New York

Laws:

**Agricultural Districts Law (1971):** This act provides use value assessment for agricultural lands.

**Forest Tax Law (1974):** This act provides use value assessment for forest lands.

**Conservation Easement Tax Credit (2006):** This act provides a tax credit for land under a conservation easement.

Eligibility Criteria:

Agricultural Land (Agricultural District Law)

- No minimum size requirement for agricultural land with the exception of a 7 acre minimum for land used to support a commercial horse boarding operation, and land used by a newly established farm operation solely for the planting of new orchards, vineyards, or Christmas trees.
- Up to 50 acres of farm woodland per tax parcel can qualify for assessment.
- The law specifies that land must meet the following use requirements:
  - Land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products.
  - Land used in the preceding two years to support a commercial horse boarding operation that boards at least 10 horses.
  - Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products.
- The law states that land must meet the following revenue requirements:
  - An average gross sales value of $10,000 or more for land used for production for the sale of crops, livestock or livestock products of 7 acres or more.
  - An average gross sales value of $50,000 or more for land used for production for the sale of crops, livestock or livestock products of less than 7 acres.
  - Annual gross receipts of $10,000 or more commercial horse boarding operations.
  - The annual gross sales value of processed woodland products can not exceed the annual gross sales value of crops, livestock or livestock products.
New York

Eligibility Criteria (cont’d):
Forest Land (Forest Tax Law)
- No minimum revenue requirement.
- At least 50 contiguous acres, exclusive of any portion not devoted to the production of forest crops.
- The law specifies that land must be exclusively devoted to and suitable for forest crop production through natural regeneration or through forestation and shall be stocked with a stand of forest trees sufficient to produce merchantable forest crop within thirty years of the time of original certification.
- The law states that land owners must have an approved management plan and must file a certificate of approval specifying that the tract is committed to continued forest crop production for an initial period of ten years. This certified commitment must be renewed annually for the upcoming ten years.

Open Space Land (Conservation Easement Tax Credit)
- No minimum size or revenue requirements.
- The statute states that land must be in a perpetual and permanent conservation easement, where the easement is held by a public or private conservation agency.
- The statute specifies that the easement must serve to protect open space, biodiversity, or scenic, natural, agricultural, watershed, or historic preservation resources by limiting or restricting development, management, and/or use of the property.
- A requirement of the statute is that landowners must show that the easement was wholly or partially donated (sold for less than fair market value).

Change in Use Penalty:
Agricultural Land (Agricultural District Law)
The law states that if land within an agricultural district which received an agricultural assessment is converted, it shall be subject to payments equaling five times the taxes saved in the last year in which the land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years. Land outside of an agricultural district is liable for the penalty if the conversion occurs within 8 years since the land last received an agricultural assessment.
New York

Change in Use Penalty (cont'd):

Forest Land (Forest Tax Law)
The law specifies a penalty of two and one-half times the amount of taxes that would have been levied on the forest land for the current year and any prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years, not to exceed a total of ten years. If the converted land constitutes only a portion of a certified eligible tract, the penalty shall be twice the amount previously stated, using the converted land as the basis for calculation.

Open Space Land (Conservation Easement Tax Credit)
There is no change in use penalty due to easement restrictions on the property and the law providing a tax credit rather than a change in the assessed value of the land.

Additional Information:

Agricultural Land (Agricultural District Law)
Land owners must apply every year to be considered for agricultural assessment. Agricultural land outside an agricultural district shall be eligible for an agricultural assessment and must meet the same eligibility criteria and are subject to the same change in use penalty as agricultural land within an agricultural district.

The state provides assistance to each taxing jurisdiction in an amount equal to one-half of the tax loss that results from requests for agricultural assessments in the district.

Forest Land (Forest Tax Law)
If a portion of the qualified land is converted, the unconverted land will still remain eligible regardless of its size.
New York

Past/Current Issues:

In 2008, a bill was introduced to increase the allowed farm woodland from 50 acres per tax parcel to 100 acres per tax parcel. This bill did not pass.

Resources:


Conservation Easement Tax Credit, 22 N.Y. TAX § 606-kk (2006)


Pennsylvania

**Laws:**

**Clean and Green Act (1974):** This act provides use value assessment for agricultural, agricultural reserve, and forest reserve lands.

**Eligibility Criteria:**

**Agricultural Land**

- The act specifies that land that is in agricultural use is eligible for preferential assessment if it has been producing an agricultural commodity or has been devoted to a soil conservation program under an agreement with the Federal Government for at least 3 years preceding the application for preferential assessment, and is one of the following:
  - Comprised of 10 or more contiguous acres, including any farmstead land and woodlot.
  - Has an anticipated yearly gross income of at least $2,000 from the production of an agricultural commodity.

**Agricultural Reserve Land**

- No minimum revenue requirement.
- Minimum size requirement of 10 or more contiguous acres, including any farmstead land and woodlot.
- The act requires that land is noncommercial open space for outdoor recreation or enjoyment of scenic or natural beauty and is open to the public for such use, without charge or fee, on a nondiscriminatory basis.
- Agricultural reserve land is land that is not currently used for agricultural production but could be used for agricultural production in the future

**Forest Reserve Land**

- No minimum revenue requirement.
- Minimum size requirement of 10 or more contiguous acres, including any farmstead land.
- Land which is presently stocked with trees, including land that is rented to another person for the purpose of producing timber or other wood products.
Pennsylvania

**Change in Use Penalty:**

The act states that if an owner of enrolled land changes the use of the land to something other than agricultural use, agricultural reserve or forest reserve or changes the use of the enrolled land so that it otherwise fails to meet the eligibility requirements, that landowner shall be responsible for the payment of roll-back taxes and interest on that land. Roll-back taxes are imposed for the current disqualifying year and in those 6 immediately preceding years. Each year of roll-back is multiplied by a factor representing simple interest at a rate of 6% annum from that particular tax year to present.

**Additional Information:**

An owner of enrolled land may not unilaterally terminate or waive the preferential assessment of enrolled land. Preferential assessment terminates as of the change of use of the land to something other than agricultural use, agricultural reserve or forest reserve.

