

1 **WASTE AMENDMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Curtis S. Bramble**

5

LONG TITLE

6 **General Description:**

7
8 This bill modifies the Environmental Quality Code and the Radioactive Waste Tax Act
9 to amend provisions relating to waste.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires the Solid and Hazardous Waste Control Board to review and report to the
13 Legislature every five years:

14 • the adequacy of the amount of financial assurance required for closure and
15 postclosure care of a commercial hazardous waste treatment, storage, or
16 disposal facility;

17 • whether funds or financial assurance are necessary for perpetual care and
18 maintenance of a commercial hazardous waste treatment, storage, or disposal
19 facility and the adequacy of those funds or financial assurance, if found
20 necessary; and

21 • the adequacy of any funds or financial assurance required to cover certain costs;
22 ▶ expands the scope of the Radiation Control Board's review of the Radioactive
23 Waste Perpetual Care and Maintenance Fund to include:

24 • a review of the adequacy of the fund to cover certain costs; and
25 • a review of the amount of financial assurance required for closure and
26 postclosure of a commercial radioactive waste treatment or disposal facility;

27 ▶ increases the penalty amount per day for violating a provision of the Solid and



28 Hazardous Waste Act;

29 ▶ provides that the owner or operator of certain waste facilities, rather than the
30 generator, is liable for certain fees;

31 ▶ clarifies that fees for certain waste shall be determined by multiplying the fee
32 amount by the waste volume or curie calculated to the first decimal place;

33 ▶ clarifies that certain wastes are subject to only one fee if multiple fees apply;

34 ▶ requires the owner or operator of a facility receiving waste containing PCBs to
35 submit a form with the disposal fees and requires the Department of Environmental

36 Quality to make rules specifying the information required in the form;

37 ▶ imposes gross receipts taxes on mixed waste disposal received from certain
38 governmental entity or agent contracts; and

39 ▶ makes technical changes.

40 **Monies Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **19-3-106**, as last amended by Chapter 295, Laws of Utah 2003

47 **19-3-106.2**, as enacted by Chapter 314, Laws of Utah 2001

48 **19-6-113**, as last amended by Chapter 198, Laws of Utah 1996

49 **19-6-118**, as last amended by Chapter 311, Laws of Utah 2004

50 **19-6-118.5**, as enacted by Chapter 200, Laws of Utah 1993

51 **19-6-119**, as last amended by Chapter 311, Laws of Utah 2003

52 **59-24-103.5**, as last amended by Chapter 334, Laws of Utah 2004

53 ENACTS:

54 **19-1-307**, Utah Code Annotated 1953

55 **19-6-117.5**, Utah Code Annotated 1953



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

58 Section 1. Section **19-1-307** is enacted to read:

59 **19-1-307. Evaluation of closure, postclosure, and perpetual care and maintenance**
60 **for hazardous waste and radioactive waste treatment and disposal facilities -- Report.**

61 (1) (a) Beginning in 2006, the Solid and Hazardous Waste Control Board created in
62 Section 19-1-106 shall direct an evaluation every five years of:

63 (i) the adequacy of the amount of financial assurance required for closure and
64 postclosure care under 40 C.F.R. subpart H, Sections 264.140 through 264.151 submitted
65 pursuant to a hazardous waste operation plan for a commercial hazardous waste treatment,
66 storage, or disposal facility under Section 19-6-108; and

67 (ii) the adequacy of the amount of financial assurance or funds required for perpetual
68 care and maintenance following the closure and postclosure period of a commercial hazardous
69 waste treatment, storage, or disposal facility, if found necessary following the evaluation under
70 Subsection (1)(c).

71 (b) The evaluation shall determine:

72 (i) whether the amount of financial assurance required is adequate for closure and
73 postclosure care of hazardous waste treatment, storage, or disposal facilities;

74 (ii) whether the amount of financial assurance or funds required is adequate for
75 perpetual care and maintenance following the closure and postclosure period of a commercial
76 hazardous waste treatment, storage, or disposal facility, if found necessary following the
77 evaluation under Subsection (1)(c); and

78 (iii) the costs above the minimal maintenance and monitoring for reasonable risks that
79 may occur during closure, postclosure, and perpetual care and maintenance of commercial
80 hazardous waste treatment, storage, or disposal facilities including:

81 (A) groundwater corrective action;

82 (B) differential settlement failure; or

83 (C) major maintenance of a cell or cells.

