

HAZARDOUS WASTE AMENDMENT

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Jeff Alexander

This act modifies the Environmental Quality Code by imposing regulations, fees, and taxes that apply to the reprocessing, treatment, or disposal of certain types of radioactive waste. The act requires generators or brokers of radioactive waste to obtain a permit to transfer the waste to a commercial radioactive waste treatment or disposal facility, and the Board of Radiation Control is authorized to make rules governing a generator site access permit program. The act imposes fees for generator site access permits and modifies the regulatory fee for a commercial radioactive waste treatment or disposal facility. The act imposes an annual fee on a commercial radioactive waste treatment or disposal facility, which is deposited in the Radioactive Waste Perpetual Care and Maintenance Fund, and used for the perpetual care and maintenance of the facility after closure of the facility. The act imposes a tax on radioactive waste transferred to a radioactive waste facility for reprocessing, treatment, or disposal and provides for the payment of a fee, by a tax-exempt entity, pursuant to an agreement. The act provides for the study of issues relating to radioactive waste and makes technical changes. This act has an immediate effective date.

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

AMENDS:

- 19-1-108**, as last amended by Chapter 417, Laws of Utah 1998
- 19-3-102**, as last amended by Chapter 188, Laws of Utah 1994
- 19-3-106**, as last amended by Chapter 324, Laws of Utah 1995
- 59-1-302**, as last amended by Chapter 107, Laws of Utah 1994
- 59-1-403**, as last amended by Chapters 190 and 229, Laws of Utah 2000

ENACTS:

- 19-3-106.2**, Utah Code Annotated 1953



- 28 **19-3-106.4**, Utah Code Annotated 1953
- 29 **19-3-201.1**, Utah Code Annotated 1953
- 30 **59-24-101**, Utah Code Annotated 1953
- 31 **59-24-102**, Utah Code Annotated 1953
- 32 **59-24-103**, Utah Code Annotated 1953
- 33 **59-24-104**, Utah Code Annotated 1953
- 34 **59-24-105**, Utah Code Annotated 1953
- 35 **59-24-106**, Utah Code Annotated 1953
- 36 **59-24-107**, Utah Code Annotated 1953
- 37 **59-24-201**, Utah Code Annotated 1953
- 38 **59-24-202**, Utah Code Annotated 1953
- 39 **59-24-203**, Utah Code Annotated 1953

40 This act enacts uncodified material.

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

42 Section 1. Section **19-1-108** is amended to read:

43 **19-1-108. Creation of environmental quality restricted account -- Purpose of**
44 **restricted account -- Sources of funds -- Uses of funds.**

45 (1) There is created the Environmental Quality Restricted Account.

46 (2) The sources of monies for the restricted account are:

47 (a) radioactive waste disposal fees collected under [~~Section~~] Sections 19-3-106 and
48 19-3-106.4;

49 (b) hazardous waste disposal fees collected under Section 19-6-118;

50 (c) PCB waste disposal fees collected under Section 19-6-118.5;

51 (d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and

52 (e) all investment income derived from money in the restricted account created in this
53 section.

54 (3) In each fiscal year, the first \$500,000 collected from all waste disposal fees listed in
55 Subsection (2), collectively, shall be deposited in the General Fund as free revenue. The balance
56 shall be deposited in the restricted account created in this section.

57 (4) The Legislature may annually appropriate monies from the Environmental Quality
58 Restricted Account to:

- 59 (a) the department for the costs of administering radiation control programs;
- 60 (b) the department for the costs of administering solid and hazardous waste programs; and
- 61 (c) the Hazardous Substances Mitigation Fund, up to \$400,000, for purposes set forth in
- 62 Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act.

63 (5) In order to stabilize funding for the radiation control program and the solid and
 64 hazardous waste program, the Legislature shall in years of excess revenues reserve in the restricted
 65 account sufficient monies to meet departmental needs in years of projected shortages.

66 (6) The Legislature may not appropriate money from the General Fund to the department
 67 as a supplemental appropriation to cover the costs of the radiation control program and the solid
 68 and hazardous waste program in an amount exceeding 25% of the amount of waste disposal fees
 69 collected during the most recent prior fiscal year.