**Past/Current Issues:**

There was a bill introduced in 1997 to increase minimum acreage requirement to 25 or 50 acres; however, the bill did not pass.

Act 156 of 1998 extended preferential assessment to any farmstead land enrolled in Clean and Green, regardless of whether the land was enrolled as agricultural or forest reserve or agricultural use. The impact of this aspect of the act apparently caused a significant reduction in the property tax bases in many rural taxing jurisdictions and also resulted in an increase of the so-called mini-estates.

Act 235 of 2004 made changes to the Clean and Green Act which limit the assessment of farmstead land at Clean and Green values when the majority of enrolled land is classified as agricultural use (in response to Act 156). Act 235 also removed the assessment of farmstead land under Clean and Green values for agricultural reserve and forest reserve land. The act also expanded the activities that owners of Clean and Green lands may perform on their land to include hunting, agritourism, and agritainment enterprises.

According to the Pennsylvania Farm Bureau and Department of Agriculture, there is currently a discussion to include oil and gas exploration as an approved activity under the Clean and Green Act.
Pennsylvania

**Resources:**


Clean and Green Act, 7 P.A. Code § 137b (1974).


June 2, 2011

TO: Members of the Senate Environment and Energy Committee

FROM: Eric DeGesero, Executive Vice President

RE: UST Fund

The Fuel Merchants Association of New Jersey (FMA) represents small businessmen and women who distribute heating oil, gasoline and diesel fuel in the state. Our members distribute heating oil to residential, commercial and industrial customers and distribute branded and unbranded gasoline and diesel fuel to service stations they own, and to service stations they supply, as well as to state and local governments and commercial fleets. FMA’s members also install and service central heating and air conditioning equipment and a growing number of members are now certified to perform energy audits under the state’s Clean Energy Program.

Thank you for the opportunity to discuss the greatest environmental success story that no one knows about, the Petroleum Underground Storage Upgrade, Remediation, and Closure Fund (UST Fund).

The UST Fund shouldn’t be viewed as an end in and of itself. Rather, it should be viewed as a means to an end of helping the state’s residents remediate a discharge when they have no other coverage as well as helping them prevent a remediation in the first place.

**How Did We Get Here?**

**Reallocation of Funding Formula/Diversion of Earned Interest**

The original 1996 amendment set aside 4% of corporate business tax (CBT) revenues for various environmental projects. Originally 1/3 of these funds were set aside for USTs and the focus of the UST Fund was commercial USTs since there was a 1998 deadline for federally regulated USTs (primarily those at gas stations, bulk storage facilities, and state/county/municipal facilities) to comply with certain mandated operational upgrades. There was a similar deadline in 2003 for state regulated USTs.

As these deadlines passed, the Legislature and others believed there were other equally worthy public policy objectives that needed CBT funding and that funds should be redirected from the UST Fund, especially because the UST Fund was “overfunded”. FMA always cautioned that the UST Fund was not overfunded, but rather underutilized.
In 2003 the provision relative to USTs was amended to divert 50% of the fund’s existing balance to other remedial activities and beginning January 1, 2004 and continuing through December 31, 2005, all new revenue (1/3 of the 4% CBT dedication) would be split 50% for USTs and 50% for other remedial activities. Then from January 1, 2006 through December 31, 2007, 40% of all new revenue was to be for USTs and 60% for other remedial activities as well as a $2 million annual allocation for UST enforcement.

However, before the above formula could be implemented, the Constitution was amended again in 2005 and 2006. These changes included redirecting $10m from the UST Fund to the diesel retrofit program, reducing from 1/3 to 1/4 the amount set aside for USTs (which by now was split with HDSRF) as well as not allowing any new CBT funds to be deposited in the UST Fund at all, until such time as the UST Fund’s balance fell below $20 million.

Finally, in 2009 Governor Corzine signed P.L. 2009 c.74 (A-4107) which redirected $10 million in interest from the UST Fund to the InvestNJ Business Grant Program.

While all of these other initiatives are worthy public policy objectives, the cumulative effect has been to redirect $230 million from the UST Fund since the original formula was adopted in 1996.

**Program Achieved its Objective**

Unlike some programs whose funding is frittered away on purposes not related to its original intent, the UST Fund has been a remarkable success.

Since its inception, the UST Fund has helped thousands of New Jerseyans pay for the remediation of a leaking UST for which they had no other funding available. Additionally, liberalized access to the UST Fund since 2006 has helped approximately 9,000 homeowners replace their non-leaking UST.

To better understand the importance of the UST Fund, and why it must be preserved for the future, you must understand how residential UST remediations are financed.

If a residential UST leaks and impacts the property of the insured there has never been coverage from a homeowner insurance carrier as this is deemed a “first party” impact and such impacts are governed by the “owned property” exclusion in the policy. In the early 1990s FMA helped create a first of its kind service agreement which helped homeowners fill the owned property void. For those homeowners who declined coverage, didn’t know about it, or utilized an oil dealer who didn’t offer it, the UST Fund served as a backstop.

Furthermore, homeowner carriers who once covered “third party” impacts from a residential UST (groundwater/neighboring property) were allowed by the Division of Banking and Insurance (DoBI) to “carve out” such coverage beginning in 2003. Homeowners were given an option to purchase this coverage as a separate endorsement to their underlying policy with different coverage limits and at an additional premium.
Unfortunately, this option was only required to be offered one time, upon the first renewal of the policy after it took effect. FMA believes that many homeowners were never aware that they had only one opportunity to purchase this coverage and therefore did not. Furthermore, consideration must be given to homeowners who have no idea that a UST exists on their property.

As FMA stated in the attached letter to the Governor and legislative leaders, if a home has a UST in need of remediation and the current owner has no financial means to pay for it other than the UST Fund, the home will not sell. This is a very real scenario which will further hamper recovery not only in the housing market but also the state’s economy.

