

Michael K. McKell proposes the following substitute bill:

Environmental Quality Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill modifies provisions related to the licensing and taxation of radioactive waste.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the requirements for a waste facility to renew or amend a radioactive waste license;
- requires the State Tax Commission to deposit into an energy-related fund the portion of new tax revenue derived from a radioactive waste facility receiving radioactive waste from a new generator;
- creates a radioactive waste facility expansion tax on a radioactive waste facility that submits an application to the Division of Waste Management and Radiation Control to construct a new radioactive waste facility or expand an existing facility;
- provides for the payment and deposit of the radioactive waste facility expansion tax;
- implements a sunset date for the radioactive waste facility expansion tax; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

19-3-102 (Effective 05/07/25), as last amended by Laws of Utah 2017, Chapter 360

19-3-105 (Effective 05/07/25), as last amended by Laws of Utah 2018, Chapter 281

59-24-102 (Effective 07/01/25), as last amended by Laws of Utah 2003, Chapter 295
59-24-103.5 (Effective 07/01/25), as last amended by Laws of Utah 2024, Chapter 192
59-24-104 (Effective 07/01/25), as last amended by Laws of Utah 2019, Chapter 466
59-24-105 (Effective 07/01/25), as last amended by Laws of Utah 2003, Chapter 295
63I-2-259 (Effective 05/07/25), as last amended by Laws of Utah 2024, Third Special
Session, Chapter 5

ENACTS:

59-24-103.8 (Effective 07/01/25), Utah Code Annotated 1953

Utah Code Sections affected by Coordination Clause:

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

Section 1. Section **19-3-102** is amended to read:

19-3-102 (Effective 05/07/25). Definitions.

As used in this chapter:

- (1) "Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.
- (2)(a) "Broker" means a person who performs one or more of the following functions for a generator:
 - (i) arranges for transportation of the radioactive waste;
 - (ii) collects or consolidates shipments of radioactive waste; or
 - (iii) processes radioactive waste in some manner.
- (b) "Broker" does not include a carrier whose sole function is to transport the radioactive waste.
- (3) "Byproduct material" means the same as that term is defined in 42 U.S.C. Sec. 2014(e)(2).
- (4) "Class B and class C low-level radioactive waste" means the same as that term is defined in 10 C.F.R. Sec. 61.55.
- (5) "Director" means the director of the Division of Waste Management and Radiation Control.
- (6) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).
- (7) "Generator" means a person who:
 - (a) possesses any material or component:
 - (i) that contains radioactivity or is radioactively contaminated; and

(ii) for which the person foresees no further use; and

(b) transfers the material or component to:

(i) a commercial radioactive waste treatment or disposal facility; or

(ii) a broker.

(8) "Hazardous waste corridor" means an area of land within a county that the legislative body of the county:

(a) designates for the siting of a radioactive waste facility; and

(b) restricts from all residential use or development.

[(8)] (9)(a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related wastes.

(b) "High-level nuclear waste" does not include medical or institutional wastes, naturally occurring radioactive materials, or uranium mill tailings.

[(9)] (10)(a) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release.

(b) "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

[(10)] (11) "Radiation" means ionizing and nonionizing radiation, including gamma rays, X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

[(11)] (12) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously from decay of unstable nuclei.

[(12)] (13) "Unlicensed facility" means a structure, road, or property:

(a) adjacent to, but outside of, a licensed or permitted area; and

(b) that is not used for waste disposal or waste management.

Section 2. Section **19-3-105** is amended to read:

19-3-105 (Effective 05/07/25). Definitions -- Legislative and gubernatorial approval required for radioactive waste license -- Exceptions -- Application for new, renewed, or amended license.

(1) As used in this section:

(a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

(b) "Approval application" means an application by a radioactive waste facility regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license, registration, certification, or other authorization.

(c)(i) "Class A low-level radioactive waste" means:

- (A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and
- (B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.

(ii) "Class A low-level radioactive waste" does not include:

- (A) uranium mill tailings;
- (B) naturally occurring radioactive materials; or
- (C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:
 - (I) uranium-233; and
 - (II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:
 - (Aa) to ensure criticality safety for a radioactive waste facility in the state; and
 - (Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.

