, and a minimum of \$4.0 million over the remaining life of the Program is required to be used for permanent closure of UST systems, assessment and corrective action arising out of a release at a UST site for which a No Further Action certificate has been issued, and tank operator training.

Specifies the DNR cost recovery enforcement activities related to the Iowa Tanks Fund Financing Program.

Page 5, Line 18

Requires the DALS to conduct a study regarding the long-term future fuel testing needs in Iowa and how to maximize and leverage the Iowa Central Fuel Testing Laboratory located at Iowa Central Community College. Requires the DALS to submit a report summarizing the findings and recommendations to the Governor and the General Assembly by December 15, 2022.

Page 13, Line 30

The DALS does not have an estimate of the cost of the required fuel testing study, and the Bill does not specify what funding source the DALS will use to pay the cost of the study. The UST Program standing appropriation for FY 2023 to the DALS is restricted to purposes that do not include the funding of a study. Division III takes effect July 1, 2022.

MAJOR INCREASES/DECREASES/TRANSFERS OF EXISTING PROGRAMS

Creates a General Fund standing appropriation of \$250,000 to the DALS beginning with FY 2024. This is a funding source transfer of an existing appropriation funded through FY 2023 from the UST Fund. The funds must be used for the sole purpose of inspecting fuel quality at pipeline terminals and renewable fuels production facilities.

Page 4, Line 17

EXECUTIVE SUMMARY

HOUSE FILE 2337

IOWA UNDERGROUND STORAGE TANK FUND, REPEAL BILL

The current annual appropriation from the UST Fund to the DALs for the same purpose is repealed on July 1, 2023. Over the past four fiscal years, annual expenditures from the \$250,000 UST Program appropriation have averaged as follows:

- State salary costs = \$136,000
- Iowa Central Community College = \$102,000
- State vehicle operation costs = \$5,000
- Other vendors = \$7,000

SIGNIFICANT CODE CHANGES

Allows the Environmental Protection Commission (EPC) to place conditions on funding from the Iowa Tanks Fund for contaminated properties that present a higher risk to public health and the environment. Also allows the EPC to adopt rules regarding the transfer of liabilities to the Iowa Tanks Fund. Allows the EPC to transfer all or a portion of the outstanding liabilities of the Program to another party. Page 8, Line 12

Makes conforming changes related to the repeal of the UST Fund and the Iowa Comprehensive Petroleum UST Fund Board. Page 11, Line 1

Details the transition of the UST Fund and the Iowa Comprehensive Petroleum UST Fund Board to the DNR and permits the DNR to begin implementation prior to July 1, 2023. Division IV takes effect July 1, 2022. Page 14, Line 18

EFFECTIVE DATE

Division I of the Bill creating the Iowa Tanks Fund takes effect July 1, 2023. Page 10, Line 32

Division II of the Bill providing conforming changes takes effect July 1, 2023. Page 13, Line 26

House File 2337 provides for the following changes to the Code of Iowa.

Page #	Line #	Bill Section	Action	Code Section
1	3	1	Strike	455B.471.1
1	5	2	Add	455B.471.1A,1B,2A,3A,7A,7B,10A
2	8	3	Amend	455B.471.3
2	12	4	Amend	455B.472
2	34	5	New	455B.472A
5	18	6	New	455B.472B
8	12	7	New	455B.472C
8	30	8	Amend	455B.474.1.a.(6).(g),(i),(j)
9	20	9	Amend	455B.474.2
9	27	10	Amend	455B.474.9.d
9	34	11	Add	455B.474.11
10	12	12	Amend	455B.477.7
11	1	14	Amend	68B.35.2.e
11	23	15	Strike	159A.11.10
11	25	16	Strike	159A.13.6
11	27	17	Amend	159A.14.2
12	4	18	Amend	159A.15.1
12	16	19	Amend	323.1.16
12	22	20	Strike	422.7.2
12	24	21	Amend	455B.174.4.d
13	16	22	Strike	455E.11.2.d.(3)
13	19	23	Amend	455L.2.5.a
14	18	26	New	427B.23
14	22	27	New	455G.21A
14	25	28	New	455G.21B