**Where Do We Go From Here?**

In light of the above, FMA makes the following recommendations:

1. Appropriation for FY 2012 (see attached letter of May 23, 2011) and again in FY 2013 to clear the pre-May 3, 2011 backlog.
2. Amend the Constitution back to the 1996 wording relative to this provision (1/3 of 4% for USTs), or at the least the 2003 version (1/3 of 4% for USTs and HDSRF -- split 50/50 annually).
3. Continue a set aside for non-leaking USTs. There is no better return on investment that preventative measures like this.
4. Require homeowner insurers to offer 3rd party endorsement buy-back option to homeowners again. There is much to discuss with this recommendation, namely, should carriers provide excess coverage after the UST Fund, or other existing coverage, has hit a predetermined limit? Should the limit be on the front-end and carriers pick-up anything after that? Should it be required that the coverage be purchased by homeowners to spread the risk? Assuming that carriers would be allowed to assess the UST before providing coverage, how would situations be handled where the UST failed the assessment and the homeowner had no other coverage, no means to pay for it, and no UST Fund to utilize?
May 23, 2011

The Honorable Christopher Christie  
Governor  
State House  
Trenton, NJ 08625

The Honorable Steven Sweeney  
Senate President  
State House  
Trenton, NJ 08625

The Honorable Shelia Oliver  
Assembly Speaker  
State House  
Trenton, NJ 08625

RE:  UST Fund – Supplemental Appropriation

Dear Governor Christie, Senate President Sweeney, and Assembly Speaker Oliver:

The State’s Petroleum Underground Storage Tank, Upgrade, Remediation, and Closure Fund (UST Fund), currently has liabilities in excess of available funds of approximately $49 million dollars.¹

The NJDEP and NJEDA have announced that they are no longer processing applications submitted after May 2, 2011. Based on the constitutional replenishment of the UST Fund, there are applicants who applied prior to May 2, 2011 who might have to wait until July 2015 to receive funding. This delay may impede some homeowners from being able to sell their homes.

While there are long-term policy issues relative to the UST Fund to be discussed in the coming months, the Fuel Merchants Association of New Jersey (FMA) respectfully requests that a portion of the additional revenue which the state is forecast to receive through the end of the 2011 Fiscal Year be appropriated to the UST Fund in July 2011.

¹-Through May 2, 2011. Includes estimates for applications received by NJDEP prior to this date but not yet processed to NJEDA.
This requested appropriation would be above what is to be transferred as per the constitutionally required corporate business tax (CBT) dedication in July 2011 and the additional $2.7m appropriation included in the FY 2012 budget. FMA believes a $10m appropriation is appropriate as this is the amount of funding which was taken from the UST Fund in 2009 as a result of P.L. 2009 c.74. This would bring the total appropriation to approximately $24.3 m and take care of close to half of the outstanding liability.

Assuming that CBT receipts are approximately $2 billion in Fiscal Years 2012 and 2013 the remaining liabilities in the UST Fund incurred prior to May 2, 2011 would be met by July 2014, possibly July 2013, as opposed to July 2015.

In his testimony last week before the Assembly Budget Committee Treasurer Eristoff stated that the weak housing market is playing a role in our state’s economic recovery being more limited than it might otherwise be. If a home has a UST in need of remediation and the current owner has no financial means to pay for it other than the UST Fund, the home will not sell. This is a very real scenario which will further hamper recovery not only in the housing market but also the state’s economy.

FMA looks forward to working with you in the coming weeks on this request.

Sincerely,

Eric DeGesero
Executive Vice President

Cc: The Honorable Paul Sarlo
The Honorable Tony Bucco, Sr.
The Honorable Lou Greenwald
The Honorable Declan O'Scanlon
New Jersey Legislature
The Honorable Andrew Sidamon-Eristoff
The Honorable Robert Martin

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2-Assumes FY 2011 final CBT receipts of $2.107b. Of that amount 4% is constitutionally dedicated to environmental projects, 25% of which is for UST/HDSRF. Since UST balance is less than $20m UST Fund receives 55% of this 25% or approximately $11.6m.
3-The principal in the UST Fund is constitutionally dedicated, the interest earned on that principal is not.
4- In 2003 the NJ Department of Banking and Insurance allowed homeowner insurers the ability to exclude UST 3rd party remediation (off-site contamination and groundwater) from the underlying homeowner insurance policy. Many homeowners were not aware they lost this coverage or that they had the one-time option to buy it back as a separate endorsement to their policy.
Homeowner Insurance Companies with Approved Exclusions/Buyback Endorsement