84 (c) The Solid and Hazardous Waste Control Board shall evaluate in 2006 whether
85 financial assurance or funds are necessary for perpetual care and maintenance following the
86 closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal
87 facility to protect human health and the environment.

88 (2) (a) Beginning in 2006, the Radiation Control Board created in Section 19-1-106
89 shall direct an evaluation every five years of:

90 (i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance Fund; and
91 (ii) the adequacy of the amount of financial assurance required for closure and
92 postclosure care of commercial radioactive waste treatment or disposal facilities under
93 Subsection 19-3-104(12).

94 (b) The evaluation shall determine:

95 (i) whether the fund is adequate to provide for perpetual care and maintenance of
96 commercial radioactive waste treatment or disposal facilities;

97 (ii) whether the amount of financial assurance required is adequate to provide for
98 closure and postclosure care of commercial radioactive waste treatment or disposal facilities;

99 (iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste
100 Perpetual Care and Maintenance Fund during the period before the end of 100 years following
101 final closure of the facility for maintenance, monitoring, or corrective action in the event that
102 the owner or operator is unwilling or unable to carry out the duties of postclosure maintenance,
103 monitoring, or corrective action; and

104 (iv) the costs above the minimal maintenance and monitoring for reasonable risks that
105 may occur during closure, postclosure, and perpetual care and maintenance of commercial
106 radioactive waste treatment or disposal facilities including:

107 (A) groundwater corrective action;

108 (B) differential settlement failure; or

109 (C) major maintenance of a cell or cells.

110 (3) The boards under Subsections (1) and (2) shall submit a joint report on the
111 evaluations to the Legislative Management Committee on or before October 1 of the year in
112 which the report is due.

113 Section 2. Section **19-3-106** is amended to read:

114 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

115 (1) (a) An owner or operator of a commercial radioactive waste treatment or disposal
116 facility that receives radioactive waste shall ~~collect~~ pay a fee ~~[from the generator of the waste]~~
117 as provided in Subsection (1)(b).

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

121 ~~[(ii) On and after July 1, 2001 through June 30, 2003, the fee is equal to the sum of the~~
122 ~~following amounts:]~~

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

125 ~~[(B) \$1 per curie, or fraction of a curie, of radioactive waste, other than byproduct~~
126 ~~material, received at the facility for disposal or treatment.]~~

127 ~~[(iii)]~~ (b) (i) On and after July 1, 2003 through June 30, 2005, the fee is equal to the
128 sum of the following amounts:

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

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

133 (ii) On and after July 1, 2005, the fee is equal to the sum of the following amounts:

134 (A) 15 cents per cubic foot of radioactive waste, other than 11e.(2) byproduct material,
135 received at the facility for disposal or treatment; and

136 (B) \$1 per curie of radioactive waste, other than 11e.(2) byproduct material, received at
137 the facility for disposal or treatment.

138 (2) (a) The portion of the fee required under Subsection (1)(b)(ii)(A) shall be
139 calculated by multiplying the total cubic feet of waste, computed to the first decimal place,
140 received during the calendar month by 15 cents.

141 (b) The portion of the fee required in Subsection (1)(b)(ii)(B) shall be calculated by
142 multiplying the total curies of waste, computed to the first decimal place, received during the
143 calendar month by \$1.

144 ~~[(2)]~~ (3) (a) The owner or operator shall remit the fees imposed under this section to
145 the department on or before the 15th day of the month following the month in which the fee
146 accrued.

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

149 (c) The owner or operator shall submit to the department with the payment of the fee
150 under this Subsection ~~[(2)]~~ (3) a completed form as prescribed by the department that provides
151 information the department requires to verify the amount of waste received and the fee amount

152 for which the owner or operator is liable.