(d)(i) "Radioactive waste facility" or "facility" means a facility that decays radioactive waste in storage, treats radioactive waste, or disposes of radioactive waste:

- (A) commercially for profit; or
- (B) generated at locations other than the radioactive waste facility.

(ii) "Radioactive waste facility" does not include a facility that receives:

- (A) alternate feed material for reprocessing; or
- (B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).

(e) "Radioactive waste license" or "license" means a radioactive material license issued by the director to own, construct, modify, or operate a radioactive waste facility.

(2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.

- 131 (3) Subject to Subsection (8), a person may not own, construct, modify, or operate a
132 radioactive waste facility without:
- 133 (a) having received a radioactive waste license for the facility;
 - 134 (b) meeting the requirements established by rule under Section 19-3-104;
 - 135 (c) the approval of the governing body of the municipality or county responsible for
136 local planning and zoning where the radioactive waste is or will be located; and
 - 137 (d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the
138 approval of the governor and the Legislature.
- 139 (4) Subject to Subsection (8), a new radioactive waste license application, or an application
140 to renew or amend an existing radioactive waste license, is subject to the requirements
141 of Subsections (3)(b) through (d) if the application, renewal, or amendment:
- 142 (a) specifies a different geographic site than a previously submitted application;
 - 143 (b) would cost 50% or more of the cost of construction of the original radioactive waste
144 facility or the modification would result in an increase in capacity or throughput of a
145 cumulative total of 50% of the total capacity or throughput which was approved in
146 the facility license as of January 1, 1990, or the initial approval facility license if the
147 initial license approval is subsequent to January 1, 1990; or
 - 148 (c) requests approval to decay radioactive waste in storage, treat radioactive waste, or
149 dispose of radioactive waste having a higher radionuclide concentration limit than
150 allowed, under an existing approved license held by the facility, for the specific type
151 of waste to be decayed in storage, treated, or disposed of.
- 152 (5) The requirements of Subsection (4)(c) do not apply to an application to renew or amend
153 an existing radioactive waste license if:
- 154 (a) the radioactive waste facility requesting the renewal or amendment has received a
155 license prior to January 1, 2004; and
 - 156 (b) the application to renew or amend its license is limited to a request to approve the
157 receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level
158 radioactive waste.
- 159 (6) A radioactive waste facility that receives a new radioactive waste license after May 3,
160 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license
161 application, renewal, or amendment that requests approval to decay radioactive waste in
162 storage, treat radioactive waste, or dispose of radioactive waste not previously approved
163 under an existing license held by the facility.
- 164 (7) If the board finds that approval of additional radioactive waste license applications,

renewals, or amendments will result in inadequate oversight, monitoring, or licensure compliance and enforcement of existing and any additional radioactive waste facilities, the board shall suspend acceptance of further applications for radioactive waste licenses. The board shall report the suspension to the Legislative Management Committee.

(8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(10) do not apply to:

(a) a radioactive waste license~~[-that is]~~ in effect on December 31, 2006, including all amendments to the license ~~[that have taken effect as of December 31, 2006]~~ thereafter;

(b) a license application for a facility in existence as of December 31, 2006, unless the license application includes an area beyond the facility boundary approved in the license described in Subsection (8)(a); or

(c) an application to renew or amend a license described in Subsection (8)(a), ~~[unless]~~ if the renewal or amendment includes an area~~[-beyond]~~ :

(i) within the facility boundary approved in the license described in Subsection (8)(a)~~[-]~~ ;

or

(ii) within a hazardous waste corridor.

(9)(a) The director shall review an approval application to determine whether the application complies with the requirements of this chapter and the rules of the board.

(b) Within 60 days after the day on which the director receives an approval application described in Subsection (10)(a)(ii) or (iii), the director shall:

(i) determine whether the application is complete and contains all the information necessary to process the application for approval; and

(ii)(A) issue a notice of completeness to the applicant; or

(B) issue a notice of deficiency to the applicant and list the additional information necessary to complete the application.

(c) The director shall review information submitted in response to a notice of deficiency within 30 days after the day on which the director receives the information.