1. Allstate
2. State Farm
3. Philadelphia Contributorship
4. HighPoint (Homesite Ins. Co.)
5. Pennsylvania General (part of Skylands)
6. AAA Mid-Atlantic
7. Encompass* (subsidiary of Allstate)
8. Camden Fire Insurance Association (part of Skylands)
9. Selective Insurance Company
10. Ohio Casualty Insurance Company
   - West American Insurance Company
   - American Fire and Casualty Insurance Company
11. Tower National Insurance Company
12. Preferred Mutual Insurance Company
13. FMI Insurance Company
   - Franklin Mutual Insurance Company
   - Fidelity Mohawk Insurance Company
14. Proformance Insurance Company
15. Merrimack Mutual Fire Insurance Company (Homeowners)
16. Bay State Insurance Company (Homeowners)
17. Travelers Auto Insurance Company of New Jersey
18. First Trenton Indemnity Company
19. Foremost Insurance Company
20. Meristar Insurance Company
22. High Point Preferred Insurance Company
23. Castle Point Insurance Company
24. NJ Manufacturers Insurance Company
25. NJ Re-Insurance Company
26. Quincy Mutual Fire Insurance Company
27. First American Property & Casualty Insurance Co.
28. American Banker Insurance Company of Florida
29. Bay State Insurance Company (Dwelling Fire)
30. Merrimack Mutual Fire Insurance Company (Dwelling Fire)
31. Palisades Property & Casualty Insurance Company
32. Pacific Specialty Insurance Company
33. Mercury Indemnity Company of America
34. USAA
35. Providence Mutual Fire Insurance Company
36. American Strategic Insurance Company
37. American Commerce Insurance Company
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<tr>
<th>INSURANCE COMPANY</th>
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<tbody>
<tr>
<td>Allstate</td>
<td>Yes-New and Renewal</td>
<td>Yes -$100,000</td>
<td>05/24/04 new 5/24/05 renewal</td>
<td>UST - $25 to $250 AST (in, masonry) $3 to $33 AST (out or non-masonry) $13-$133</td>
<td>Age Based: 0-9 $ 250 10-19 $2,500 20 + $10,000</td>
</tr>
<tr>
<td>State Farm*</td>
<td>Yes - New and Renewal</td>
<td>No-same as policy</td>
<td>6/1/04 new 8/1/04 renewal</td>
<td>UST-$105 AST-$60</td>
<td>N/A same as policy</td>
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<tr>
<td>Philadelphia Contributorship*</td>
<td>Yes - New Business can buy up to 60 days of initial policy period; Yes-renewal</td>
<td>Yes -$100,000</td>
<td>1/05 new and renewal</td>
<td>UST -$105 AST-$60</td>
<td>N/A same as policy</td>
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<tr>
<td>HighPoint (Homesite Ins.Co.)*</td>
<td>Yes - New and No - Renewal as can buy back any time during the policy term of the renewal</td>
<td>No-same as policy</td>
<td>6/28/05 renewal (note-co. does not currently write HO Insurance</td>
<td>UST - $75 AST (in/on masonry) $10 AST (out/or non-masonry) $40</td>
<td>N/A same as policy</td>
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<tr>
<td>Pennsylvania General (part of Skylands)</td>
<td>Yes-New Yes-Renewal</td>
<td>Yes - $100,000</td>
<td>5/3/05 new and renewal</td>
<td>AST 0-19 $ 65 AST 20 + $133 UST $150</td>
<td>Age Based</td>
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<tr>
<td>AAA Mid-Atlantic</td>
<td>Yes - New business and No - Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes - $100,000</td>
<td>Approved effective 7/1/06 new and renewal</td>
<td>UST 0 to 9 - $50 10+ - $70 AST 0 to 9 - $20 10 to 14 -$40 15 + - $45</td>
<td>Age Based 0-9 $ 250 10-14 $1,000 15-19 $2,500 20-24 $3,000 25-30 $5,000 30 + $10,000</td>
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<tr>
<td>Encompass* (subsidiary of Allstate)</td>
<td>Yes - New, but can purchase if replace existing tank and Yes-Renewal</td>
<td>Yes - $100,000</td>
<td>11/1/05 new 1/1/07 renewal</td>
<td>UST-$25 to $250 AST (in, on masonry) $2 to $10 AST(out or non-masonry) $10 to $30</td>
<td>Age Based; 0-9 $ 250 10-19 $2,500 20 + $10,000</td>
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<td>Camden Fire Insurance Association (part of Skylands)</td>
<td>Yes - New and no - Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes - $100,000</td>
<td>12/05 new 12/20/06 renewal</td>
<td>UST-$150  AST - $65 to 19 years  AST - $133 20 + years</td>
<td>Age Based 0-9 $ 250 10-14 $2,500 15-19 $5,000 20 + $10,000</td>
</tr>
<tr>
<td>Selective Insurance Company</td>
<td>Yes - New and No - Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes - $50,000 and $100,000</td>
<td>4/15/06 new 4/15/07 renewal as DOBI mandated 1 yr. notice on renewals</td>
<td>$50,000 UST $11-$146  AST-Out or non-masonry $6-$77  AST-In, masonry $1-$19 $100,000  UST $15-$200  AST-Out or non-masonry $8-$106  AST-In, masonry $2-$26</td>
<td>$2,500</td>
</tr>
<tr>
<td>Ohio Casualty Insurance Company  West American Insurance Company  American Fire and Casualty Insurance Company</td>
<td>Yes - New and No - Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>5/4/06 new and 2/5/07 renewal as DOBI mandated 1 yr. notice on renewals</td>
<td>UST-$150  AST-$80  Unknown exposure $150</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Tower National Insurance Company</td>
<td>Yes - New and No - Renewal as company currently does not write homeowners</td>
<td>Yes-$100,000</td>
<td>HO-Approved effective 2/1/06 new and renewal Dwelling/Fire Approved Effective 11/1/06 new and renewal</td>
<td>UST-$105  AST-$60</td>
<td>N/A same as policy</td>
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| Preferred Mutual Insurance Company* | Yes - New but can buy-backup to 60 days of initial policy period. No - Renewal as can buy back any time during the policy term of renewal | Yes-$100,000 | Approved effective 11/15/06 new and renewal | AST-0-24 $ 69  
AST-25 + $139  
UST 0-24 $121  
UST 25 + $243 | N/A same as policy |
| FMI Insurance Company, Franklin Mutual Insurance Company and Fidelity Mohawk Insurance Company | Not stated | Yes-$300,000  
AST $100,000  
UST $100,000-Unknown exposure-if existence of or the type of a tank is not known  
11/1/09 new 12/1/09 renewal; original approved 7/05 | UST-$150  
UST-Dbl Wall-$125  
UST-Cathodic protection-$75  
AST-$80  
AST w/pan & no alarm $60  
AST w/pan & alarm $40  
AST w/tub $20  
AST-safety tank $20  
Unknown-$150 | N/A same as policy |
| Proformance Insurance Company | Yes-New and No-Renewal as can buy back any time during the policy term of the renewal | Yes-$50,000 and $100,000, but DOBI requested company not to offer $50,000 limit | 7/15/06 new and renewal | UST-Company proposed flat fee of $150 for $50,000 and $225 for $100,000. DOBI said OK to $150 for all USTs and $75 for all ASTs or use "Age of Tank" to calculate rates up to max $225 for $100,000 | N/A-same as policy |
| Merrimack Mutual Fire Insurance Company (Homeowners) | Yes-New and No-Renewal as can buy back any time during the policy term of the renewal | Yes-$100,000 | 6/1/06 new 7/1/06 renewal | UST-$150  
AST or Tank within structure-$60 | N/A same as policy |
| Bay State Insurance Company (Homeowners) | Yes-New and No-Renewal as can buy back any time during the policy term of the renewal | Yes-$100,000 | 6/1/06 new 7/1/06 renewal | UST-$150  
AST or Tank within structure-$60 | N/A same as policy |
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<tr>
<td>Travelers Auto Insurance Company of New Jersey</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>4/23/06 New business (company does not currently write HO insurance) and Renewal 4/07</td>