1 1	DIVISION I	
1 2	IOWA TANKS FUND	
1 3 Section 1. Section 455B.471, subsection 1, Code 2022, is 1 4 amended by striking the subsection.		Removes the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board from the list of definitions.
1 5 Sec. 2. Section 455B.471, Code 2022, is amended by adding 1 6 the following new subsections: 1 7 NEW SUBSECTION 1A. "Claimant" means an owner or operator 1 8 who has received assistance under the Iowa tanks fund or its 1 9 predecessor, the Iowa comprehensive petroleum underground 1 10 storage tank fund created in section 455G.3, Code 2022. 1 11 NEW SUBSECTION 1B. "Community remediation" means a 1 12 curriculum of coordinated testing, planning, or remediation 1 13 involving two or more tank sites potentially connected with a 1 14 continuous contaminated area, pursuant to rules adopted by the 1 15 commission under section 455B.474. A community remediation 1 16 does not expand the scope of coverage otherwise available or 1 17 relieve liability otherwise imposed under state or federal law. 1 18 NEW SUBSECTION 2A. "Costs" means all costs, charges, 1 19 expenses, or other indebtedness incurred by a claimant that 1 20 are determined by the department to be reasonable for carrying 1 21 out all works and undertakings necessary or incidental to the 1 22 accomplishment of any project. "Costs" includes reasonable 1 23 attorney fees and costs of litigation for which moneys are 1 24 expended from the fund in connection with a release. 1 25 NEW SUBSECTION 3A. "Insurance" means any form of financial 1 26 assistance or showing of financial responsibility sufficient 1 27 to comply with the federal Resource Conservation and Recovery 1 28 Act, 42 U.S.C. §6901 et seq., or the department's underground 1 29 storage tank financial responsibility rules. 1 30 NEW SUBSECTION 7A. "Potentially responsible party" means 1 31 a person who may be responsible or liable for a release for 1 32 which payments from the fund were made for corrective action or 1 33 third-party liability. 1 34 NEW SUBSECTION 7B. "Program" means the Iowa tanks fund 1 35 financing program created pursuant to section 455B.472A. 2 1 NEW SUBSECTION 10A. "Third-party liability" means any of 2 2 the following:		Creates definitions and policies related to the new Iowa Tanks Fund and the Iowa Tanks Fund Financing Program, which will be administered by the Department of Natural Resources (DNR).

2 3 a. Property damage including physical injury to tangible
 2 4 property, but not including loss of use. Property damage does
 2 5 not include costs to remediate.

2 6 b. Bodily injury including sickness, physical injury, or
 2 7 death.

2 8 Sec. 3. Section 455B.471, subsection 3, Code 2022, is
 2 9 amended to read as follows:

2 10 3. "Fund" means the Iowa ~~comprehensive petroleum underground~~
 2 11 ~~storage tank~~ tanks fund created in section 455B.472A.

Makes technical changes related to the repeal of the UST Fund and the Iowa Comprehensive Petroleum UST Fund Board (UST Fund Board).

2 12 Sec. 4. Section 455B.472, Code 2022, is amended to read as
 2 13 follows:

2 14 455B.472 DECLARATION OF POLICY.

2 15 The general assembly finds that the release of regulated
 2 16 substances from underground storage tanks constitutes a
 2 17 threat to the public health and safety and to the natural
 2 18 resources of the state, and that existing regulatory programs
 2 19 of the department and other agencies do not adequately or
 2 20 appropriately address this substantial public concern.

2 21 Additionally, the general assembly recognizes that because the
 2 22 appropriation of moneys to the Iowa comprehensive petroleum
 2 23 underground storage tank fund created in section 455G.3, Code
 2 24 2022, ended on December 31, 2016, it is in the public interest
 2 25 to expeditiously use any remaining moneys from the Iowa
 2 26 comprehensive petroleum underground storage tank fund to assist
 2 27 as many owners as possible with financing all or part of the
 2 28 costs of corrective action for petroleum releases from leaking
 2 29 underground storage tanks through the establishment of the Iowa
 2 30 tanks fund financing program. The financing program shall last
 2 31 as long as moneys remain available, and the general assembly
 2 32 recognizes that moneys available for the financing program will
 2 33 eventually be depleted.

Reflects the policy of the General Assembly regarding the use of the remaining funds.

2 34 Sec. 5. NEW SECTION 455B.472A IOWA TANKS FUND FINANCING
 2 35 PROGRAM — FUND CREATED.

3 1 1. The department shall establish and administer an Iowa
 3 2 tanks fund financing program for the purpose of reimbursing
 3 3 eligible claimants for all or part of the costs of corrective
 3 4 action for petroleum releases previously eligible for payment
 3 5 from the Iowa comprehensive petroleum underground storage tank
 3 6 fund pursuant to chapter 455G, Code 2022.

Creates a new Iowa Tanks Fund and Iowa Tanks Fund Financing Program that will be administered by the DNR. There is no new funding provided in the Bill, but the funds in the UST Fund will be transferred to the Iowa Tanks Fund for the purpose of reimbursing eligible claimants. Moneys in the Fund will not revert to the General Fund. Any claims filed on or after January 1, 2023, will not be eligible for payment from the UST Fund. Specifies financial assistance the DNR can provide and legal agreements the DNR can enter into, and

3 7 2. The department shall distribute financial assistance, up
3 8 to one million dollars total, for work conducted by eligible
3 9 entities that comply with the requirements of the program. The
3 10 department shall determine if work completed is eligible for
3 11 reimbursement under the program.