153 ~~[(3)]~~ (4) The Legislature shall appropriate to the department funds to cover the cost of
154 radioactive waste disposal supervision.

155 (5) Radioactive waste that is subject to a fee under this section is not subject to a fee
156 under Section 19-6-119.

157 Section 3. Section **19-3-106.2** is amended to read:

158 **19-3-106.2. Fee for perpetual care and maintenance of commercial radioactive**
159 **waste disposal facilities -- Radioactive Waste Perpetual Care and Maintenance Fund**
160 **created -- Contents -- Use of fund monies -- Evaluation.**

161 (1) As used in this section, "perpetual care and maintenance" means perpetual care and
162 maintenance of a commercial radioactive waste treatment or disposal facility, excluding sites
163 within the facility used for the disposal of byproduct material, as required by applicable laws,
164 rules, and license requirements beginning 100 years after the date of final closure of the
165 facility.

166 (2) (a) On and after July 1, 2002, the owner or operator of an active commercial
167 radioactive waste treatment or disposal facility shall pay an annual fee of \$400,000 to provide
168 for the perpetual care and maintenance of the facility.

169 (b) The owner or operator shall remit the fee to the department on or before July 1.

170 (3) The department shall deposit fees received under Subsection (2) into the
171 Radioactive Waste Perpetual Care and Maintenance Fund created in Subsection (4).

172 (4) (a) There is created the Radioactive Waste Perpetual Care and Maintenance Fund to
173 finance perpetual care and maintenance of commercial radioactive waste treatment or disposal
174 facilities, excluding sites within those facilities used for the disposal of byproduct material.

175 (b) The sources of revenue for the fund are:

176 (i) the fee imposed under this section; and

177 (ii) investment income derived from money in the fund.

178 (c) (i) The revenues for the fund shall be segregated into subaccounts for each
179 commercial radioactive waste treatment or disposal facility covered by the fund.

180 (ii) Each subaccount shall contain:

181 (A) the fees paid by each owner or operator of a commercial radioactive waste
182 treatment or disposal facility; and

183 (B) the associated investment income.

184 (5) The Legislature may appropriate money from the Radioactive Waste Perpetual Care
185 and Maintenance Fund for:

186 (a) perpetual care and maintenance of a commercial radioactive waste treatment or
187 disposal facility, excluding sites within the facility used for the disposal of byproduct material,
188 beginning 100 years after the date of final closure of the facility; or

189 (b) maintenance or monitoring of, or implementing corrective action at, a commercial
190 radioactive waste treatment or disposal facility, excluding sites within the facility used for the
191 disposal of byproduct material, before the end of 100 years after the date of final closure of the
192 facility, if:

193 (i) the owner or operator is unwilling or unable to carry out postclosure maintenance,
194 monitoring, or corrective action; and

195 (ii) the financial surety arrangements made by the owner or operator, including any
196 required under applicable law, are insufficient to cover the costs of postclosure maintenance,
197 monitoring, or corrective action.

198 (6) The money appropriated from the Radioactive Waste Perpetual Care and
199 Maintenance Fund for the purposes specified in Subsection (5)(a) or (5)(b) at a particular
200 commercial radioactive waste treatment or disposal facility may be appropriated only from the
201 subaccount established under Subsection (4)(c) for the facility.

202 (7) The attorney general shall bring legal action against the owner or operator or take
203 other steps to secure the recovery or reimbursement of the costs of maintenance, monitoring, or
204 corrective action, including legal costs, incurred pursuant to Subsection (5)(b).

205 (8) ~~[(a)]~~ The board shall direct an evaluation of the adequacy of the ~~[Radioactive Waste~~
206 ~~Perpetual Care and Maintenance Fund every five years, beginning in 2006. The evaluation~~
207 ~~shall determine whether the fund is adequate to provide for perpetual care and maintenance of~~
208 ~~commercial radioactive waste treatment or disposal facilities] fund as required under Section~~
209 19-1-307.