<td>AST or Tank within structure-$64 to $200 AST $25-$200 Co. applies rating factors such as tank materials (steel or fiberglass), cathodically protected, masonry/non-masonry, existence of alarm, containment tub and/or containment plan</td>
<td>N/A same as policy</td>
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<tr>
<td>First Trenton Indemnity Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>9/1/06 New Business and 9/1/07 renewal-Note that file states company does not plan to write new HO business; will be written into Travelers Auto Ins.Co.</td>
<td>Age based UST- $64 to$200 AST 25-$200 Co. applies rating factors such as tank materials (steel or fiberglass), cathodically protected, masonry/non-masonry, existence of alarm, containment tub and/or containment plan</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Foremost Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>Approved for new business eff 12/21/06. As new homeowners program no renewals &amp; approval is for 3 years.</td>
<td>AST - $75 UST-$225</td>
<td>N/A same as policy</td>
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<tr>
<td>Meristar Insurance Company</td>
<td></td>
<td>Pending</td>
<td>AST-$100 UST $175</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tower Insurance Company of New York</td>
<td>Yes-New and No-Renewal as company does not currently write homeowners</td>
<td>Yes-$100,000</td>
<td>Pending exclusion part of larger homeowner filing</td>
<td>UST-$105 AST-$60</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>INSURANCE COMPANY</td>
<td>ONE TIME ONLY</td>
<td>COVERAGE LIMIT</td>
<td>EFF.DATE</td>
<td>PREMIUM</td>
<td>DEDUCTIBLE</td>
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<tr>
<td>High Point Preferred Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>No-same as policy</td>
<td>Approved rate increase effective 7/16/10 new &amp; renewal; original approved 5/08</td>
<td>Indoor-AST on masonry floor-$43 Other AST-$244 UST-$405</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Castle Point Insurance Company</td>
<td>Yes-New and No-Renewal as company does not currently write homeowners</td>
<td>Yes-$100,000</td>
<td>Approved effective 7/30/07 new and renewal</td>
<td>UST-$105 AST-$60</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>NJ Manufacturers Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000 Co. added $10,000 1st party coverage (remediation &amp; restoration)</td>
<td>Approved effective 1/1/09 new and 1/1/10 renewal as DOBI mandated 1yr. notice</td>
<td>AST-$30 UST-$150 less than 15 yrs. old UST-$230 15 yrs. or more</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>NJ Re-Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000 Co. added $10,000 1st party coverage (remediation &amp; restoration)</td>
<td>Approved effective 1/1/09 new and 1/1/10 renewal as DOBI mandated 1yr. notice</td>
<td>AST-$30 UST-$150 less than 15 yrs. old UST-$230 15 yrs. or more</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Quincy Mutual Fire Insurance Company</td>
<td>Yes-New but can buy up to 60 days of new policy No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes -$100,000</td>
<td>Approved effective 3/1/09 new and renewal</td>
<td>AST - $56 UST - $168 Company requires testing initially and every 2 yrs. - will not accept USTs 15 yrs. or more</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>First American Property &amp; Casualty Insurance Co.</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>No-same as policy</td>
<td>Approved effective 4/1/09 new</td>
<td>AST - $60 UST - $105</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>INSURANCE COMPANY</td>
<td>ONE TIME ONLY</td>
<td>COVERAGE LIMIT</td>
<td>EFF.DATE</td>
<td>PREMIUM</td>
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<tr>
<td>American Banker Insurance Company of Florida</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>No-same as policy</td>
<td>Approved effective 5/1/09 new</td>
<td>AST - $60, UST - $105</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Bay State Insurance Company (Dwelling Fire)</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>7/1/09 new, 7/1/10 renewal</td>
<td>UST-$150, AST or Tank within structure-$60</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Merrimack Mutual Fire Insurance Company (Dwelling Fire)</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>7/1/09 new, 7/1/10 renewal</td>
<td>UST-$150, AST or Tank within structure-$60</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Palisades Property &amp; Casualty Insurance Company</td>
<td>Yes-New except will not write USTs; No-Renewal as can buyback any time during the term of the renewal</td>
<td>Yes-$100,000</td>
<td>1/15/10 new, 12/1/09 renewal</td>
<td>UST-$368, AST (in, on masonry) $75, Other AST-$195</td>
<td>$2,500</td>
</tr>
<tr>
<td>Pacific Specialty Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>No-same as policy</td>
<td>Approved effective 11/1/09 new</td>
<td>UST-$150, AST-$60</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Mercury Indemnity Company of America</td>
<td>Yes-New except will not write USTs 20 yrs. or older &amp; will only write ASTs 20 yrs or older if double walled or contained. No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>Approved effective 1/4/10 new and renewal</td>
<td>$60-AST $150-UST</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>INSURANCE COMPANY</td>
<td>ONE TIME ONLY</td>
<td>COVERAGE LIMIT</td>
<td>EFF.DATE</td>
<td>PREMIUM</td>
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<tr>
<td>USAA</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>Approved effective 9/10/10 new; 11/10/11 renewal</td>
<td>UST 0-19 $90; UST 20+ $300; AST 0-19 $45; AST 20+ $150</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Providence Mutual Fire Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$50,000 and $100,000 plus $10,000 1st party property remediation</td>
<td>Approved effective 11/1/10</td>
<td>$100,000 Limit UST $185; AST $75 $50,000 Limit UST $95; AST $38</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>American Strategic Insurance Company</td>
<td>Yes-New and No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000 plus $1,000 med pay to others</td>
<td>Approved effective 12/1/09 new and renewal</td>
<td>UST $175; AST, in, masonry $30; AST, in, no masonry $125; AST, Out, masonry $100; AST, Out, no masonry $125</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>American Commerce Insurance Company</td>
<td>Yes-New except will not write USTs and will only write ASTs if masonry floor/secondary containment, No-Renewal as can buy back any time during the policy term of the renewal</td>
<td>Yes-$100,000</td>
<td>Approved effective 7/12/11 new and renewal</td>
<td>UST - $48 to $200; AST - in, masonry $19 to $79; AST, in, no masonry $48 to $200. Co. applies rating factors such as tank materials (steel or fiberglass), cathodically protected, masonry/non-masonry, existence of alarm, containment tub and/or containment plan</td>
<td>N/A same as policy</td>
</tr>
<tr>
<td>Hanover Insurance Company Citizens Insurance Company of America Massachusetts Bay Insurance Company</td>
<td>Yes-New and No renewal as can buy back any time during the policy terms of the renewal</td>
<td>Yes-$50,000 with ability to buy $100,000. Company added $10,000 1st party with ability to buy $50,000</td>
<td>Pending</td>
<td>UST - $302 ($50,000) and $451 ($100,000) AST - $66 (450,000) and $108 (4100,000)</td>
<td>N/A same as policy</td>
</tr>
</tbody>
</table>