3 12 3. The department may enter into any agreements and provide
3 13 any documents, instruments, certificates, data, or information
3 14 necessary in connection with the operation, administration,
3 15 and financing of the program consistent with this part 8 of
3 16 subchapter IV, the federal Resource Conservation and Recovery
3 17 Act, 42 U.S.C. §6901 et seq., the rules of the commission, and
3 18 other applicable federal and state law.

3 19 4. The department may act to conform the program to the
3 20 applicable guidance and regulations adopted by the United
3 21 States environmental protection agency.

3 22 5. The Iowa tanks fund is created in the state treasury
3 23 under the control of the department. The fund shall consist
3 24 of moneys appropriated or transferred to the fund, interest
3 25 attributable to moneys in the fund, moneys in the form of
3 26 a devise, gift, bequest, donation, federal or other grant,
3 27 reimbursement, repayment, judgment, or payment from any source
3 28 intended to be used for the purposes of the fund, all receipts
3 29 by the fund, and any other moneys credited to the fund from
3 30 any public or private source. Notwithstanding section 8.33,
3 31 any moneys in the fund shall not revert to any other fund.
3 32 Notwithstanding section 12C.7, subsection 2, interest or
3 33 earnings on moneys in the fund shall be credited to the fund.

3 34 6. The department shall administer the fund to carry out
3 35 the purposes of the program and shall manage the revenue,
4 1 administration, restrictions, and disposition of the fund.

4 2 7. Moneys in the fund are appropriated to the department for
4 3 all of the following purposes:

4 4 a. Reimbursement to tank owners for all or part of the
4 5 costs of a corrective action for a petroleum release under the
4 6 program.

4 7 b. Permanent closure of an underground storage tank system
4 8 under the program, additional assessment and corrective action
4 9 arising out of a release at a site for which a certificate of
4 10 no further action has been issued, and tank operator training.
4 11 Of the moneys not used for purposes specified in paragraphs "a"
4 12 and "c", not less than four million dollars shall be used for

allows the DNR to conform to federal Environmental Protection Agency rules.

4 13 these purposes.
4 14 c. Administrative costs of the department associated with
4 15 the program. Not more than one hundred fifty thousand dollars
4 16 per year shall be used for this purpose.

4 17 8. a. For the fiscal year beginning July 1, 2023, and for
4 18 each fiscal year thereafter, there is appropriated from the
4 19 general fund of the state to the department of agriculture
4 20 and land stewardship for the sole purpose of inspecting
4 21 fuel quality at pipeline terminals and renewable fuel
4 22 production facilities, including associated salaries, support,
4 23 maintenance, and miscellaneous purposes, two hundred fifty
4 24 thousand dollars.
4 25 b. Notwithstanding section 8.33, moneys appropriated in this
4 26 subsection that remain unencumbered or unobligated at the close
4 27 of a fiscal year shall not revert but shall remain available
4 28 for expenditure for the purposes designated until the close of
4 29 the succeeding fiscal year.

4 30 9. Moneys in the fund are not considered part of the general
4 31 fund of the state and are not subject to appropriation for any
4 32 other purpose by the general assembly. The fund is a separate
4 33 dedicated fund under the administration and control of the
4 34 department.

4 35 10. Payments for reimbursement or other costs relating to
5 1 any claim or cause of action in connection with a tank not
5 2 owned or operated by the state or an agency of the state shall
5 3 be made solely from the fund and no liability is otherwise
5 4 imposed upon the state. Moneys from the fund are limited
5 5 to the extent of coverage provided by the applicable account
5 6 within the fund under which a claim is submitted, subject
5 7 to the terms and conditions of that coverage. A court, an
5 8 administrative law judge, the department, or the commission
5 9 shall not order or approve a remedy that would require the
5 10 fund to exceed the fund's then current funding limitations to
5 11 satisfy an award or that would restrict the availability of
5 12 moneys for higher priority sites. The state is not otherwise
5 13 liable for a claim related to the fund and moneys from the
5 14 general fund shall not be used to pay for reimbursement
5 15 or other costs relating to any claim or cause of action in
5 16 connection with a tank not owned or operated by the state or an
5 17 agency of the state.

Specifies that the Department of Agriculture and land Stewardship (DALs) shall receive an annual appropriation of \$250,000 from the General Fund beginning in FY 2024. This is a replacement for an existing appropriation previously funded from the UST Fund. The appropriated funds are to be used to inspect fuel terminals, equipment, and renewable fuel production facilities. The appropriated funds are permitted to carry forward to the close of the succeeding fiscal year.