210 ~~[(b) The board shall submit a report on the evaluation to the Legislative Management~~
211 ~~Committee on or before October 1 of the year in which the report is due.]~~

212 (9) This section does not apply to a uranium mill licensed under 10 C.F.R. Part 40,
213 Domestic Licensing of Source Material.

214 Section 4. Section **19-6-113** is amended to read:

215 **19-6-113. Violations -- Penalties -- Reimbursement for expenses.**

216 (1) As used in this section, "RCRA" means the Resource Conservation and Recovery
217 Act, 42 U.S.C. Section 6901, et seq.

218 (2) Any person who violates any order, plan, rule, or other requirement issued or
219 adopted under this part is subject in a civil proceeding to a penalty of not more than [~~\$10,000~~
220 \$13,000] per day for each day of violation.

221 (3) On or after July 1, 1990, no person shall knowingly:

222 (a) transport or cause to be transported any hazardous waste identified or listed under
223 this part to a facility that does not have a hazardous waste operation plan or permit under this
224 part or RCRA;

225 (b) treat, store, or dispose of any hazardous waste identified or listed under this part:

226 (i) without having obtained a hazardous waste operation plan or permit as required by
227 this part or RCRA;

228 (ii) in knowing violation of any material condition or requirement of a hazardous waste
229 operation plan or permit; or

230 (iii) in knowing violation of any material condition or requirement of any rules or
231 regulations under this part or RCRA;

232 (c) omit material information or make any false material statement or representation in
233 any application, label, manifest, record, report, permit, operation plan, or other document filed,
234 maintained, or used for purposes of compliance with this part or RCRA or any rules or
235 regulations made under this part or RCRA; and

236 (d) transport or cause to be transported without a manifest, any hazardous waste
237 identified or listed under this part and required by rules or regulations made under this part or
238 RCRA to be accompanied by a manifest.

239 (4) (a) (i) Any person who knowingly violates any provision of Subsection (3)(a) or (b)
240 is guilty of a felony.

241 (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of
242 a felony under Subsection (3)(a) or (b) is subject to a fine of not more than \$50,000 for each
243 day of violation, or imprisonment for a term not to exceed five years, or both.

244 (iii) If a person is convicted of a second or subsequent violation under Subsection

245 (3)(a) or (b), the maximum punishment is double both the fine and the term of imprisonment
246 authorized in Subsection (4)(a)(ii).

247 (b) (i) Any person who knowingly violates any of the provisions of Subsection (3)(c) or
248 (d) is guilty of a felony.

249 (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of
250 a felony for a violation of Subsection (3)(c) or (d) is subject to a fine of not more than \$50,000
251 for each day of violation, or imprisonment for a term not to exceed two years, or both.

252 (iii) If a person is convicted of a second or subsequent violation under Subsection
253 (3)(c) or (d), the maximum punishment is double both the fine and the imprisonment
254 authorized in Subsection (4)(b)(ii).

255 (c) (i) Any person who knowingly transports, treats, stores, or disposes of any
256 hazardous waste identified or listed under this part in violation of Subsection (3)(a), (b), (c), or
257 (d), who knows at that time that he thereby places another person in imminent danger of death
258 or serious bodily injury is guilty of a felony.

259 (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of
260 a felony described in Subsection (4)(c)(i) is subject to a fine of not more than \$250,000 or
261 imprisonment for a term not to exceed 15 years, or both.

262 (iii) A corporation, association, partnership, or governmental instrumentality, upon
263 conviction of violating Subsection (4)(c)(i), is subject to a fine of not more than \$1,000,000.

264 (5) (a) Except as provided in Subsections (5)(b) and (c) and Section 19-6-722, all
265 penalties assessed and collected under authority of this section shall be deposited in the
266 General Fund.

267 (b) The department may reimburse itself and local governments from monies collected
268 from civil penalties for qualifying extraordinary expenses incurred in qualifying environmental
269 enforcement activities.

270 (c) Notwithstanding the provisions of Section 78-3-14.5, the department may
271 reimburse itself and local governments from monies collected from criminal fines for
272 qualifying extraordinary expenses incurred in prosecutions for violations of this part.