*Oil tank surcharge will no longer be applied.*
New Jersey Senate Hearing Testimony

Hearing Subject: The NJDEP Underground Storage Tank Fund – “The UST Fund”

Who I Am: My name is Anthony Salvemini. I am the President and co-founder of Meridian Environmental Services, Inc., which is an environmental remediation contracting and consulting firm based in Toms River, NJ. We employ 22 people and serve residential and commercial clients throughout the state. I have personally been in the underground storage tank removal and environmental remediation field for almost 20 years, starting our firm 12 years ago in 1999. I have been involved with the removal and remediation of thousands of underground storage tanks over the years. The majority of our work is the removal of heating oil tanks and the related remediation at single family homes for individual homeowners.

I would like to thank you for allowing me the opportunity to testify at this hearing.

The UST Fund

The UST Fund is a critically important program. It provides funding to allow for the remediation of leaking underground storage tanks, both at commercial sites such as many “mom and pop” gas stations and commercial businesses, and more significantly underground heating oil tanks located at private residences. My hope is that additional funding is found to help sustain the fund moving forward.

The UST fund helps many people and industries throughout the state, many of which are listed below:

Individual Homeowners

The primary beneficiary of the UST Fund are individual homeowners in that they can rely on the UST Fund for assistance in complying with NJDEP regulations as it relates to remediating a discharge of heating oil from their underground heating oil tank. By doing so this allows the homeowner to remediate (clean up) their property and protect the groundwater that migrates beneath their land. The reality of the matter is that if they could not afford to remediate their site they would not be able to sell their home. They also would not be able to refinance and purchase affordable home owners insurance if they are forced to change lenders or insurance carriers. We have had many cases where a homeowner had to either go without insurance coverage or pay a costly premium for a stripped down policy after their tank leaked. The specter of foreclosure also looms over many homeowners’ heads since they cannot sell their homes when they cannot afford to remediate their property since no one is willing to buy it or can even get a mortgage when a property is contaminated. Even the option of a short sale becomes impossible in many cases, which even if possible fleeces the homeowner of all their equity and makes it impossible for them to purchase a new home.
Environmental Remediation Contractors
The contractors who remove the tanks and remediate those that have experienced a discharge are able to perform those services since the homeowner can rely on the fund to cover the cost if the tank has leaked, thereby insulating them from that potentially large cost. A fraction of the amount of people, especially homeowners would be willing or able to commence with the process without the UST Fund being there to lend a helping hand when needed. There are dozens of tank removal and remediation firms, all of them small businesses, located throughout the state that employ hundreds of people that could be directly related to the UST Fund. The UST Fund literally creates and sustains those jobs at these firms and also jobs at their suppliers and subcontractors. More than 99% of the monies paid out by the UST Fund to our firm stay in New Jersey’s economy, circulating several times over as detailed below.

In addition to the Tank removal and remediation contractors and environmental consulting firms the UST Fund directly supports, it also indirectly supports all their vendors, such as testing laboratories, state agencies (NJDEP, NJEDA), municipalities (permit fees and inspections), scrap yards for the tank recycling, soil recycling facilities (most of which is recycled into asphalt to pave our roads), wastewater/oil recycling facilities, trucking companies, filtration equipment contractors, local hardware stores, home improvement centers and suppliers of the materials necessary to complete the restoration of the property, clean fill and stone quarries, engineers, surveyors, well drillers, dewatering contractors, and all related subcontractors such as masons, carpenters, landscapers, plumbers, electricians, oil dealers, HVAC contractors, along with all the vendors these entities use.

Heating Oil Dealers
Heating Oil Dealers, who are all small businesses, mostly family owned, are able to install new modern aboveground heating oil tanks and keep their customers happy with oil heat, thereby supporting the jobs that these companies and their vendors create and maintain. Others can talk to the statistics as far as how many oil dealers there are in New Jersey and the amount of people they directly employ.

Real Estate Brokers
Since property owners can rely on the UST Fund to pay for the remediation of their property they can sell their homes and properties when the need arises. This allows the normal process of marketing and selling a property to occur. This helps Real Estate agencies, brokers, agents and support staff, and all the fields related to a real estate transaction such as: Home inspectors, mortgage brokers, home staging consultants, home repair and remodeling contractors, painters, exterminators, attorneys and their staffs, insurance agents, title agencies, municipalities (permit fees and inspections) sign makers, newspapers and related advertising outlets, landscapers, moving companies, cable TV contractors to name a few.
Most sales also translate into that seller then becoming a buyer by taking their equity as a down payment to purchase a new home, so that multiplies the effect.

The Towns and Communities of the Fine State of New Jersey
The ability to clean up these properties help avoid them from falling into foreclosure and disrepair which can affect a neighborhood and therefore the community. Even if they avoid foreclosure, many people would not be able to justify improving or even maintaining their home or commercial property if faced with this problem since they would be throwing any money they put into their property away since they can’t sell it.

Lenders
Clearly lenders avoid inheriting contaminated properties since most people in a situation where they cannot pay their mortgage payments are also unable to pay to remediate their property without the UST Fund there to help.