70 (7) The Legislature may annually appropriate not more than \$200,000 from this account
 71 to the Department of Public Safety, created in Section 53-1-103, to be used by that department
 72 solely for hazardous materials:

- 73 (a) management training; and
- 74 (b) response preparation and emergency response training.

75 (8) All funds appropriated under this part that are not expended at the end of the fiscal year
 76 lapse into the account created in Subsection (1).

77 (9) For fiscal year 1998-99, up to \$537,000 in the Environmental Quality Restricted
 78 Account may be appropriated by the Legislature to fund legislative priorities.

79 Section 2. Section **19-3-102** is amended to read:

80 **19-3-102. Definitions.**

81 As used in this chapter:

82 (1) "Board" means the Radiation Control Board created under Section 19-1-106.

83 (2) (a) "Broker" means a person who performs one or more of the following functions for
 84 a generator:

- 85 (i) arranges for transportation of the radioactive waste;
- 86 (ii) collects or consolidates shipments of radioactive waste; or
- 87 (iii) processes radioactive waste in some manner.

88 (b) "Broker" does not include a carrier whose sole function is to transport the radioactive
 89 waste.

90 (3) "Byproduct material" has the same meaning as in 42 U.S.C. Sec. 2014(e)(2).

91 ~~[(2)]~~ (4) "Class B and class C low-level radioactive waste" has the same meaning as in 10
92 CFR 61.55.

93 ~~[(3)]~~ (5) "Executive secretary" means the executive secretary of the board.

94 ~~[(4) "Facility" in Sections 19-3-201 through 19-3-205 means any site, location, structure,~~
95 ~~or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding~~
96 ~~federal waste facilities.]~~

97 ~~[(5) "Generator" means any a person, partnership, association, corporation, or any other~~
98 ~~entity whatsoever that, as a part of its activities, produces low-level radioactive waste.]~~

99 (6) "Generator" means a person who:

100 (a) possesses any material or component:

101 (i) that contains radioactivity or is radioactively contaminated; and

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

103 (b) transfers the material or component to:

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

105 (ii) a broker.

106 ~~[(6)]~~ (7) (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled
107 nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related
108 wastes.

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

111 ~~[(7) "Host state" means a state in which a facility is located.]~~

112 (8) (a) "Low-level radioactive waste" [in Sections 19-3-201 through 19-3-205] means
113 waste material which contains radioactive nuclides emitting primarily beta or gamma radiation,
114 or both, in concentrations or quantities which exceed applicable federal or state standards for
115 unrestricted release.

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

120 ~~[(9) "Mixed waste" means any material that is a radioactive waste as defined in this chapter~~

121 ~~and is also a hazardous waste as defined in Section 19-6-102.]~~

122 ~~[(10)]~~ (9) "Radiation" means ionizing and nonionizing radiation, including gamma rays,
123 X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

124 ~~[(11)]~~ (10) "Radioactive" means any solid, liquid, or gas which emits radiation
125 spontaneously from decay of unstable nuclei.

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

127 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

128 (1) (a) An owner or operator of ~~[any]~~ a commercial radioactive waste treatment or disposal
129 facility that ~~[primarily receives waste generated by off-site sources not owned, controlled, or~~
130 ~~operated by the facility or site owner or operator that is subject to the requirements of this chapter]~~
131 receives radioactive waste shall collect a fee from the generator of the waste[:] as provided in
132 Subsection (1)(b).

133 ~~[(a) on]~~ (b) On and after July 1, [1992] 2001, [through June 30, 1993, a fee of \$2.00 per
134 ton or fraction of a ton on all radioactive waste received at the facility or site] the fee is equal to
135 the sum of the following amounts:

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

138 ~~[(b)]~~ (ii) ~~[on and after July 1, 1993, through June 30, 1994, a fee of \$2.25 per ton or~~
139 ~~fraction of a ton on all radioactive waste received at the facility or site] \$1 per curie, or fraction of~~
140 a curie, of radioactive waste, other than byproduct material, received at the facility for disposal or
141 treatment[; and].

142 ~~[(c) on and after July 1, 1994, a fee of \$2.50 per ton or fraction of a ton on all radioactive~~
143 ~~waste received at the facility or site for disposal or treatment.]~~

144 (2) (a) The owner or operator shall ~~[pay]~~ remit the fees imposed under this section to the
145 department on or before the ~~[15th]~~ last 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 ~~[restricted~~
148 ~~account]~~ Environmental Quality Restricted Account created in Section 19-1-108.