<p>5 18 Sec. 6.NEW SECTION 455B.472B COST RECOVERY ENFORCEMENT. 5 19 1. FULL RECOVERY SOUGHT BY DEPARTMENT. The department 5 20 may seek full recovery from an owner, operator, or other 5 21 potentially responsible party liable for a release that is the 5 22 subject of a corrective action for which moneys from the fund 5 23 are expended, or for which moneys from the Iowa comprehensive 5 24 petroleum underground storage tank fund created in section 5 25 455G.3, Code 2022, were expended, including for third-party 5 26 liability and for all other costs. If federal cleanup moneys 5 27 are recovered, the federal cleanup moneys shall be used solely 5 28 for the purpose of future cleanup activities.</p>	<p>Specifies the DNR cost recovery enforcement activities related to the Iowa Tanks Fund Financing Program. Moneys from the Fund shall not be used to pay for punitive damages or third-party liability.</p>
<p>5 29 2. LIMITATION OF LIABILITY OF OWNER OR OPERATOR. Except 5 30 as provided in subsection 3, the department shall not seek 5 31 recovery for expenses in connection with corrective action for 5 32 a release from an owner or operator eligible for assistance 5 33 under the program, except for any unpaid portion of the 5 34 deductible or copayment. This subsection does not affect any 5 35 authorization of the department to impose or collect civil or 6 1 administrative fines, penalties, or fees. Moneys from the fund 6 2 shall not be used to pay for any third-party liability.</p>	<p>Limits recovery except for an unpaid portion of deductible or copayment. Specifies that funds shall not be used for any third-party liabilities.</p>
<p>6 3 3. OWNER OR OPERATOR NOT IN COMPLIANCE. Notwithstanding 6 4 subsection 2, the liability of an owner or operator shall be 6 5 the full and total costs of corrective action and bodily injury 6 6 or property damage to third parties, as specified in subsection 6 7 1, if the owner or operator has not complied with the financial 6 8 responsibility or other underground storage tank rules of 6 9 the department or with this part 8 of subchapter IV or rules 6 10 adopted under this part.</p>	<p>Specifies that an owner or operator who has not complied with financial responsibility requirements or rules shall be liable for costs of corrective action, bodily injury, or property damage.</p>
<p>6 11 4. LIEN ON TANK SITE. Any amount for which an owner or 6 12 operator is required to pay to the fund by statute, rule, 6 13 contract, or determination of liability by the department after 6 14 hearing, if not paid when due, shall constitute a lien upon the 6 15 real property where the tank that was the subject of corrective 6 16 action is located, and the payment shall be collected in the 6 17 same manner as the environmental protection charge pursuant to 6 18 section 424.11, Code 2016.</p>	<p>Directs procedure on lack of payment to the Fund and subsequent liens on real property where the tank is located.</p>
<p>6 19 5. JOINDER OF PARTIES. The department has standing in 6 20 any case or contested action related to the fund or a tank</p>	<p>Specifies the DNR and other parties' standing regarding a case or contested action.</p>

6 21 to assert any claim that the department may have regarding
 6 22 the tank at issue in the case or contested action. Upon
 6 23 motion and sufficient showing by a party to a cost recovery or
 6 24 subrogation action provided for under this section, the court
 6 25 or the administrative law judge shall join to the action any
 6 26 potentially responsible party who may be liable for costs and
 6 27 expenditures of the type recoverable pursuant to this section.

6 28 6. THIRD-PARTY CONTRACTS. An insurance, indemnification,
 6 29 hold-harmless, conveyance, or similar risk-sharing or
 6 30 risk-shifting agreement shall not be effective to transfer
 6 31 any liability for costs recoverable under this section. The
 6 32 department may proceed directly against the owner, operator,
 6 33 or other potentially responsible party. This subsection does
 6 34 not bar any agreement to insure, hold harmless, or indemnify
 6 35 a party to the agreement for any costs or expenditures under
 7 1 this part 8 of subchapter IV, and does not modify rights
 7 2 between the parties to an agreement, except to the extent the
 7 3 agreement shifts liability to an owner or operator eligible
 7 4 for assistance under the program for any damages or other
 7 5 costs in connection with a corrective action for which another
 7 6 potentially responsible party is or may be liable. Any such
 7 7 provision is void and of no further force and effect.

Details transfers of liability in third-party contracts.

7 8 7. LATER PROCEEDINGS PERMITTED AGAINST OTHER PARTIES. The
 7 9 entry of judgment against a party to the action does not
 7 10 bar a future action by the department against another person
 7 11 who is later alleged to be or discovered to be liable for
 7 12 costs and expenditures paid from the fund. Notwithstanding
 7 13 section 668.5, a potentially responsible party shall not seek
 7 14 contribution or any other recovery from an owner or operator
 7 15 eligible for assistance under the program for damages or other
 7 16 costs in connection with corrective action for a release for
 7 17 which the potentially responsible party is or may be liable.
 7 18 Subsequent successful proceedings against another party shall
 7 19 not modify or reduce the liability of a party against whom
 7 20 judgment has been previously entered.