273 (d) The department shall regulate reimbursements by making rules that define:

274 (i) qualifying environmental enforcement activities; and

275 (ii) qualifying extraordinary expenses.

276 (6) Prosecution for criminal violations of this part may be commenced by the attorney
277 general, the county attorney, or the district attorney as appropriate under Section 17-18-1 or
278 17-18-1.7 in any county where venue is proper.

279 Section 5. Section **19-6-117.5** is enacted to read:

280 **19-6-117.5. Applicability of fees for treatment or disposal of waste.**

281 Waste that is subject to more than one fee under Section 19-6-118, 19-6-118.5, or
282 19-6-119 is subject only to the highest applicable fee.

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

284 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

285 (1) (a) An owner or operator of any commercial hazardous waste or mixed waste
286 disposal or treatment facility that primarily receives hazardous or mixed wastes generated by
287 off-site sources not owned, controlled, or operated by the facility or site owner or operator, and
288 that is subject to the requirements of Section 19-6-108, shall ~~collect~~ pay the fee under
289 Subsection (2) ~~[from the generator]~~.

290 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or
291 industrial furnace that receives for burning hazardous waste generated by off-site sources not
292 owned, controlled, or operated by the owner or operator ~~[is subject to]~~ shall pay the fee under
293 Subsection (2).

294 (2) (a) ~~[The]~~ Through June 30, 2005, the owner or operator of each facility under
295 Subsection (1) shall collect from the generators of hazardous waste and mixed waste a fee of
296 \$28 per ton or fraction of a ton on all hazardous waste and mixed waste received at the facility
297 or site for disposal, treatment, or both.

298 (b) On and after July 1, 2005, the owner or operator of each facility under Subsection
299 (1) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste received at the
300 facility for disposal, treatment, or both.

301 (c) The fee required under Subsection (2)(b) shall be calculated by multiplying the total
302 tonnage of waste, computed to the first decimal place, received during the calendar month by
303 \$28.

304 ~~[(b)]~~ (d) When hazardous waste or mixed waste is received at a facility for treatment or
305 disposal and the fee required under this Subsection (2) is paid for that treatment or disposal,
306 any subsequent treatment or disposal of the waste is not subject to additional fees under this

307 Subsection (2).

308 ~~[(e)]~~ (e) (i) On and after July 1, 1997 through June 30, 2003, and on and after April 1,
309 2004 through June 30, 2005, hazardous waste received at a land disposal facility is subject to a
310 fee of \$14 per ton or fraction of a ton, rather than the \$28 fee under Subsection (2)(a), if the
311 waste is treated so that it:

312 (A) meets the state treatment standards required for land disposal at the facility; or

313 (B) is no longer a hazardous waste at the time of disposal at that facility.

314 (ii) On and after July 1, 2003, through March 31, 2004, hazardous waste received at a
315 land disposal facility for treatment and disposal is subject to the \$28 fee imposed under
316 Subsection (2)(a).

317 (f) (i) On and after July 1, 2005, hazardous waste received at a land disposal facility is
318 subject to a fee of \$14 per ton if the waste is treated so that it:

319 (A) meets the state treatment standards required for land disposal at the facility; or

320 (B) is no longer a hazardous waste at the time of disposal at that facility.

321 (ii) The fee required under Subsection (2)(f)(i) shall be calculated by multiplying the
322 tonnage of waste, computed to the first decimal place, received during the calendar month by
323 \$14.

324 ~~[(d)]~~ (g) (i) The department shall allocate at least 10% of the fees received from a
325 facility under this section to the county in which the facility is located.

326 (ii) The county may use fees allocated under ~~[Subsection]~~ Subsections (2)~~[(e)]~~ (e) and
327 (f) to carry out its hazardous waste monitoring and response programs.

328 ~~[(e)]~~ (h) The department shall deposit the state portion of the fees received under this
329 section into the restricted account created in Section 19-1-108.

330 (3) (a) The owner or operator shall pay the fees imposed under ~~[Subsection (1)]~~ this
331 section to the department on or before the 15th day of the month following the month in which
332 the fee accrued.