The Environment
The whole purpose of the regulations created and enforced by the NJDEP is to protect the health of the people of our State and the environment overall, primarily the groundwater and surface water which we rely on for our drinking water supply throughout the state. The UST Fund finances the remediation of both soil and groundwater for private homeowners, small business owners and non-profits that otherwise could not afford to do so. The exit of home insurance carriers from the third party coverage that they previously had to afford a homeowner for groundwater and offsite remediation has caused the cost to fall more and more onto the UST Fund. In addition, by just knowing that if their tanks is found to be leaking there would be funding to remediate the potential discharge, more people would be inclined to remove an old tank and upgrade to a modern aboveground tank, thereby motivating them to be proactive which helps in avoiding future discharges by getting more older tank out of the ground before they leak. The fund also paid for non leaking tank removals and replacements from August 5, 2006, thru May 3, 2011 which was a very proactive element of the UST Fund. I speak to that later in this testimony.

Components of the UST Fund
The UST Fund is a joint venture of sorts between the NJDEP and the NJEDA. The NJDEP determines if a site is in need of remediation and if the application includes a suitable remedial method and associated cost and the NJEDA determines if an applicant qualifies financially for assistance and writes the checks. This assistance can be in the form of a loan or grant. Most cases related to someone’s primary residence receive a grant.

NJDEP
Years ago when the UST fund was in its infancy it was quite dysfunctional and my business partner and I even decided to no longer do work under the program because the process was slow and quite frustrating. This low level of staffing caused the UST Fund to be unable to hand out the money as fast as
it was coming into the fund from its Corporate Business Tax (CBT) appropriation, causing the fund to accumulate quite a large balance, in excess of $100 million dollars.

At some point someone new took over and was able to get the correct team assembled to make it a very functional program. They were even able to add staff which was critical in their ability to process the applications and payment requests in a timely manner when they saw the demand for the program growing as it became more useful. This was a great success.

Two different referendums were put on the ballot several years ago, the exact dates I do not know, which caused there to be no new CBT revenue placed into the UST Fund, since it was then being diverted for other programs. The legislature was required to start placing more money into the UST fund once the balance fell to $20 million. This seemed like a good plan at the time based on the demand on the program.

**Non Leaking Tank Program**

Starting on August 5, 2006, since the UST Fund balance was so high and the demand for the money so low, the fund was opened up to be more proactive in that it reimbursed homeowners for the cost to remove their tank and if needed to install a new tank to replace it, even if it did not leak. This reimbursement had reasonable set maximum dollar amounts, for the sake of this discussion, it was originally $1,200 later raised to $1,500 for the removal of a tank and $1,800 later raised to $2,000 for a new tank install. This covered most tank upgrades or at least covered most of the cost in some cases.

This was a very good way to motivate people to be proactive and get more tanks out of the ground before they leaked. The theory was this would save the fund money in the long run since a tank removal was a lot cheaper than paying to a remediation if it leaked in the future. This expansion of the UST Fund caused there to be a ramp up in demand for the funds which grew over time as more people became aware of the program. This non leaking reimbursement grant was administered by the NJEDA directly with no need to be reviewed by the NJDEP UST Fund staff. The NJEDA collected a $250 fee from each applicant, either non-leaking or leaking cases.

I cannot speak to the actual numbers, but over the years the amount of people pulling their tanks escalated since it was much easier to sell someone something for free. The timing of the non leaking reimbursement helped immensely when the recession hit. There of course was a cost for the thousands of non leaking reimbursement grants that were paid, but the bigger impact on the UST Fund was that since more tanks were being removed, more leaking tanks were found and then those remediation costs had to then be covered by the fund. Yes, the idea of getting them out sooner instead of later meant that these already leaking tanks could be remediated for less than if discovered in the future, however that idea would only work if we still had enough CBT revenue coming into the fund at the same time, which we did not.

The Non Leaking Tank Removal and Replacement reimbursement grants were terminated on May 3, 2011 because of the lack of funds in the UST Fund.
NJEDA

The NJEDA UST Fund team has to review an application for every leaking tank remediation funding request just like the NJDEP UST Fund staff and when the Non-Leaking Reimbursement Grant Program was started in 2006 they had to also review every non leaking grant application. This increased the number of files they had to process many times over. This put a severe strain on their staff.

If I understand correctly there may have actually been a smaller staff for this program at the NJEDA than at the NJDEP, but they have more files to process. However, I do not know the actual staffing level. This caused a severe bottleneck in the process. I imagine that the hiring freeze at the State tied their hands, but I always wished that they would find some additional people in some corner of the NJEDA where they would be more useful to the NJEDA’s economic development and job creating objective in this program than where they were sitting. The NJEDA collects a $250 non refundable application fee for every funding request. If I recall the amount of applications processed in 2009 alone was in the neighborhood of 3,800, meaning that the NJEDA took in $950,000. I always hoped that that revenue would have allowed them to add or move staff to this program. I do not know if any of that revenue I shared with the NJDEP.

The elimination of the Non Leaking portion of the program will take a huge load off the NJEDA staff, which we are hoping will help get applications and even more importantly invoices paid process faster. The bigger concern in my industry is getting paid once we do the work. It is very hard to make payroll and pay vendors with accounts receivable. We would hope that invoice approvals at both the NJDEP and NJEDA take priority over new applications moving forward instead of just processing things in the order they get delivered.

It was absolutely the right move to stop the non leaking tank reimbursements on May 3, 2011. Of course a little warning would have been nice so people didn’t wind up thinking they were getting paid and then all of a sudden they are not. We have some very angry clients. We even have quite a few people that owe us money where we were going to get paid our balance one the NJEDA processes the check. We are hoping most of them come through. Not to mention all the people who expected the process to take a year if their tank leaked, and now we have to tell them it could take 4 years, I’m thinking that there are a few foreclosures coming down the pipeline in that case.

The more important part of the UST Fund is the funding for leaking tank remediation and this part needs to be preserved for all the reasons I list above. At first glance one may think that it was obvious that the balance was declining at a steep rate and that someone should have noticed earlier and shut down the non leaking portion of the program sooner to avoid the fund bottoming out, however upon review of the timing of the funding requests you find that it may not have been so easy to see coming. It grew almost exponentially for lack of a better word.
I take so long to get through the process of placing a claim with a home insurance carrier and determining the scope of the problem and what portion will fall to the UST Fund to cover, especially if the homeowner has to scrape together the money to even delineate the contamination, that it could be several months to a year or more before an application can be submitted to the UST Fund for the remediation of a leaking tank. This means that applications received in 2010 which far outnumbered those in 2009, may have been the result of tank removals from several years combined, so as the non leaking program was in effect longer more and more leaking tanks were found and then the wave of leaking claims really escalated and will continue to escalate because of that into the near future. This means that the demand was not linear, but rather like a tidal wave growing as it reaches shore. This ripple off shore turns into a breaking wave. That ripple was not so easy to detect.