149 (c) (i) The owner or operator shall submit to the department with the payment of the fee
150 under this subsection a completed form as prescribed by the department that provides information
151 the department requires to verify the amount of waste received and the fee amount for which the

152 owner or operator is liable.

153 (ii) The department and the State Tax Commission may jointly develop and use a single
154 form for the collection of:

155 (A) the fee imposed under this section;

156 (B) the mixed waste fee imposed under Section 19-6-118; and

157 (C) the tax imposed under Title 59, Chapter 24, Radioactive Waste Tax.

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

160 Section 4. Section **19-3-106.2** is enacted to read:

161 **19-3-106.2. Fee for perpetual care and maintenance of commercial radioactive waste**
162 **disposal facilities -- Radioactive Waste Perpetual Care and Maintenance Fund created**
163 **--Contents -- Use of fund monies.**

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

168 (2) (a) On and after July 1, 2001, the owner or operator of a commercial radioactive waste
169 treatment or disposal facility shall pay an annual fee of \$2,000,000 to provide for the perpetual care
170 and maintenance of the facility.

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

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

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

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

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

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

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

182 (a) perpetual care and maintenance of a commercial radioactive waste treatment or

183 disposal facility, excluding sites within the facility used for the disposal of byproduct material,
184 beginning 100 years after the date of final closure of the facility; or

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

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

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

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

197 (7) (a) The board shall direct an evaluation of the adequacy of the Radioactive Waste
198 Perpetual Care and Maintenance Fund every five years, beginning in 2006. The evaluation shall
199 determine whether the fund is adequate to provide for perpetual care and maintenance of
200 commercial radioactive waste treatment or disposal facilities.

201 (b) The board shall submit a report on the evaluation to the Legislative Management
202 Committee on or before October 1 of the year in which the report is due.

203 (8) This section does not apply to a uranium mill facility, the ownership of which will
204 transfer upon license termination to the United States or the state, at the option of the state, under
205 Section 83 of the Atomic Energy Act.

206 Section 5. Section **19-3-106.4** is enacted to read:

207 **19-3-106.4. Generator site access permits.**

208 (1) A generator or broker may not transfer radioactive waste to a commercial radioactive
209 waste treatment or disposal facility in the state without first obtaining a generator site access permit
210 from the executive secretary.

211 (2) The board may make rules pursuant to Section 19-3-104 governing a generator site
212 access permit program.

213 (3) (a) Except as provided in Subsection (3)(b), the department shall establish fees for

214 generator site access permits in accordance with Section 63-38-3.2.

215 (b) On and after July 1, 2001 through June 30, 2002, the fees are:

216 (i) \$1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per
217 year;

218 (ii) \$500 for generators transferring less than 1,000 cubic feet of radioactive waste per
219 year; and

220 (iii) \$5,000 for brokers.

221 (c) The department shall deposit fees received under this section into the Environmental
222 Quality Restricted Account created in Section 19-1-108.

223 Section 6. Section **19-3-201.1** is enacted to read:

224 **19-3-201.1. Definitions.**

225 As used in this compact:

226 (1) "Facility" means any site, location, structure, or property used or to be used for the
227 storage, treatment, or disposal of low-level waste, excluding federal waste facilities.

228 (2) "Generator" means any person, partnership, association, corporation, or any other entity
229 whatsoever which, as a part of its activities, produces low-level radioactive waste.

230 (3) "Host state" means a state in which a facility is located.

231 (4) (a) "Low-level waste" means waste material which contains radioactive nuclides
232 emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed
233 applicable federal or state standards for unrestricted release.

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

238 Section 7. Section **59-1-302** is amended to read:

239 **59-1-302. Penalty for nonpayment of sales, use, withholding, or fuels taxes --**
240 **Jeopardy proceedings.**

241 (1) The provisions of this section apply to the following taxes in this title:

242 (a) state and local sales and use tax under Chapter 12, Parts 1 and 2;

243 (b) transient room tax under Chapter 12, Part 3;

244 (c) resort communities tax under Chapter 12, Part 4;

- 245 (d) public transit tax under Chapter 12, Part 5;
246 (e) tourism, recreation, cultural, and convention facilities tax under Chapter 12, Part 6;
247 (f) motor fuel, clean fuel, special fuel, and aviation fuel taxes under Chapter 13, Parts 2,
248 3, and 4; [~~and~~]
249 (g) withholding tax under Chapter 10, Part 4; and
250 (h) radioactive waste tax under Chapter 24.

