



## THE PETROLEUM RELEASE COMPENSATION AND TANK INSPECTION FEE

### Introduction

The state of South Dakota provides financial assistance to tank owners for cleaning up a petroleum spill or leak. During the 1998 Legislative Session, House Bill (HB) #1229 was enacted and made changes to the petroleum release compensation and tank inspection fee (tank inspection fee). This issue memorandum will give background information on the tank inspection fee, detail the statutory changes made by HB #1229, review tank inspection fee revenues and expenditures, and discuss the capital construction fund as it relates to the tank inspection fee.

### Background

The statutes for petroleum inspection and release compensation are found in chapter 34A-13 of the South Dakota Codified Laws (SDCL). The petroleum release compensation fund (PRCF) was established in 1988. The fund's purpose is to provide financial assistance to tank owners who clean up a petroleum spill or leak. The tank inspection fee provides the revenue for the fund. The tank inspection fee was initially established at a rate of ten dollars per one thousand gallons of petroleum products (one cent per gallon). At the time the tank inspection fee was established, all the revenue was dedicated to the PRCF.

In the early 1990s, claims for payment from the PRCF began to exceed revenues. The Department of Legislative Audit conducted a review of the PRCF in 1991 and projected that the PRCF would have a negative cash balance by the summer of 1993. During the 1993 Legislative Session, the tank inspection fee was increased to twenty dollars per one thousand gallons of petroleum products (two cents per gallon). However, the revenue was no longer dedicated solely to the PRCF. The newly created capital construction fund became a recipient of a portion of the tank inspection fee. (For additional information on the capital construction fund, see *Issue Memorandum 94-19, Capital Construction Fund*, August 3, 1994.) Finally, the amount of the tank inspection fee and the distribution of the revenue from the tank inspection fee were modified by HB #1229 during the 1998 Legislative Session. The following section of this issue memorandum will detail the changes that were made in 1998 by HB #1229.

### 1998 Statutory Changes

The amount of the tank inspection fee continues to be twenty dollars per one thousand gallons of petroleum until January 1, 2003, when the fee becomes ten dollars per one thousand gallons of petroleum.

The revenue from the tank inspection fee is distributed as follows:

	<b>FY1999</b>	<b>FY2000 to Dec. 31, 2002</b>	<b>Jan. 01, 2003</b>
Petroleum Release Compensation Fund	58.0%	50.0%	21.3%
Capital Construction Fund	42.0%	50.0%	78.7%

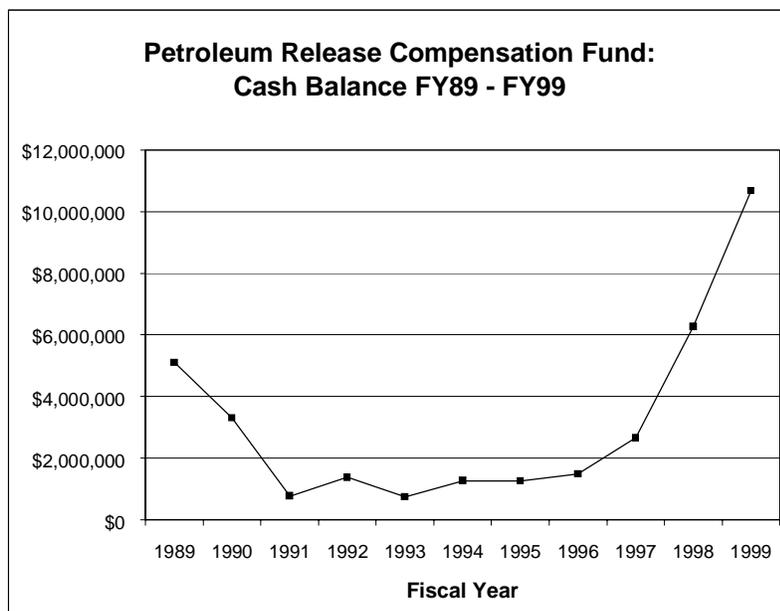
House Bill #1229 repealed the provision that limited the tank inspection fee revenue deposited in the capital construction fund. Prior to this, the capital construction fund could receive a maximum of \$5,900,000 from the tank inspection fee. House Bill 1229 also revised the distribution of funds from the capital construction fund. These changes are detailed in the capital construction fund section of this issue memorandum.