Specifies postjudgment actions against other possibly liable parties and notwithstands Iowa Code section [668.5](#) (Right of Contribution).

7 21 8. CLAIMS AGAINST POTENTIALLY RESPONSIBLE PARTIES.
 7 22 a. Upon payment from the fund for corrective action or
 7 23 third-party liability pursuant to this part 8 of subchapter
 7 24 IV, the rights of the claimant to recover payment from any

Details litigation expenses and compensation.

7 25 potentially responsible party are assumed by the department to
7 26 the extent paid from the fund. A claimant shall not receive
7 27 double compensation for the same injury.

7 28 b. In an action brought pursuant to this part 8 of
7 29 subchapter IV seeking damages for corrective action or
7 30 third-party liability, the court shall allow evidence and
7 31 argument as to the replacement or indemnification of actual
7 32 economic losses incurred or to be incurred in the future by the
7 33 claimant by reason of insurance benefits, governmental benefits
7 34 or programs, or other sources.

7 35 c. A claimant may elect to authorize the department
8 1 to pursue the claimant's cause of action for any injury
8 2 not compensated from the fund against any potentially
8 3 responsible party, provided the attorney general determines
8 4 such representation would not be a conflict of interest. If
8 5 a claimant so elects, the department's litigation expenses
8 6 shall be shared on a pro rata basis with the claimant, but the
8 7 claimant's share of litigation expenses is payable exclusively
8 8 from any share of the settlement or judgment payable to the
8 9 claimant.

8 10 9. EXCLUSION OF PUNITIVE DAMAGES. Moneys from the fund
8 11 shall not be used to pay punitive damages.

Specifies that moneys from the Fund shall not be used to pay punitive damages.

8 12 Sec. 7.NEW SECTION 455B.472C DISCRETIONARY RULEMAKING.

8 13 1. The commission may adopt rules pursuant to chapter
8 14 17A conditioning receipt of moneys from the fund to those
8 15 petroleum-contaminated properties that present a higher degree
8 16 of risk to the public health and safety or the environment and
8 17 providing for denial of moneys from the fund to a person who
8 18 did not make a good-faith attempt to comply with this part 8
8 19 of subchapter IV. This subsection does not confer a legal
8 20 right to an owner of a petroleum-contaminated property, or an
8 21 owner or operator of an underground storage tank located on the
8 22 property, for receipt of moneys under this part 8 of subchapter
8 23 IV.

8 24 2. The commission may adopt rules pursuant to chapter
8 25 17A providing for the transfer of all or a portion of the
8 26 liabilities relating to the fund. Notwithstanding any other
8 27 provision to the contrary, the department, upon such transfer,
8 28 shall not maintain any duty to reimburse claimants for those

Permits the Environmental Protection Commission to adopt administrative rules for the new Program.

8 29 liabilities transferred.

8 30 Sec. 8. Section 455B.474, subsection 1, paragraph a,
8 31 subparagraph (6), subparagraph divisions (g), (i), and (j),
8 32 Code 2022, are amended to read as follows:

8 33 (g) An owner or operator may elect to proceed with
8 34 additional corrective action on the site. However, any
8 35 action taken in addition to that required pursuant to this
9 1 subparagraph (6), shall be solely at the expense of the owner
9 2 or operator and shall not be considered corrective action
9 3 for purposes of section ~~455G.9~~ 455B.472A, unless otherwise
9 4 previously agreed to by the ~~board~~ department and the owner or
9 5 operator pursuant to section ~~455G.9, subsection 7~~ 455B.472A.
9 6 Corrective action taken by an owner or operator due to the
9 7 department's failure to meet the time requirements provided in
9 8 subparagraph division (e) shall be considered corrective action
9 9 for purposes of section ~~455G.9~~ 455B.472A.

9 10 (i) Replacement or upgrade of a tank on a site classified
9 11 as a high or low risk site shall be equipped with a secondary
9 12 containment system with monitoring of the space between the
9 13 primary and secondary containment structures or other ~~board~~
9 14 approved tank system or methodology approved by the department.

9 15 (j) The commission and the ~~board~~ department shall cooperate
9 16 to ensure that remedial measures required by the corrective
9 17 action rules adopted pursuant to this subparagraph (6) are
9 18 reasonably cost-effective and shall, to the fullest extent
9 19 possible, avoid duplicating and conflicting requirements.

