



**Connecticut  
Petroleum Council**

A Division of API

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**Testimony of Steven Guveyan, Executive Director  
Connecticut Petroleum Council (Supporting HB-5082, Opposing SB-375)**

We support HB-5082 and oppose SB-375, both making changes to the Underground Storage Tank (UST) fund. As you know, the Connecticut Petroleum Council is an association of major oil companies, refiners, terminal operators and others doing business in Connecticut.

Change is needed because the Environmental Protection Agency (EPA) notified DEEP that the CT UST Fund has become chronically under-appropriated for, and that it will de-certify the fund if not properly financed by the conclusion of this legislative session. Originally, 1/3 of the money collected from the CT petroleum gross receipts tax financed the UST Fund, but that money has been reduced to essentially nothing as the funding has been diverted to pay for other programs.

We recommend the UST clean-up funding program continue---with changes---and be funded appropriately, as it is in so many other states. The CT petroleum gross receipts earnings tax is scheduled to go up yet again on July 1, 2013 to 8.1% of the wholesale price of gasoline, (assessed at 8.81% of the price), which translates to over 27 cents per gallon at current prices. The tax is separate and distinct from the 25-cents per gallon state excise tax. It's notable that simply the increase in the petroleum gross receipts tax scheduled for 7/1/13 (about 3 cents per gallon) would within two years pay for the entire UST fund backlog (roughly \$87 million)---no new additional funding needed! Currently, the gross receipts tax is 7% (assessed at 7.52%) of the wholesale price of gasoline.

**Recommendations:**

Keep the fund, but make changes in order to reduce costs to all parties and keep the fund sustainable. Upcoming changes in the DEEP clean-up rules (the so-called "transformation process") would make the program more user-friendly and expedite cleanups, thereby reducing UST clean-up costs. "Pre-approved" clean-up costs and approved "rate cards" are two ways clean-up costs can be reduced; we support both.

Use the upcoming petroleum gross receipts tax increase scheduled for 7/1/13 to continue paying UST fund claims, both existing claims (the so-called "backlog") and new claims. That tax money would keep the fund sustainable. At current prices, the increase translates to about 3 cents per gallon, and would raise approximately \$45 million annually. We recommend all \$45 million from the upcoming tax increase be appropriated to the UST Fund until all claims are paid in full, and paid promptly. This could be done via HB-5082, which we support.

The fund should be applicant-blind, and treat all companies equally. SB-375 clearly discriminates against large companies, especially in the cut-off date for applications (Sec. 6), the order of payment priority (Sec. 11), and the "reduced payment selection" (Sec. 11). The section stating that applicants who do not accept the reduced payment section (20 cents on the dollar) shall not be issued payment or reimbursement until July 1, 2028 should be deleted entirely (Sec. 11, line 1311). Companies owed money by the state should not be required to wait 16 years before being paid in full.

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The independent UST Board should not be eliminated; it should continue to approve claims already in queue. (e.g. applications submitted, but not yet approved). It is the only mechanism that exists to check the work product of DEEP. History has shown DEEP staff---despite good intentions---has incorrectly disapproved claims that rightfully should have been approved; those mistakes were ultimately corrected by the UST Board. The board is a self-autonomous group that works with, but not for, DEEP.

Under SB-375, more UST claims will go to court, since it is extremely unlikely that the DEEP staff in charge of appeals will overrule their boss---the DEEP Commissioner---who now will make the initial determination about which UST applications to pay, and how much should be paid. UST Fund applicants denied by the DEEP Commissioner should not be required to appeal those applications to DEEP staff. Under the current rules, applications are processed by DEEP and submitted to the UST Board which decides what to pay. Appeals from those decisions are made to DEEP staff, and appeals from those decisions go to court. That process has proven itself to work well, with few claims going to court.

If the fund can't be kept viable due to the state continuing to divert the money to other programs, we propose that the state undertake setting a sunset date for coverage of new releases while continuing to cover costs for existing releases as previously agreed to. We would support cost control measures be established (including pre-approval of work-scopes and costs) as well as a prioritization of funding based on site risk, similar to what North Carolina and Florida have done. This is a last-choice option.

Thank you for considering our testimony.