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IOWA DEPARTMENT OF JUSTICE  
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**TO:** Legislative Services Agency

**FROM:** DAVID S. STEWARD  
Assistant Attorney General

**DATE:** October 22, 2020

**RE:** Proposed Legislation to Transition UST Fund to DNR

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The Iowa UST Fund was created with legislation enacted in 1989 to assist owners and operators of Petroleum Underground Storage Tanks (USTs) with assistance to remediate petroleum contamination in the soil and groundwater. A board was created to administer the fund. The fund and board operate pursuant to Iowa Code chapter 455G.

In 2016, legislation was passed to discontinue funding for the UST Fund. The fund currently has approximately \$12.5 million and less than 100 benefit claims remaining. The DNR currently administers the UST Fund program pursuant to a 28E Agreement with the UST Fund Board.

With both the remaining fund balance and number of claims declining, the UST Fund Board believes the purpose for the existence of the board has been fulfilled, and it is not necessary to continue maintaining a board to address the remaining claims in the program. It is the position of the board that the most appropriate and efficient use of the remaining funds is to create a program within the DNR to spend the remaining balance of the fund to address the ongoing benefit claims.

On October 24, 2019, the UST Fund Board voted to submit proposed legislation to repeal the statute creating the UST Fund program/board and to create an Iowa Tanks Fund Financing Program within the DNR effective July 1, 2021 with the remaining moneys in the UST Fund.

The Iowa UST Fund Board submitted language during the 2020 legislative session which was intended to provide an avenue to create the Iowa Tanks Financing Program under the control of the Iowa Department of Natural Resources while ending the existing UST Fund Board and the Iowa UST Fund Program. The original legislation was modified during the session and was last considered as House File 2622 and Senate File 2401, but was not acted upon before the legislative session was suspended in 2020 due to the COVID-19 pandemic. The Iowa Legislature reconvened in early June and completed the 2020 legislative session on Sunday, June 14, 2020, after taking several weeks off because of the COVID-19 pandemic. House File 2622 and Senate File 2401 were not considered during the shortened session.

The House and Senate companion bills were the successor to the original language introduced as the Underground Storage Tank Fund Repeal bill. In the final form, the bills would have created the Iowa Tanks Fund and Iowa Tanks Fund Financing Program, repealed the Iowa Comprehensive Petroleum Underground Storage Tank Fund and Fund Board, and required a study regarding the long-term fuel testing needs in Iowa and how to maximize the Iowa central fuel testing laboratory located at Iowa Central Community College in Fort Dodge. Funding would also have continued for the Iowa Department of Agriculture and Land Stewardship through an annual appropriation of \$250,000 through the end of FY 2027.

The House and Senate companion bills also provided language that would have given the Iowa Department of Natural Resources authorization to begin implementation of the Iowa Tanks Financing Program to the extent necessary to transition to full implementation of the provisions of the Iowa Tanks Fund prior to July 1, 2021.

As the proposed language did not pass, the current program remains in effect. On October 22, 2020, the UST Fund Board voted to resubmit the language structured as HF 2622 and SF 2401 as a pre-filed bill for the 2021 legislative session.