

1 **URANIUM MILL TAILINGS RESOLUTION**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Howard C. Nielson**

5 A JOINT RESOLUTION OF THE LEGISLATURE ENCOURAGING THE GOVERNOR TO
6 APPLY FOR AGREEMENT STATE STATUS FROM THE FEDERAL NUCLEAR
7 REGULATORY COMMISSION REGARDING THE REGULATION OF TAILINGS PILES
8 CURRENTLY UNDER TITLE II OF THE FEDERAL URANIUM MILL TAILINGS
9 RADIATION CONTROL ACT, EXCEPT FOR THE ATLAS TAILINGS AT MOAB; AND TO
10 ALLOW THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE
11 DIVISION OF RADIATION CONTROL TO REGULATE THE TREATMENT, STORAGE,
12 AND DISPOSAL OF RADIOACTIVE WASTE IN THE STATE OF UTAH.

13 *Be it resolved by the Legislature of the state of Utah:*

14 WHEREAS, Title II of the Federal Uranium Mill Tailings Radiation Control Act
15 (UMTRCA), provides for the regulation of uranium mill tailings by the federal Nuclear Regulatory
16 Commission (NRC), or by a state which has entered into an agreement with the NRC for the
17 delegation of the regulation of uranium mill tailings for which the NRC has issued a license which
18 has not been terminated;

19 WHEREAS, Section 274(b) of the Atomic Energy Act, as amended, 42 U.S.C. Section
20 2021(b), authorizes the NRC to enter into agreements with the governor of any state providing for
21 the regulation by the state, and the discontinuance of the regulatory authority of the NRC with
22 respect to certain radioactive materials, including byproduct materials, source materials, and
23 subcritical special nuclear materials;

24 WHEREAS, the state of Utah has already entered into agreements with the federal
25 government with respect to the licensing of x-ray equipment and treatment, storage, and disposal
26 of low-level radioactive waste materials;

27 WHEREAS, certain commercial entities have expressed interest in providing services in

28 the state to treat, store, or dispose of radioactive wastes in certain uranium mill tailings piles and
29 impoundments in the state of Utah;

30 WHEREAS, the governor of the state of Utah does not have an agreement with the NRC
31 for the licensing of entities to treat, store, or dispose of source materials or of byproduct materials
32 contained in uranium mill tailings piles subject to Title II of UMTRCA;

33 WHEREAS, in the absence of this agreement, radioactive waste materials from outside the
34 state may be brought into the state for treatment, storage, or disposal in uranium mill tailings piles
35 subject to regulation under Title II of UMTRCA without determination by the state Department
36 of Environmental Quality as to whether bringing these wastes into the state is harmful to the health
37 of Utahns and the environment of the state of Utah;

38 WHEREAS, low-level radioactive waste treatment, storage, and disposal facilities
39 regulated by the Utah Department of Environmental Quality are subject to stringent requirements
40 for the protection of the health of Utahns and the environment of the state of Utah;

41 WHEREAS, in the absence of an agreement with the NRC that would delegate to the Utah
42 Department of Environmental Quality authority to regulate uranium mill tailings piles subject to
43 Title II of UMTRCA, the owners and operators of those piles that accept radioactive waste
44 materials for treatment, storage, or disposal will have an unfair competitive advantage over
45 low-level radioactive waste treatment, storage, and disposal facilities subject to licensure by the
46 Utah Department of Environmental Quality, because of the less stringent regulatory requirements
47 imposed by the NRC;

48 WHEREAS, the Atlas uranium mill tailings pile, which is located near Moab, Utah, is
49 currently the subject of administrative, judicial, and legislative efforts at both the state and federal
50 levels to achieve permanent reclamation of the site as may be directed by Congress, the Utah State
51 Legislature, the federal executive branch, or the Utah Department of Environmental Quality; and

52 WHEREAS, the funding for any additional staff or resources required by the state of Utah
53 to regulate uranium mill tailings piles under an agreement with the NRC may be funded by the fees
54 that may be imposed on radioactive waste delivered for treatment, storage, or disposal at a
55 commercial facility in the state:

56 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly
57 urges the Governor to apply to the NRC for agreement state status under Section 274(b) of the
58 Atomic Energy Act, as amended, 42 U.S.C. Section 2021(b), with regard to tailings piles subject

59 to title II of UMTRCA, with the exception of the Atlas uranium tailings pile located at Moab,
60 Utah.

61 BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the Utah
62 Department of Environmental Quality to administer authority that would be granted under state
63 agreement status in a fair and equitable manner to ensure that any entity that receives radioactive
64 waste for treatment, storage, or disposal is subject to the siting requirements required by state law
65 and applicable rules made by the Department of Environmental Quality and any other state agency.

66 BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Michael
67 Leavitt, Governor of the state of Utah.

Legislative Review Note
as of 2-10-99 2:30 PM

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

Office of Legislative Research and General Counsel