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

336 (4) (a) The department shall oversee and monitor hazardous waste treatment, disposal,
337 and incineration facilities, including federal government facilities located within the state.

338 (b) The department may determine facility oversight priorities.

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

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

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

345 (7) Mixed waste subject to a fee under this section is not subject to a fee under Section
346 19-3-106.

347 Section 7. Section **19-6-118.5** is amended to read:

348 **19-6-118.5. PCB disposal fee.**

349 (1) On and after July 1, 1993 through June 30, 2005, a fee of \$4.75 per ton or fraction
350 of a ton is imposed on all wastes containing polychlorinated biphenyls (PCBs) that are
351 regulated under 15 U.S.C.A. 2605, and that are received at a facility for disposal or treatment.

352 [~~2) This section regarding waste containing PCBs and the fee imposed in this section~~
353 ~~is in lieu of any fee imposed on nonhazardous solid waste under Section 19-6-119, as described~~
354 ~~in Subsection (1).~~]

355 (2) On and after July 1, 2005, a fee of \$4.75 per ton is imposed on all wastes
356 containing polychlorinated biphenyls (PCBs) that are:

357 (a) regulated under 15 U.S.C.A. 2605; and

358 (b) received at a facility for disposal or treatment.

359 (3) (a) The owner or operator of a facility receiving PCBs for disposal or treatment
360 shall pay the fees imposed under Subsection (1) or (2) to the department on or before the 15th
361 day of the calendar month following the month in which the fee accrued.

362 (b) The owner or operator shall submit a completed form, as prescribed by the
363 department, with the monthly fee under Subsection (3)(a).

364 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
365 department shall make rules specifying the information required to verify the amount of waste
366 received and the fee amount for which the owner or operator is liable on the form required
367 under Subsection (3)(b).

368 [~~3) (4) The fees collected under this section shall be managed by the same procedure~~

369 as under Subsection 19-6-119(3) regarding nonhazardous solid waste.

370 ~~[(4)]~~ (5) The Legislature shall appropriate to the department the cost of administering
371 the program.

372 (6) Waste that is subject to a fee under this section is not subject to a fee under Section
373 19-3-106 even if the waste also contains radioactive materials.

374 Section 8. Section **19-6-119** is amended to read:

375 **19-6-119. Nonhazardous solid waste disposal fee.**

376 (1) (a) An owner or operator of any commercial nonhazardous solid waste disposal
377 facility or incinerator, or any commercial facility, except for facilities that receive the following
378 wastes solely for the purpose of recycling, reuse, or reprocessing, that accepts for treatment or
379 disposal, and with the intent to make a profit, fly ash waste, bottom ash waste, slag waste, or
380 flue gas emission control waste generated primarily from the combustion of coal or other fossil
381 fuels; waste from the extraction, beneficiation, and processing of ores and minerals, or cement
382 kiln dust wastes for treatment or disposal, that is required to have a plan approval under
383 Section 19-6-108, and that primarily receives waste generated by off-site sources not owned,
384 controlled, or operated by the facility or site owner or operator, shall pay the following fees per
385 ton or fraction of a ton, on all nonhazardous solid waste that is received at the facility or site for
386 disposal:

387 ~~[(i) on and after July 1, 1992, through June 30, 1993, a fee of \$1.50 per ton or fraction~~
388 ~~of a ton on all nonhazardous solid waste received at the facility or site for disposal or~~
389 ~~treatment;]~~

390 ~~[(ii) on and after July 1, 1993, through June 30, 1994, a fee of \$2.00 per ton or fraction~~
391 ~~of a ton on all nonhazardous solid waste received at the facility or site for disposal or treatment;~~
392 ~~and]~~

393 ~~[(iii)]~~ (i) on and after July 1, 1994 through June 30, 2005, a fee of \$2.50 per ton or
394 fraction of a ton on all nonhazardous solid waste received at the facility or site for disposal or
395 treatment[-]; and

396 (ii) on and after July 1, 2005, a fee of \$2.50 per ton on all nonhazardous solid waste
397 received at the facility or site for disposal or treatment.

