

1 **WASTE TAX AND FEE AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David Ure**

5 **This act modifies the Environmental Quality Code and the Revenue and Taxation Code**
6 **to increase fees on radioactive waste and hazardous waste, modify taxes paid by**
7 **radioactive waste facilities, and impose taxes on hazardous waste facilities and**
8 **nonhazardous solid waste facilities. This act increases a regulatory fee on radioactive**
9 **waste received at a radioactive waste facility and increases a regulatory fee on hazardous**
10 **waste received at a hazardous waste facility for treatment and disposal. This act**
11 **eliminates a tax imposed on radioactive waste and imposes a tax on radioactive waste**
12 **facilities. This act imposes a tax on hazardous waste facilities and nonhazardous solid**
13 **waste facilities based on gross receipts derived from the treatment, storage, or disposal of**
14 **hazardous waste and nonhazardous solid waste.**

15 This act affects sections of Utah Code Annotated 1953 as follows:

16 AMENDS:

17 **19-3-106**, as last amended by Chapter 314, Laws of Utah 2001

18 **19-6-118**, as last amended by Chapter 380, Laws of Utah 1997

19 **59-24-101**, as enacted by Chapter 314, Laws of Utah 2001

20 **59-24-103**, as enacted by Chapter 314, Laws of Utah 2001

21 **59-24-105**, as enacted by Chapter 314, Laws of Utah 2001

22 ENACTS:

23 **59-24-103.5**, Utah Code Annotated 1953

24 **59-25-101**, Utah Code Annotated 1953

25 **59-25-102**, Utah Code Annotated 1953

26 **59-25-103**, Utah Code Annotated 1953

27 **59-25-104**, Utah Code Annotated 1953



- 28 **59-25-105**, Utah Code Annotated 1953
- 29 **59-25-106**, Utah Code Annotated 1953
- 30 **59-25-107**, Utah Code Annotated 1953
- 31 **59-25-108**, Utah Code Annotated 1953
- 32 **59-25-109**, Utah Code Annotated 1953

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **19-3-106** is amended to read:

35 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

36 (1) (a) An owner or operator of a commercial radioactive waste treatment or disposal
37 facility that receives radioactive waste shall collect a fee from the generator of the waste as
38 provided in Subsection (1)(b).

39 (b) (i) On and after July 1, 1994 through June 30, 2001, the fee is \$2.50 per ton, or
40 fraction of a ton, of radioactive waste, other than byproduct material, received at the facility for
41 disposal or treatment.

42 (ii) On and after July 1, 2001 through June 30, 2003, the fee is equal to the sum of the
43 following amounts:

44 (A) 10 cents per cubic foot, or fraction of a cubic foot, of radioactive waste, other than
45 byproduct material, received at the facility for disposal or treatment; and

46 (B) \$1 per curie, or fraction of a curie, of radioactive waste, other than byproduct
47 material, received at the facility for disposal or treatment.

48 (iii) On and after July 1, 2003, the fee is equal to the sum of the following amounts:

49 (A) 15 cents per cubic foot, or fraction of a cubic foot, of radioactive waste, other than
50 byproduct material, received at the facility for disposal or treatment; and

51 (B) \$1 per curie, or fraction of a curie, of radioactive waste, other than byproduct
52 material, received at the facility for disposal or treatment.

53 (2) (a) The owner or operator shall remit the fees imposed under this section to the
54 department on or before the 15th day of the month following the month in which the fee
55 accrued.

56 (b) The department shall deposit all fees received under this section into the
57 Environmental Quality Restricted Account created in Section 19-1-108.

58 (c) The owner or operator shall submit to the department with the payment of the fee

59 under this Subsection (2) a completed form as prescribed by the department that provides
60 information the department requires to verify the amount of waste received and the fee amount
61 for which the owner or operator is liable.

62 (3) The Legislature shall appropriate to the department funds to cover the cost of
63 radioactive waste disposal supervision.

64 Section 2. Section **19-6-118** is amended to read:

65 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

66 (1) (a) An owner or operator of any commercial hazardous waste or mixed waste
67 disposal or treatment facility that primarily receives hazardous or mixed wastes generated by
68 off-site sources not owned, controlled, or operated by the facility or site owner or operator, and
69 that is subject to the requirements of Section 19-6-108, shall collect the fee under Subsection
70 (2) from the generator.

71 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or
72 industrial furnace that receives for burning hazardous waste generated by off-site sources not
73 owned, controlled, or operated by the owner or operator is subject to the fee under Subsection
74 (2).