(10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) categorize approval applications as follows:

(i) approval applications that:

(A) are administrative in nature;

(B) require limited scrutiny by the director; and

(C) do not require public input;

- 199 (ii) approval applications that:
- 200 (A) require substantial scrutiny by the director;
- 201 (B) require public input; and
- 202 (C) are not described in Subsection (10)(a)(iii); and
- 203 (iii) approval applications for:
- 204 (A) the granting or renewal of a radioactive waste license;
- 205 (B) the granting or renewal of a groundwater permit issued by the director for a
- 206 radioactive waste facility;
- 207 (C) an amendment to a radioactive waste license, or a groundwater permit, that
- 208 allows the design and approval of a new disposal cell;
- 209 (D) an amendment to a radioactive waste license or groundwater discharge permit
- 210 for a radioactive waste facility to eliminate groundwater monitoring; and
- 211 (E) a radioactive waste facility closure plan;
- 212 (b) provide time periods for the director to review, and approve or deny, an application
- 213 described in Subsection (10)(a) as follows:
- 214 (i) for applications categorized under Subsection (10)(a)(i), within 30 days after the
- 215 day on which the director receives the application; and
- 216 (ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after
- 217 the day on which the director receives the application;
- 218 (iii) for applications categorized under Subsection (10)(a)(iii), as follows:
- 219 (A) for a new radioactive waste license, within 540 days after the day on which
- 220 the director receives the application;
- 221 (B) for a new groundwater permit issued by the director for a radioactive waste
- 222 facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act,
- 223 within 540 days after the day on which the director receives the application;
- 224 (C) for a radioactive waste license renewal, within 365 days after the day on
- 225 which the director receives the application;
- 226 (D) for a groundwater permit renewal issued by the director for a radioactive
- 227 waste facility, within 365 days after the day on which the director receives the
- 228 application;
- 229 (E) for an amendment to a radioactive waste license, or a groundwater permit, that
- 230 allows the design and approval of a new disposal cell, within 365 days after the
- 231 day on which the director receives the application;
- 232 (F) for an amendment to a radioactive waste license, or a groundwater discharge

- 233 permit, for a radioactive waste facility to eliminate groundwater monitoring,
234 within 365 days after the day on which the director receives the application; and
235 (G) for a radioactive waste facility closure plan, within 365 days after the day on
236 which the director receives the application;
- 237 (c) toll the time periods described in Subsection (10)(b):
238 (i) while an owner or operator of a facility responds to the director's request for
239 information;
240 (ii) during a public comment period; or
241 (iii) while the federal government reviews the application; and
242 (d) require the director to prepare a detailed written explanation of the basis for the
243 director's approval or denial of an approval application.

244 Section 3. Section **59-24-102** is amended to read:

245 **59-24-102 (Effective 07/01/25). Definitions.**

246 As used in this chapter:

- 247 (1)(a) "Alternate feed material" means a natural or native material:
248 (i) mined for the extraction of its constituents or other matter from which source
249 material may be extracted in a licensed uranium or thorium mill; and
250 (ii) may be reprocessed for its source material content.
- 251 (b) "Alternate feed material" does not include:
252 (i) material containing hazardous waste listed under 40 C.F.R. Part 261, Subpart D;
253 (ii) natural or unprocessed ore; or
254 (iii) naturally occurring radioactive materials containing greater than 15 picocuries
255 per gram of radium-226.
- 256 (2) "Byproduct material" is as defined in 42 U.S.C. Sec. 2014(e)(2).
- 257 (3) "Class A low-level radioactive waste" means radioactive waste that is classified as class
258 A waste under 10 C.F.R. 61.55.
- 259 (4) "Containerized class A waste" means class A low-level radioactive waste that is placed
260 in the portion of a radioactive waste facility that is licensed to receive containerized
261 class A waste.
- 262 (5)(a) "Generator" means the same as that term is defined in Section 19-3-102.
263 (b) "Generator" includes an affiliate, subsidiary, or successor of the generator.
- 264 [(5)] (6)(a) "Gross receipts" means all consideration an owner or operator of a
265 radioactive waste facility receives for the disposal of radioactive waste in the state,
266 without any deduction or expense paid or accrued related to the disposal of the

radioactive waste.

(b) "Gross receipts" do not include fees collected under Section 19-3-106 or any other taxes collected for a state or federal governmental entity.

~~[(6)]~~ (7)(a) "Processed class A waste" means waste that:

(i) is class A low-level radioactive waste; and

(ii) has been concentrated by a processor.

(b) "Processed class A waste" does not include containerized class A waste.