398 (b) When nonhazardous solid waste, fly ash waste, bottom ash waste, slag waste, or
399 flue gas emission control waste generated primarily from the combustion of coal or other fossil

400 fuels; waste from the extraction, beneficiation, and processing of ores and minerals, or cement
401 kiln dust wastes, is received at a facility for treatment or disposal and the fee required under
402 Subsection (1)(a) is paid for that treatment or disposal, any subsequent treatment or disposal of
403 the waste is not subject to additional fees under Subsection (1)(a).

404 (c) (i) On and after January 1, 2004 through June 30, 2005, an owner or operator of any
405 commercial nonhazardous solid waste disposal facility that receives only construction and
406 demolition waste shall pay a fee of 50 cents per ton, or fraction of a ton, on any construction
407 and demolition waste received at the facility or site for disposal.

408 (ii) On and after July 1, 2005, an owner or operator of any commercial nonhazardous
409 solid waste disposal facility that receives only construction and demolition waste shall pay a
410 fee of 50 cents per ton on any construction and demolition waste received at the facility or site
411 for disposal.

412 [~~(ii) An~~] (iii) Through June 30, 2005, an owner or operator of any commercial
413 nonhazardous solid waste disposal facility that receives municipal waste, including municipal
414 incinerator ash shall pay a fee of 50 cents per ton, or fraction of a ton, on all municipal waste,
415 including municipal incinerator ash, that is received at the facility or site for disposal.

416 (iv) On and after July 1, 2005, an owner or operator of any commercial nonhazardous
417 solid waste disposal facility that receives municipal waste, including municipal incinerator ash,
418 shall pay a fee of 50 cents per ton on all municipal waste, including municipal incinerator ash,
419 that is received at the facility or site for disposal.

420 [~~(iii)~~] (v) On and after January 1, 2004 through June 30, 2005, the owner or operator of
421 any facility under Subsection 19-6-102(3)(~~a~~)(b)(iii) shall pay a fee of 50 cents per ton, or
422 fraction of a ton, on all municipal waste received at the facility or site for disposal.

423 (vi) On and after July 1, 2005, the owner or operator of any facility under Subsection
424 19-6-102(3)(b)(iii) shall pay a fee of 50 cents per ton on all municipal waste received at the
425 facility or site for disposal.

426 (d) Facilities subject to the fee under Subsections (1)(c)(i)[~~, (ii), and (iii)~~] through (iv)
427 are not subject to the fee under Subsection (1)(a).

428 (e) On and after July 1, 2005, the fees due under this Subsection (1) shall be calculated
429 by multiplying the total tonnage of waste, computed to the first decimal place, received during
430 the calendar month by the required fee rate.

431 (2) (a) The owner or operator of a commercial nonhazardous solid waste disposal
432 facility or incinerator shall pay to the department all fees imposed under this section on or
433 before the 15th day of the month following the month in which the fee accrued.

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

437 (c) The department shall deposit all fees received under this section into the restricted
438 account created in Section 19-1-108.

439 (3) (a) The department, in preparing its budget for the governor and the Legislature,
440 shall separately indicate the amount necessary to administer the solid waste program
441 established by this part.

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

443 (c) The department may contract or agree with a county to assist in performing
444 nonhazardous solid waste management activities, including agreements for:

445 (i) the development of a solid waste management plan required under Section
446 17-15-23; and

447 (ii) pass-through of available funding.

448 (4) This section may not be construed to exempt any facility from applicable regulation
449 under the federal Atomic Energy Act, 42 U.S.C. Sections 2014 and 2021 through 2114.

450 (5) (a) Each waste facility that is owned by a political subdivision and operated solely
451 for the purpose of receiving waste generated within that political subdivision shall pay an
452 annual facility fee. The fee shall be paid to the department on or before January 15 of each
453 year. The fee is:

454 (i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal
455 waste each year;

456 (ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of
457 municipal waste each year;

458 (iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of
459 municipal waste each year;

460 (iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of
461 municipal waste each year;

462 (v) \$14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of
463 municipal waste each year;

464 (vi) \$33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of
465 municipal waste each year; and

466 (vii) \$66,000 if the facility receives 500,000 or more tons of municipal waste each
467 year.