The bottom line is the program needs more money, ideally something sustainable. In addition, both the NJDEP and NJEDA need the resources to handle the demand placed on them. Timely processing is critical, especially with invoice approvals and payments. Contractors having to finance these projects for too long costs people jobs. We cannot add personnel if we see the need to if we don’t have the money to do so.

**Time Frames**

It takes a leaking tank application at least 4 months to go thru the NJDEP then another 4 months or more to get thru the NJEDA. They are essentially two separate applications processes, one following the other. We generally tell our clients that it could take between 8 to 12 months to get the funding approved and the work done. This is a big problem when someone has to sell their house or cannot get home insurance on their home until they get their property cleaned up. Not to mention in certain cases the contamination can spread over time. This is a direct result of staffing levels, and not the people that are there. They are doing the best that they can. There are just too many applications and too few people on staff. If moving forward they can be given the resources they need based on what is in the pipeline that would do a lot to help the program help the applicants and the contractors. Jobs are in jeopardy.

Moving forward both the NJDEP and NJEDA will be prioritizing supplemental funding requests above new applications, this is very important. A supplemental funding request is needed when a remediation project winds up costing more than originally approved. In many cases a project cannot be stopped for months or in this case potentially years, but rather the contractor is forced to finish the work and then have to wait to get paid. That could bankrupt a small company. We would like to suggest that enough money be set aside each year so that there is money left between budgets so that supplemental funding requests can be processed in a timely manner and not a year waiting for next year’s funding.
Where some of the money went:
The previous administration deducted $10 million dollars from the UST Fund for a jobs program. My understanding is that when asked how legislatively appropriated money in the UST Fund could be removed it was revealed that the money that was removed was actually just interest earned on the CBT revenue that was placed in the account, not actual appropriated money. Essentially the UST Fund was raided. I am hoping that you can find even more than that to add to what is already being included in the budget for next year.

Conclusion:
We sit where we are today with an underfunded program, where funding requests ($40 to $50 million) outstrip available funds and even out strip several years of estimated annual infusions based on the current budget ($12 million). This fantastic program is a victim of its own success.

I am hoping that the legislature and the administration can find additional funding in the near term and sustainable funding moving forward. Other states have sustainable programs, perhaps we can look to see how they are funding them for ideas.

If we could find enough to cover what's in the pipeline already that would save the day. If I'm swinging for the fence on that, please realize that every dollar that you do add to the fund will save homeowners and sustain jobs.

Again I thank you for your time and the opportunity to present this information.

Anthony Salvemini
June 2, 2011

To: Members of the Senate Environment and Solid Waste Committee

From: Richard Nieuwenhuis, president

Re: SCR-107

Overall, we think there is merit to the idea of providing differential property taxes to landowners who are willing to commit their property to a dedicated open space status. It seems entirely appropriate that such landowners deserve a reduction in their property taxes for having taken such a significant step toward conserving the land and thereby protecting the open space with its many public benefits.

We understand that SCR-107 does the following:

- Proposes a constitutional amendment to allow for differential tax assessment for parcels donated as open space for conservation or public recreation purposes.
- Requires that such donated parcels be: sub-dividable land under current zoning laws; greater than 5 acres; donated to an appropriate governmental or non-profit agency.
- For property tax purposes, values qualifying land at the value it has for conservation or public recreation use or at not more than 50% of the restricted value of the land after donation of the development rights, whichever is less.
- In cases where the parcel that is being donated was assessed as farmland in the tax year immediately prior, this resolution would relieve the landholder donating the land from having to pay rollback taxes.

There are some questions and comments, however, that we have about this proposal.

- Owners of farmland which is farm assessed but leased to a farmer should not be encouraged by this program to terminate those leases to the farmer. With that in mind, it is unclear how the assessments under the proposed program may be viewed by non-farmer farmland owners. We would want to see little if any impact to the agricultural land base of the state.
- What documentation exists now for the assessed values of open space lands meeting the terms of this bill? Should this be researched further to better inform the decision-makers about the impacts of the program?
- There are a series of questions regarding the conveyance of the deed restriction that qualifies the landowner for the new property tax status. For example, what use rights are retained by the grantor – for recreation, forestry, hunting, public access, and so forth? What commercial non-development uses, if any, are retained by the landowner? For example, may a landowner earn fee income from resource-compatible uses like hunting and fishing?
- Regarding enforcement of the easement and maintenance of the property, will non-profit agencies receiving the easement bear responsibility for guaranteeing the terms of restriction? There is an important oversight role to be played here, which cash-strapped municipalities are unable now to bear.

Notwithstanding these questions and comments, we commend the sponsors for taking the initiative in establishing a hybrid concept that addresses some of the property tax equity issues we have now in the state regarding open space lands.

#
June 2, 2011

Re: SCR 107
Reduce Property Taxes for certain preserved Open Space

Dear Member of the Senate Environment and Energy Committee:

The League has reviewed SCR-107, which proposes a constitutional amendment providing for reduced property taxes for certain privately held lands permanently preserved for open space, and opposes the bill. SCR-107 would provide reduced property taxes for land that is at least 5 acres in area and able to be subdivided into more than one parcel and developed under existing zoning and land use laws.

Typically the League does not take a position on legislation regarding constitutional amendments as we strongly support the right of voters to decide the outcome. However, we are concerned that SCR-107 conflicts with the State Mandate State Pay constitutional amendment.

The Open Space program, a commendable program that preserves land for conservation, limits development which in turn limits ratables available to municipalities. The provisions of SCR-107 will further reduce revenue to municipalities and will place an additional burden on the already beleaguered property taxpayers.

We respectfully request that the State Mandate State Pay constitutional amendment be upheld and SCR-107 be amended to hold municipalities harmless.

We thank you for your consideration.

Very truly yours,

William G. Dressel, Jr.
Executive Director