9 20 Sec. 9. Section 455B.474, subsection 2, unnumbered
9 21 paragraph 1, Code 2022, is amended to read as follows:

9 22 The maintenance of evidence of financial responsibility as
9 23 the director determines to be feasible and necessary for taking
9 24 corrective action and for compensating third parties for bodily
9 25 injury and property damage caused by release of a regulated
9 26 substance from ~~an underground storage~~ a tank.

9 27 Sec. 10. Section 455B.474, subsection 9, paragraph d, Code
9 28 2022, is amended to read as follows:

9 29 d. The certification of groundwater professionals shall not
9 30 impose liability on ~~the board~~; the department; or the fund for
9 31 any claim or cause of action of any nature, based on the action
9 32 or inaction of a groundwater professional certified pursuant

Replaces references to the UST Fund Board in favor of the Iowa
Tanks Fund and the DNR.

Makes technical changes related to the repeal of the UST Fund and
the UST Fund Board.

Updates the Iowa Code reference regarding liability of certifying
groundwater professionals to the DNR rather than the UST Fund
Board.

9 33 to this subsection.

9 34 Sec. 11. Section 455B.474, Code 2022, is amended by adding
9 35 the following new subsection:

Directs the DNR to create rules for the implementation and administration of the Iowa Tanks Fund Financing Program.

10 1 NEW SUBSECTION 11. Department practices and procedures
10 2 for implementing and administering the Iowa tanks fund
10 3 financing program. The rules shall include but are not limited
10 4 to requirements for program eligibility, investigating and
10 5 settling claims made against the fund, appeal procedures,
10 6 community remediation, prioritization of fund moneys,
10 7 funding for tank operator training, additional assessment
10 8 and corrective action arising out of releases at sites for
10 9 which a certificate of no further action has been issued, and
10 10 reimbursement for the permanent closure of an underground
10 11 storage tank system.

10 12 Sec. 12. Section 455B.477, subsection 7, Code 2022, is
10 13 amended to read as follows:

Directs federal money related to underground storage tanks be deposited to the Iowa Tanks Fund.

10 14 ~~7. The civil penalties or other damages or moneys recovered~~
10 15 ~~by the state or the petroleum underground storage tank fund~~
10 16 ~~in connection with a petroleum underground storage tank under~~
10 17 ~~this part 8 of subchapter IV or chapter 455G shall be credited~~
10 18 ~~to the fund created in section 455G.3 and allocated between~~
10 19 ~~fund accounts according to the fund budget. Any federal~~
10 20 ~~moneys, including but not limited to federal underground~~
10 21 ~~storage tank trust fund moneys, received by the state or the~~
10 22 ~~department of natural resources in connection with a release~~
10 23 ~~occurring on or after May 5, 1989, or received generally for~~
10 24 ~~underground storage tank programs on or after May 5, 1989,~~
10 25 ~~shall be credited to the fund created in section 455G.3 and~~
10 26 ~~allocated between fund accounts according to the fund budget~~
10 27 ~~455B.472A, unless such use would be contrary to federal law.~~
10 28 ~~The department shall cooperate with the board of the Iowa~~
10 29 ~~comprehensive petroleum underground storage tank fund to~~
10 30 ~~maximize the state's eligibility for and receipt of federal~~
10 31 ~~funds for underground storage tank related purposes.~~

10 32 Sec. 13. EFFECTIVE DATE. This division of this Act takes
10 33 effect July 1, 2023.

Specifies that Division I of the Bill creating the Iowa Tanks Fund takes effect July 1, 2023.

10 35

CONFORMING CHANGES

11 1 Sec. 14. Section 68B.35, subsection 2, paragraph e, Code
11 2 2022, is amended to read as follows:
11 3 e. Members of the state banking council, the Iowa ethics
11 4 and campaign disclosure board, the credit union review board,
11 5 the economic development authority, the employment appeal
11 6 board, the environmental protection commission, the health
11 7 facilities council, the Iowa finance authority, the Iowa public
11 8 employees' retirement system investment board, the board of
11 9 the Iowa lottery authority, the natural resource commission,
11 10 the board of parole, ~~the petroleum underground storage tank~~
11 11 ~~fund board~~, the public employment relations board, the state
11 12 racing and gaming commission, the state board of regents, the
11 13 transportation commission, the office of consumer advocate, the
11 14 utilities board, the Iowa telecommunications and technology
11 15 commission, and any full-time members of other boards and
11 16 commissions as defined under section 7E.4 who receive an annual
11 17 salary for their service on the board or commission. The Iowa
11 18 ethics and campaign disclosure board shall conduct an annual
11 19 review to determine if members of any other board, commission,
11 20 or authority should file a statement and shall require the
11 21 filing of a statement pursuant to rules adopted pursuant to
11 22 chapter 17A.