~~[(7)]~~ (8) "Radioactive waste" means:

(a) alternate feed material;

(b) byproduct material;

(c) containerized class A waste;

(d) processed class A waste; or

(e) uncontainerized, unprocessed class A waste.

~~[(8)]~~ (9) "Radioactive waste facility" or "facility" means:

(a) a facility licensed under Section 19-3-105; or

(b) a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.

~~[(9)]~~ (10)(a) "Uncontainerized, unprocessed class A waste" means class A low-level radioactive waste that:

(i) is neither containerized class A waste, nor processed class A waste; and

(ii) must be disposed of under rules of the Nuclear Regulatory Commission in a licensed low-level radioactive waste disposal facility.

(b) "Uncontainerized, unprocessed class A waste" does not include alternate feed material.

Section 4. Section **59-24-103.5** is amended to read:

59-24-103.5 (Effective 07/01/25). Radioactive waste disposal, processing, and recycling facility tax.

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

(2) ~~[The]~~ Except as provided in Subsection (3), the tax is equal to the sum of the following amounts:

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

(b) 10% of the gross receipts of a radioactive waste facility derived from the disposal of

- 301 processed class A waste;
- 302 (c) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive
- 303 waste facility derived from the disposal of uncontainerized, unprocessed class A
- 304 waste from a governmental entity or an agent of a governmental entity:
- 305 (i) pursuant to a contract entered into on or after April 30, 2001;
- 306 (ii) pursuant to a contract substantially modified on or after April 30, 2001;
- 307 (iii) pursuant to a contract renewed or extended on or after April 30, 2001; or
- 308 (iv) not pursuant to a contract;
- 309 (d) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive
- 310 waste facility derived from the disposal of uncontainerized, unprocessed class A
- 311 waste received by the facility from an entity other than a governmental entity or an
- 312 agent of a governmental entity;
- 313 (e) .5% of the gross receipts of a radioactive waste facility derived from the disposal of
- 314 uncontainerized, unprocessed class A waste received by the facility if the
- 315 uncontainerized, unprocessed class A waste does not exceed 10% of the radioactive
- 316 concentration limit for class A waste as defined in 10 C.F.R. Sec. 61.55;
- 317 (f) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
- 318 mixed waste, other than the mixed waste described in Subsection (2)(g), received
- 319 from:
- 320 (i) an entity other than a governmental entity or an agent of a governmental entity; or
- 321 (ii) a governmental entity or an agent of a governmental entity:
- 322 (A) pursuant to a contract entered into on or after April 30, 2005;
- 323 (B) pursuant to a contract substantially modified on or after April 30, 2005;
- 324 (C) pursuant to a contract renewed or extended on or after April 30, 2005; or
- 325 (D) not pursuant to a contract;
- 326 (g) 10% of the gross receipts of a radioactive waste facility derived from the disposal of
- 327 mixed waste:
- 328 (i)(A) received from an entity other than a governmental entity or an agent of a
- 329 governmental entity; or
- 330 (B) received from a governmental entity or an agent of a governmental entity:
- 331 (I) pursuant to a contract entered into on or after April 30, 2005;
- 332 (II) pursuant to a contract substantially modified on or after April 30, 2005;
- 333 (III) pursuant to a contract renewed or extended on or after April 30, 2005; or
- 334 (IV) not pursuant to a contract; and

- (ii) that contains a higher radionuclide concentration level than the mixed waste received by any radioactive waste facility in the state before April 1, 2004;
- (h) 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for disposal or reprocessing; and
- (i) 10 cents per cubic foot of byproduct material received at a radioactive waste facility for disposal.

(3) The tax is equal to 16.67% of the gross receipts of a radioactive waste facility derived from the disposal of radioactive waste received from a generator that ships to the radioactive waste facility for the first time between June 30, 2025, and June 30, 2028.

~~[(3)]~~ (4) For purposes of the tax imposed by this section, a fraction of a cubic foot is considered to be a full cubic foot.

~~[(4)]~~ (5) Except as provided in Subsections (2)(f) and (g), the tax imposed by this section does not apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R. Part 261.

Section 5. Section **59-24-103.8** is enacted to read:

59-24-103.8 (Effective 07/01/25). Radioactive waste facility expansion tax --

Payment -- Deposit of tax revenue.