75 (2) (a) The owner or operator of each facility under Subsection (1) shall collect from
76 the generators of hazardous waste and mixed waste a fee of \$28 per ton or fraction of a ton on
77 all hazardous waste and mixed waste received at the facility or site for disposal, treatment, or
78 both.

79 (b) When hazardous waste or mixed waste is received at a facility for treatment or
80 disposal and the fee required under this subsection is paid for that treatment or disposal, any
81 subsequent treatment or disposal of the waste is not subject to additional fees under this
82 Subsection (2).

83 (c) (i) [~~Hazardous~~] On and after July 1, 1997 through June 30, 2003, hazardous waste
84 received at a land disposal facility is subject to a fee of \$14 per ton or fraction of a ton, rather
85 than the \$28 fee under Subsection (2)(a), if the waste is treated so that it:

86 [(i)] (A) meets the state treatment standards required for land disposal at the facility; or

87 [(ii)] (B) is no longer a hazardous waste at the time of disposal at that facility.

88 (ii) On and after July 1, 2003, hazardous waste received at a land disposal facility for
89 treatment and disposal is subject to the \$28 fee imposed under Subsection (2)(a).

90 (d) (i) The department shall allocate at least 10% of the fees received from a facility
91 under this section to the county in which the facility is located.

92 (ii) The county may use fees allocated under Subsection (2)(c) to carry out its
93 hazardous waste monitoring and response programs.

94 (e) The department shall deposit the state portion of the fees received under this section
95 into the restricted account created in Section 19-1-108.

96 (3) (a) The owner or operator shall pay the fees imposed under Subsection (1) to the
97 department on or before the 15th day of the month following the month in which the fee
98 accrued.

99 (b) With the monthly fee, the owner or operator shall submit a completed form, as
100 prescribed by the department, specifying information required by the department to verify the
101 amount of waste received and the fee amount for which the owner or operator is liable.

102 (4) The department shall oversee and monitor hazardous waste treatment, disposal, and
103 incineration facilities, including federal government facilities located within the state. The
104 department may determine facility oversight priorities.

105 (5) (a) The department, in preparing its budget for the governor and the Legislature,
106 shall separately indicate the amount necessary to administer the hazardous waste program
107 established by this part.

108 (b) The Legislature shall appropriate the costs of administering this program.

109 (6) The Office of Legislative Fiscal Analyst shall monitor the fees collected under this
110 part.

111 Section 3. Section **59-24-101** is amended to read:

112 **59-24-101. Title.**

113 This chapter is known as the "Radioactive Waste Facility Tax Act."

114 Section 4. Section **59-24-103** is amended to read:

115 **59-24-103. Tax imposed on radioactive waste.**

116 (1) Beginning on April 1, 2001 through June 30, 2003, there is imposed a tax on
117 radioactive waste received at a radioactive waste facility, as provided in this chapter.

118 (2) The tax is equal to the sum of the following amounts:

119 (a) 12% of the gross receipts received from the disposal of containerized class A waste;

120 (b) 10% of the gross receipts received from the disposal of processed class A waste;

121 (c) 5% of the gross receipts received from the disposal of uncontainerized, unprocessed
122 class A waste;

123 (d) 10 cents per cubic foot of alternate feed material received at a radioactive waste
124 facility for disposal or reprocessing; and

125 (e) 10 cents per cubic foot of byproduct material received at a radioactive waste facility
126 for disposal.

127 (3) For purposes of the tax imposed by this section, a fraction of a cubic foot is
128 considered to be a full cubic foot.

129 (4) The tax imposed by this section applies to:

130 (a) gross receipts received:

131 (i) pursuant to a contract entered into on or after April 30, 2001;

132 (ii) pursuant to a contract substantially modified on or after April 30, 2001;

133 (iii) pursuant to a contract renewed or extended on or after April 30, 2001;

134 (iv) not pursuant to a contract; or

135 (v) for the disposal of containerized class A waste; and

136 (b) alternate feed material or byproduct material received:

137 (i) pursuant to a contract entered into on or after April 30, 2001;

138 (ii) pursuant to a contract substantially modified on or after April 30, 2001;

139 (iii) pursuant to a contract renewed or extended on or after April 30, 2001; or

140 (iv) not pursuant to a contract.

141 (5) The tax imposed by this section does not apply to radioactive waste containing
142 material classified as hazardous waste under 40 C.F.R. Part 261.

143 Section 5. Section **59-24-103.5** is enacted to read:

144 **59-24-103.5. Radioactive waste facility tax.**

145 (1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, as
146 provided in this chapter.