Makes conforming changes related to the repeal of the UST Fund and the UST Fund Board.

11 23 Sec. 15. Section 159A.11, subsection 10, Code 2022, is
11 24 amended by striking the subsection.

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board. Strikes the definition of the UST Fund Board.

11 25 Sec. 16. Section 159A.13, subsection 6, Code 2022, is
11 26 amended by striking the subsection.

Makes technical changes related to the repeal of the UST Fund and the Iowa Comprehensive Petroleum UST Fund Board. Strikes a requirement that UST Fund Board members meet with Renewable Fuel Infrastructure Board members.

11 27 Sec. 17. Section 159A.14, subsection 2, Code 2022, is
11 28 amended to read as follows:
11 29 2. A person may apply to the department to receive financial
11 30 incentives on a cost-share basis. The department shall forward
11 31 the applications ~~to the underground storage tank fund board as~~
11 32 ~~required by that board for evaluation and recommendation. The~~
11 33 ~~underground storage tank fund board may rank the applications~~
11 34 ~~with comments and shall forward them to the infrastructure~~

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board.

11 35 board for approval or disapproval. The department shall award
 12 1 financial incentives on a cost-share basis to an eligible
 12 2 person whose application was approved by the infrastructure
 12 3 board.

12 4 Sec. 18. Section 159A.15, subsection 1, Code 2022, is
 12 5 amended to read as follows:
 12 6 1. A person may apply to the department to receive financial
 12 7 incentives on a cost-share basis. The department shall forward
 12 8 the applications ~~to the underground storage tank fund board as~~
 12 9 ~~required by that board for evaluation and recommendation. The~~
 12 10 ~~underground storage tank fund board may rank the applications~~
 12 11 ~~with comments and shall forward them~~ to the infrastructure
 12 12 board for approval or disapproval. The department shall award
 12 13 financial incentives on a cost-share basis to an eligible
 12 14 person whose application was approved by the infrastructure
 12 15 board.

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board.

12 16 Sec. 19. Section 323.1, subsection 16, Code 2022, is amended
 12 17 to read as follows:
 12 18 16. "Storage tank" means a motor fuel storage tank as
 12 19 defined in section 214.1, including an underground storage tank
 12 20 subject to regulation under chapter ~~455G~~ 455B, subchapter IV,
 12 21 part 8, or section 455G.31.

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board.

12 22 Sec. 20. Section 422.7, subsection 2, paragraph u, Code
 12 23 2022, is amended by striking the paragraph.

Makes technical changes related to net income (bond adjustment) in the repeal of the UST Fund and the UST Fund Board.

12 24 Sec. 21. Section 455B.174, subsection 4, paragraph d, Code
 12 25 2022, is amended to read as follows:
 12 26 d. If a public water supply has a groundwater source
 12 27 that contains petroleum, a fraction of crude oil, or their
 12 28 degradation products, or is located in an area deemed by the
 12 29 department as likely to be contaminated by such materials, and
 12 30 after consultation with the public water supply system and
 12 31 consideration of all applicable rules relating to remediation,
 12 32 the department may require the public water supply system to
 12 33 replace that groundwater source in order to receive a permit
 12 34 to operate. The requirement to replace the source shall only
 12 35 be made by the department if the public water supply system
 13 1 is fully compensated for any additional design, construction,

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board.

13 2 operation, and monitoring costs from the Iowa comprehensive
 13 3 petroleum underground storage tank fund created by chapter
 13 4 ~~455G~~ or from any other funds that do not impose a financial
 13 5 obligation on the part of the public water supply system.
 13 6 Funds available to or provided by the public water supply
 13 7 system may be used for system improvements made in conjunction
 13 8 with replacement of the source. The department cannot require
 13 9 a public water supply system to replace its water source with a
 13 10 less reliable water source or with a source that does not meet
 13 11 federal primary, secondary, or other health-based standards
 13 12 unless treatment is provided to ensure that the drinking water
 13 13 meets these standards. Nothing in this paragraph shall affect
 13 14 the public water supply system's right to pursue recovery from
 13 15 a responsible party.

13 16 Sec. 22. Section 455E.11, subsection 2, paragraph d,
 13 17 subparagraph (3), Code 2022, is amended by striking the
 13 18 subparagraph.

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board.

13 19 Sec. 23. Section 455I.2, subsection 5, paragraph a, Code
 13 20 2022, is amended to read as follows:
 13 21 a. A federal or state program that is subject to the
 13 22 jurisdiction of an agency, including but not limited to
 13 23 programs established by ~~chapters chapter~~ 455B and ~~455G~~,
 13 24 corrective or response actions pursuant to 42 U.S.C. §6901 et
 13 25 seq., and remedial actions under 42 U.S.C. §9601 et seq.