468 (b) The department shall deposit all fees received under this Subsection (5) into the
469 Environmental Quality Restricted Account created in Section 19-1-108.

470 (c) Municipal waste subject to the facility fee under this Subsection (5) is not subject to
471 the fee under Subsection [~~9-6-119~~](1)(c).

472 Section 9. Section **59-24-103.5** is amended to read:

473 **59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.**

474 (1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, or a
475 processing or recycling facility, as provided in this chapter.

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

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

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

481 (c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
482 uncontainerized, unprocessed class A waste from a governmental entity or an agent of a
483 governmental entity:

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

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

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

487 (iv) not pursuant to a contract;

488 (d) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
489 uncontainerized, unprocessed class A waste received by the facility from an entity other than a
490 governmental entity or an agent of a governmental entity;

491 (e) [~~(f)~~] 5% of the gross receipts of a radioactive waste facility derived from the
492 disposal of mixed waste, other than the mixed waste described in Subsection (2)[~~(e)~~](~~(ii)~~)(~~f~~),

493 received from:

494 (i) an entity other than a governmental entity or an agent of a governmental entity; or

495 (ii) a governmental entity or an agent of a governmental entity:

496 (A) pursuant to a contract entered into on or after April 30, 2005;

497 (B) pursuant to a contract substantially modified on or after April 30, 2005;

498 (C) pursuant to a contract renewed or extended on or after April 30, 2005; or

499 (D) not pursuant to a contract;

500 ~~(f)~~ (f) 10% of the gross receipts of a radioactive waste facility derived from the

501 disposal of mixed waste:

502 (i) (A) received from an entity other than a governmental entity or an agent of a

503 governmental entity; ~~and~~ or

504 (B) received from a governmental entity or an agent of a governmental entity:

505 (I) pursuant to a contract entered into on or after April 30, 2005;

506 (II) pursuant to a contract substantially modified on or after April 30, 2005;

507 (III) pursuant to a contract renewed or extended on or after April 30, 2005; or

508 (IV) not pursuant to a contract; and

509 ~~(B)~~ (ii) that contains a higher radionuclide concentration level than the mixed waste
510 received by any radioactive waste facility in the state prior to April 1, 2004;

511 ~~(f)~~ (g) 10 cents per cubic foot of alternate feed material received at a radioactive
512 waste facility for disposal or reprocessing; and

513 ~~(g)~~ (h) 10 cents per cubic foot of byproduct material received at a radioactive waste
514 facility for disposal.

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

517 (4) Except as provided in ~~[Subsection]~~ Subsections (2)(e) and (2)(f), the tax imposed
518 by this section does not apply to radioactive waste containing material classified as hazardous
519 waste under 40 C.F.R. Part 261.

Legislative Review Note
as of 12-7-04 8:43 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-08-04 9:45 AM

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

Legislative Committee Note
as of 12-08-04 9:45 AM

The Hazardous Waste Regulation and Tax Policy Task Force recommended this bill.

State Impact

Based on average tonnage accepted at Utah hazardous and low level nuclear waste facilities in previous years, it is estimated that as provisions of this bill are enacted ongoing revenue to the Uniform School Fund will increase by \$139,000 in FY 2006. It is also estimated that revenue collect in the General Fund Restricted - Environmental Quality Account will decrease by \$104,500 annually. It is unknown at this time how much revenue will be collected through provisions of the bill that increases statute violations by \$3,000 per day.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund Restricted	\$0	\$0	(\$104,500)	(\$104,500)
Uniform School Fund	\$0	\$0	\$139,000	\$139,000
TOTAL	\$0	\$0	\$34,500	\$34,500

Individual and Business Impact

Hazardous waste and low level nuclear disposal facilities in the state will pay for increased expenses and realize any savings with enactment of this bill.

Office of the Legislative Fiscal Analyst