147 (2) The tax is equal to the sum of the following amounts:

148 (a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of
149 containerized class A waste;

150 (b) 10% of the gross receipts of a radioactive waste facility derived from the disposal
151 of processed class A waste;

152 (c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
153 uncontainerized, unprocessed class A waste;

154 (d) 10 cents per cubic foot of alternate feed material received at a radioactive waste
155 facility for disposal or reprocessing; and

156 (e) 10 cents per cubic foot of byproduct material received at a radioactive waste facility
157 for disposal.

158 (3) For purposes of the tax imposed by this section, a fraction of a cubic foot is
159 considered to be a full cubic foot.

160 (4) The tax imposed by this section does not apply to radioactive waste containing
161 material classified as hazardous waste under 40 C.F.R. Part 261.

162 Section 6. Section **59-24-105** is amended to read:

163 **59-24-105. Deposit of tax revenue.**

164 The commission shall deposit the tax revenue collected under this chapter into the
165 [~~General~~] Uniform School Fund.

166 Section 7. Section **59-25-101** is enacted to read:

167 **CHAPTER 25. HAZARDOUS WASTE FACILITY AND NONHAZARDOUS**
168 **SOLID WASTE FACILITY TAX ACT**

169 **59-25-101. Title.**

170 This chapter is known as the "Hazardous Waste Facility and Nonhazardous Solid Waste
171 Facility Tax Act."

172 Section 8. Section **59-25-102** is enacted to read:

173 **59-25-102. Definitions.**

174 As used in this chapter:

175 (1) "Construction waste or demolition waste" is as defined in Section 19-6-102.

176 (2) "Disposal" is as defined in Section 19-6-102.

177 (3) "Hazardous waste" is as defined in Section 19-6-102.

178 (4) "Hazardous waste facility" means a hazardous waste treatment, disposal, and
179 storage facility, as defined in Section 19-6-202, that receives, for profit, hazardous waste for
180 treatment, disposal, or storage.

181 (5) "Household waste" is as defined in Section 19-6-102.

182 (6) "Nonhazardous solid waste" is solid waste, as defined in Section 19-6-102, except

183 that it does not include:

184 (a) hazardous waste;

185 (b) nonhazardous commercial solid waste;

186 (c) nonhazardous sludge;

187 (d) household waste; or

188 (e) construction waste or demolition waste.

189 (7) "Nonhazardous solid waste facility" means a commercial nonhazardous solid waste
190 treatment, storage, or disposal facility as defined in Section 19-6-102.

191 (8) "Solid waste" is as defined in Section 19-6-102.

192 (9) "Storage," as applied to solid waste, is as defined in Section 19-6-102 and, as
193 applied to hazardous waste, is as defined in Section 19-6-202.

194 (10) "Treatment" is as defined in Section 19-6-102.

195 Section 9. Section **59-25-103** is enacted to read:

196 **59-25-103. Hazardous waste facility and nonhazardous solid waste facility tax.**

197 (1) On and after July 1, 2003, there is imposed a tax on a hazardous waste facility and a
198 nonhazardous solid waste facility as provided in this chapter.

199 (2) The tax is equal to the sum of the following amounts:

200 (a) 3% of the gross receipts of a hazardous waste facility derived from the treatment,
201 disposal, or storage of hazardous waste; and

202 (b) 3% of the gross receipts of a hazardous waste facility or nonhazardous solid waste
203 facility derived from the treatment, disposal, or storage of nonhazardous solid waste.

204 (3) If hazardous waste or nonhazardous solid waste is received at a hazardous waste
205 facility or nonhazardous solid waste is received at a nonhazardous solid waste facility and the
206 tax imposed by this chapter is paid for the treatment or storage of the waste, any subsequent
207 treatment or disposal of the waste is not subject to additional taxes under this chapter.

208 Section 10. Section **59-25-104** is enacted to read:

209 **59-25-104. Payment of tax.**

210 (1) The tax imposed by Section 59-25-103 shall be paid by the owner or operator of the
211 hazardous waste facility or nonhazardous solid waste facility that receives the hazardous waste
212 or nonhazardous solid waste for treatment, disposal, or storage.

213 (2) The payment shall be accompanied by the form prescribed by the commission.

214 (3) The payment shall be paid quarterly on or before the last day of the month next
215 succeeding each calendar quarterly period.