Makes technical changes related to the repeal of the UST Fund and the UST Fund Board.

13 26 Sec. 24. EFFECTIVE DATE. This division of this Act takes
 13 27 effect July 1, 2023.

Specifies that Division II of the Bill providing conforming changes takes effect July 1, 2023.

13 28 DIVISION III
 13 29 FUEL TESTING STUDY

13 30 Sec. 25. FUEL TESTING AND LABORATORY NEEDS STUDY.
 13 31 1. The department of agriculture and land stewardship
 13 32 shall conduct a study regarding the long-term future fuel
 13 33 testing needs in Iowa and how to maximize and leverage the
 13 34 Iowa central fuel testing laboratory located at Iowa central
 13 35 community college. The department may consider any matter
 14 1 that it determines to be relevant, including but not limited
 14 2 to the weights and measures bureau's testing needs for fuel
 14 3 inspection, cost analysis for future growth and laboratory

Requires the DALs to conduct a study on the long-term fuel testing needs in Iowa. This includes consulting with Iowa Central Community College and others in the fuel industry. Requires the DALs to submit a report summarizing the findings and recommendations to the Governor and the General Assembly by December 15, 2022.

14 4 equipment, and related support services for both the petroleum
 14 5 and renewable fuel industry in Iowa, which may be administered
 14 6 through a grant program.
 14 7 2. The department may consult with Iowa central community
 14 8 college and shall seek comments from persons and fuel industry
 14 9 leaders in Iowa who have an interest in the Iowa central fuel
 14 10 testing laboratory.
 14 11 3. The department shall submit a report regarding the study,
 14 12 including findings and recommendations, to the governor and
 14 13 general assembly not later than December 15, 2022. The report
 14 14 may include proposed legislation determined by the department
 14 15 to be necessary or desirable.

14 16 DIVISION IV
 14 17 REPEAL AND TRANSITION

14 18 Sec. 26.NEW SECTION 427B.23 FUTURE REPEAL.
 14 19 This subchapter is repealed July 1, 2023. All credits
 14 20 existing upon repeal of this subchapter shall continue until
 14 21 their expiration.

Details the transition of the UST Fund and the UST Fund Board and permits the DNR to begin implementation prior to July 1, 2023.

14 22 Sec. 27.NEW SECTION 455G.21A CLAIMS NOT ELIGIBLE.
 14 23 A claim for a release filed on or after January 1, 2023,
 14 24 shall not be eligible for payment from the fund.

Provides that claims for releases filed on or after January 1, 2023, are not eligible for payment from the UST Tank Fund.

14 25 Sec. 28.NEW SECTION 455G.21B FUTURE REPEAL.
 14 26 This subchapter is repealed July 1, 2023.

Specifies that Iowa Code chapter 455G, subchapter 1 (Comprehensive Petroleum Underground Storage Tank Fund) is repealed July 1, 2023.

14 27 Sec. 29. TRANSITION PROVISIONS.
 14 28 1. Upon repeal of chapter 455G, subchapter 1, and the
 14 29 creation of the Iowa tanks fund pursuant to section 455B.472A,
 14 30 as enacted in this Act, all moneys in all funds administered by
 14 31 the Iowa comprehensive petroleum underground storage tank fund
 14 32 board are transferred to the department of natural resources
 14 33 for deposit in the Iowa tanks fund. Any moneys credited to
 14 34 any fund administered by the Iowa comprehensive petroleum
 14 35 underground storage tank fund board on and after July 1, 2023,
 15 1 are transferred to the department for deposit in the Iowa tanks
 15 2 fund.
 15 3 2. Any rule, regulation, form, order, or directive
 15 4 promulgated by the Iowa comprehensive petroleum underground

Details the transition of the UST Fund and the UST Fund Board and permits the DNR to begin implementation prior to July 1, 2023.

15 5 storage tank fund board as required to administer and enforce
15 6 the provisions relating to the Iowa comprehensive petroleum
15 7 underground storage tank fund shall continue in full force
15 8 and effect under the jurisdiction of the department of
15 9 natural resources until amended, repealed, or supplemented by
15 10 affirmative action of the department.

15 11 3. The Iowa comprehensive petroleum underground storage
15 12 tank fund board shall administratively close or terminate
15 13 any remaining liabilities, contracts, outstanding claims,
15 14 payments, or other obligations for open comprehensive petroleum
15 15 underground storage tank fund claims existing on or before June
15 16 30, 2023.

15 17 4. The department of natural resources may begin
15 18 implementation of this Act prior to July 1, 2023, to the
15 19 extent necessary to transition to full implementation of the
15 20 provisions relating to the Iowa tanks fund and repeal of the
15 21 Iowa comprehensive petroleum underground storage tank fund.