(1) As used in this section:

(a) "Division" means the Division of Waste Management and Radiation Control created in Section 19-1-105.

(b) "New licensed waste disposal volume" means the increased radioactive waste disposal volume capacity that a radioactive waste facility requests for approval by the division in a radioactive waste facility application.

(c) "Radioactive waste facility application" means an application for a new radioactive waste facility, or an amendment to an existing radioactive waste facility, under Section 19-3-105 that requests authorization to construct a new radioactive waste facility or expand the geographic site covered by an existing radioactive waste facility.

(2) There is imposed a tax on a radioactive waste facility that submits a new radioactive waste facility application to the division on or before December 31, 2025.

(3) The tax imposed by this section is equal to \$3.45 per cubic yard of new licensed waste disposal volume, up to and not exceeding 8,700,000 cubic yards of new licensed waste disposal volume for a radioactive waste facility.

(4) The tax imposed by this section shall be paid no later than 60 days after the day on

which the radioactive waste facility submits a radioactive waste facility application to the division.

(5) The commission shall deposit the tax revenue collected under this section into the Utah Energy Research Fund created in Section 79-6-1002.

(6) Nothing in this section limits the ability of the director of the division to approve a radioactive waste facility application exceeding the maximum new licensed waste disposal volume described in Subsection (3).

Section 6. Section **59-24-104** is amended to read:

59-24-104 (Effective 07/01/25). Payment of tax.

(1) The tax imposed by Section 59-24-103.5 shall be paid by ~~[the owner or operator of]~~ a radioactive waste facility that receives radioactive waste for disposal or reprocessing.

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

(3) ~~[The]~~ Except as otherwise provided in this chapter, the payment shall be paid quarterly on or before the last day of the month next succeeding each calendar quarterly period.

Section 7. Section **59-24-105** is amended to read:

59-24-105 (Effective 07/01/25). Deposit of tax revenue.

(1) ~~[The]~~ Except as provided in Subsections (2) and 59-24-103.8(5), the commission shall deposit the tax revenue collected under this chapter into the Uniform School Fund.

(2)(a) The commission shall deposit tax revenue collected under Subsection 59-24-103.5(3) into the Utah Energy Research Fund created in Section 79-6-1002.

(b) The commission may require a radioactive waste facility to share data related to radioactive waste delivered by a generator to the radioactive waste facility for the purposes of calculating the deposit of tax revenue as described in Subsection (2)(a).

Section 8. Section **63I-2-259** is amended to read:

63I-2-259 (Effective 05/07/25). Repeal dates: Title 59.

(1) Subsection 59-7-610(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(2) Subsection 59-7-614.10(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.

(4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.

(5) Subsection 59-10-1007(8), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(6) Subsection 59-10-1037(5), regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.

(8) Section 59-24-103.8, Radioactive waste facility expansion tax -- Payment -- Deposit of tax revenue, is repealed July 1, 2026.

Section 9. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect July 1, 2025.

(2) The actions affecting the following sections take effect on May 7, 2025:

(a) Section 19-3-102 (Effective 05/07/25);

(b) Section 19-3-105 (Effective 05/07/25); and

(c) Section 63I-2-259 (Effective 05/07/25).

Section 10. Coordinating S.B. 216 with H.B. 249.

If S.B. 216, Environmental Quality Amendments, and H.B. 249, Nuclear Power Amendments, both pass and become law, the Legislature intends that, on July 1, 2025:

(1) Subsection 59-24-103.8(5), enacted in S.B. 216, be amended to read:

"(5) The commission shall deposit the tax revenue collected under this section into the Electrical Energy Development Investment Fund created in Section 79-6-1105.";

(2) Subsection 59-24-105(2)(a), enacted in S.B. 216, be amended to read:

"(2)(a) The commission shall deposit tax revenue collected under Subsection 59-24-103.5(3) into the Electrical Energy Development Investment Fund created in Section 79-6-1105"; and

(3) Subsection 79-6-1105(2), enacted in H.B. 249, be amended to read:

"(2) The fund consists of:

(a) property tax differential revenue collected under Section 79-6-1104;

(b) revenue from the radioactive waste facility expansion tax collected under Section 59-24-103.8; and

(c) revenue from a tax on new generators of radioactive waste as described in Subsection 59-24-103.5(3)."