### Revenue and Expenditure

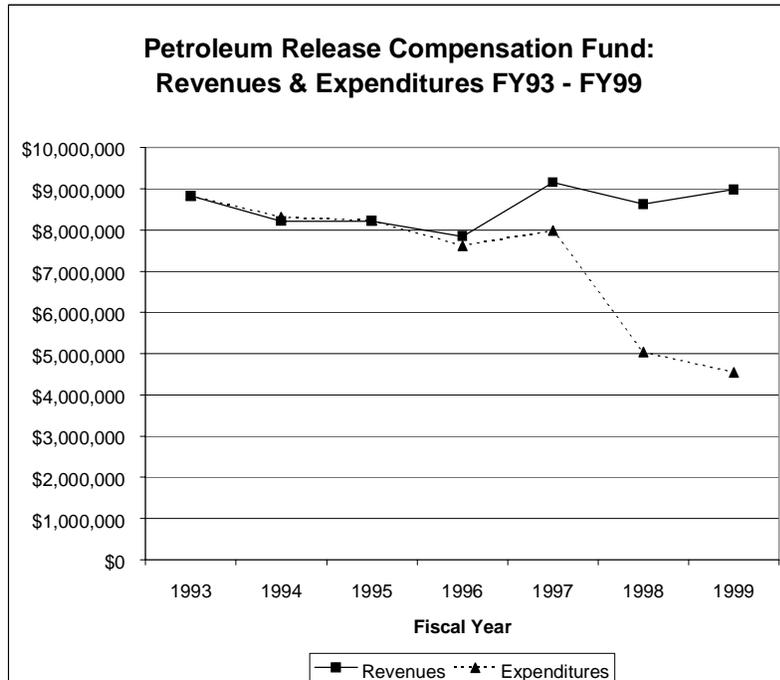
The current tank inspection fee of twenty dollars per one thousand gallons of petroleum products (two cents per gallon) generates approximately \$15,000,000 annually. During FY2000, the PRCF and the capital construction fund will each receive fifty percent of the total revenue (approximately \$7,500,000 each). This distribution will continue until January 1, 2003.

Graph 1 shows the cash balance in the PRCF at the end of each fiscal year for FY1989 to FY1999, and Graph 2 shows the PRCF revenues and expenditures for FY1993 to FY1999.

#### Graph 1.



**Graph 2.**



**Capital Construction Fund**

The statutes for the capital construction fund are found in chapter 5-27 of the SDCL. The two revenue sources for the capital construction fund are the portion of the tank inspection fee described earlier and the net proceeds from the sale of on-line lottery tickets, after the first \$1,400,000 is deposited in the general fund. The projected revenue for FY2000 is approximately \$9,000,000 (\$7,500,000 from the tank inspection fee and \$1,500,000 from the on-line lottery).

The capital construction fund revenue is transferred to the water and environment fund, the ethanol fuel fund, and the public and special transportation fund. The formula for distributing the capital construction fund revenue is as follows:

Fund and SDCL Citation	FY1999	FY2000 to Dec. 31, 2002	Jan. 01, 2003
Water & Environment Fund (§46A-1-60)	72.2%	63.25%	71.8%
Ethanol Fuel fund (§10-47B-162 & 164)	24.2%	33.25%	25.6%
Public & Special Transportation Fund (§1-44-7.2)	3.6%	3.50%	2.6%

**Revenue and Expenditure Projections**

The following table displays the estimated tank inspection fee revenue deposited in the PRCF and the capital construction fund. The assumptions used in estimating revenue

were (1) the tank inspection fee of twenty dollars per one thousand gallons of petroleum generates approximately \$15,000,000 (2) the tank inspection fee of ten dollars per one thousand gallons of petroleum products generates approximately \$7,500,000.

<b>Fiscal Year</b>	<b>Petroleum Release Compensation Fund</b>	<b>Capital Construction Fund</b>
2000 – 2002	\$7,500,000	\$7,500,000
2003	\$4,500,000	\$6,700,000
2004	\$1,600,000	\$5,900,000

Fiscal year expenditures from the PRCF had been around \$8,000,000, until FY1998 and FY1999 when they were \$5,000,000 and \$4,500,000, respectively. The lower expenditures in FY1998 and FY1999 may be reflective of the November 22, 1998, deadline for all regulated underground storage tanks to be in compliance with state and federal regulations for corrosion protection and leak detection.

It is difficult to forecast future expenditures because of the uncertain number of unreported petroleum spills or leaks; however, the balance in the PRCF should remain stable from FY2000 through FY2003 based on the following assumptions: (1) future expenditures are not expected to exceed the historical \$8,000,000 amount; and (2) future revenues are approximately \$7,500,000. The cash balance in the fund may continue to increase if revenues are \$7,500,000 and expenditures continue to decline or remain around \$5,000,000 as they have the past two fiscal years.

### **Summary**

The tank inspection fee revenue deposited in the PRCF has exceeded expenditures from the PRCF the last few years. The result has been an increase in the cash balance for the PRCF. The cash balance in the PRCF should remain stable or continue to increase for the next few years.

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**This issue memorandum was written by David Becker, Fiscal Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.**

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