216 Section 11. Section **59-25-105** is enacted to read:

217 **59-25-105. Deposit of tax revenue.**

218 The commission shall deposit the tax revenue collected under this chapter into the
219 Uniform School Fund.

220 Section 12. Section **59-25-106** is enacted to read:

221 **59-25-106. Records.**

222 (1) An owner or operator of a hazardous waste facility or nonhazardous solid waste
223 facility shall maintain records, statements, books, or accounts necessary to determine the
224 amount of tax for which the owner or operator is liable under this chapter.

225 (2) The commission may require an owner or operator of a hazardous waste facility or
226 nonhazardous solid waste facility, by notice served upon the person, or by rule, to make or keep
227 the records, statements, books, or accounts the commission considers sufficient to show the
228 amount of tax for which the owner or operator is liable under this chapter.

229 (3) After notice by the commission, the owner or operator of a hazardous waste facility
230 or nonhazardous solid waste facility shall open the records, statements, books, or accounts
231 specified in Subsection (2) for examination by the commission or its duly authorized agent.

232 Section 13. Section **59-25-107** is enacted to read:

233 **59-25-107. Action for collection of tax -- Action for refund or credit of tax.**

234 (1) Except as provided in Subsections (2) through (5):

235 (a) the commission shall assess a tax under this chapter within three years after a
236 taxpayer files a return; and

237 (b) if the commission does not assess a tax under this chapter within the three-year
238 period provided in Subsection (1)(a), the commission may not commence a proceeding to
239 collect the tax.

240 (2) The commission may assess a tax at any time if a taxpayer:

241 (a) files a false or fraudulent return with intent to evade; or

242 (b) does not file a return.

243 (3) The commission may extend the period to make an assessment or to commence a
244 proceeding to collect the tax under this chapter if:

245 (a) the three-year period under Subsection (1) has not expired; and
246 (b) the commission and the taxpayer sign a written agreement:
247 (i) authorizing the extension; and
248 (ii) providing for the length of the extension.
249 (4) If the commission delays an audit at the request of a taxpayer, the commission may
250 make an assessment as provided in Subsection (5) if:
251 (a) the taxpayer subsequently refuses to agree to an extension request by the
252 commission; and
253 (b) the three-year period under Subsection (1) expires before the commission
254 completes the audit.
255 (5) An assessment under Subsection (4) shall be:
256 (a) for the time period for which the commission could not make an assessment
257 because of the expiration of the three-year period; and
258 (b) in an amount equal to the difference between:
259 (i) the commission's estimate of the amount of tax the taxpayer would have been
260 assessed for the time period described in Subsection (5)(a); and
261 (ii) the amount of tax the taxpayer actually paid for the time period described in
262 Subsection (5)(a).
263 (6) (a) Except as provided in Subsection (6)(b), the commission may not make a credit
264 or refund unless the taxpayer files a claim with the commission within three years of the date of
265 overpayment.
266 (b) The commission shall extend the period for a taxpayer to file a claim under
267 Subsection (6)(a) if:
268 (i) the three-year period under Subsection (6)(a) has not expired; and
269 (ii) the commission and the taxpayer sign a written agreement:
270 (A) authorizing the extension; and
271 (B) providing for the length of the extension.
272 Section 14. Section **59-25-108** is enacted to read:
273 **59-25-108. Rulemaking authority.**
274 The commission may make rules under Title 63, Chapter 46a, Utah Administrative
275 Rulemaking Act, to implement and enforce this chapter.

276 Section 15. Section **59-25-109** is enacted to read:

277 **59-25-109. Penalties and interest.**

278 An owner or operator of a hazardous waste facility or nonhazardous solid waste facility
279 who fails to comply with this chapter is subject to penalties and interest as provided in Sections
280 59-1-401 and 59-1-402.

Legislative Review Note

as of 2-21-03 9:56 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Regulatory fees provided in the bill are estimated to collect \$553,000 in FY 2004 and will be deposited into the General Fund Restricted Environmental Quality Account. The act imposes a tax on hazardous waste facilities and nonhazardous solid waste facilities based on gross receipts derived and is estimated to generate \$911,500 in FY 2004. The act eliminates a tax imposed on radioactive waste and imposes a tax on radioactive waste facilities and is estimated to generate \$4,361,400 in FY 2004. The taxes imposed are to be deposited into the Uniform School Fund.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Uniform School Fund	\$0	\$0	\$5,272,900	\$5,272,900
Restricted Funds	\$0	\$0	\$553,000	\$553,000
TOTAL	\$0	\$0	\$5,825,900	\$5,825,900

Individual and Business Impact

Fees will be paid by the owners or operators of the waste disposal facilities. Taxes will be imposed on generators of the wastes.