251 (2) Any person required to collect, truthfully account for, and pay over any tax listed in
252 Subsection (1) who willfully fails to collect the tax, fails to truthfully account for and pay over the
253 tax, or attempts in any manner to evade or defeat any tax or the payment of the tax, shall be liable
254 for a penalty equal to the total amount of the tax evaded, not collected, not accounted for, or not
255 paid over. This penalty is in addition to other penalties provided by law.

256 (3) (a) If the commission determines in accordance with Subsection (2) that a person is
257 liable for the penalty, the commission shall notify the taxpayer of the proposed penalty.

258 (b) The notice of proposed penalty shall:

- 259 (i) set forth the basis of the assessment; and
260 (ii) be mailed by registered mail, postage prepaid, to the person's last-known address.

261 (4) Upon receipt of the notice of proposed penalty, the person against whom the penalty
262 is proposed may:

- 263 (a) pay the amount of the proposed penalty at the place and time stated in the notice; or
264 (b) proceed in accordance with the review procedures of Subsection (5).

265 (5) Any person against whom a penalty has been proposed in accordance with Subsections
266 (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative proceeding
267 with the commission.

268 (6) If the commission determines that the collection of the penalty is in jeopardy, nothing
269 in this section may prevent the immediate collection of the penalty in accordance with the
270 procedures and requirements for emergency proceedings in Title 63, Chapter 46b, Administrative
271 Procedures Act.

272 (7) (a) In any hearing before the commission and in any judicial review of the hearing, the
273 commission and the court shall consider any inference and evidence that a person has willfully
274 failed to collect, truthfully account for, or pay over any tax listed in Subsection (1).

275 (b) It is prima facie evidence that a person has willfully failed to collect, truthfully account

276 for, or pay over any of the taxes listed in Subsection (1) if the commission or a court finds that the
277 person charged with the responsibility of collecting, accounting for, or paying over the taxes:

278 (i) made a voluntary, conscious, and intentional decision to prefer other creditors over the
279 state government or utilize the tax money for personal purposes;

280 (ii) recklessly disregarded obvious or known risks, which resulted in the failure to collect,
281 account for, or pay over the tax; or

282 (iii) failed to investigate or to correct mismanagement, having notice that the tax was not
283 or is not being collected, accounted for, or paid over as provided by law.

284 (c) The commission or court need not find a bad motive or specific intent to defraud the
285 government or deprive it of revenue to establish willfulness under this section.

286 (d) If the commission determines that a person is liable for the penalty under Subsection
287 (2), the commission shall assess the penalty and give notice and demand for payment. The notice
288 and demand for payment shall be mailed by registered mail, postage prepaid, to the person's
289 last-known address.

290 Section 8. Section **59-1-403** is amended to read:

291 **59-1-403. Confidentiality -- Penalty -- Application to property tax.**

292 (1) Any tax commissioner, agent, clerk, or other officer or employee of the commission
293 or any representative, agent, clerk, or other officer or employee of any county, city, or town may
294 not divulge or make known in any manner any information gained by him from any return filed
295 with the commission. The officials charged with the custody of such returns are not required to
296 produce any of them or evidence of anything contained in them in any action or proceeding in any
297 court, except:

298 (a) in accordance with judicial order;

299 (b) on behalf of the commission in any action or proceeding under this title or other law
300 under which persons are required to file returns with the commission;

301 (c) on behalf of the commission in any action or proceeding to which the commission is
302 a party; or

303 (d) on behalf of any party to any action or proceeding under this title when the report or
304 facts shown thereby are directly involved in such action or proceeding. In any event, the court may
305 require the production of, and may admit in evidence, any portion of reports or of the facts shown
306 by them, as are specifically pertinent to the action or proceeding.

307 (2) This section does not prohibit:

308 (a) a person or his duly authorized representative from receiving a copy of any return or
309 report filed in connection with that person's own tax;

310 (b) the publication of statistics as long as they are classified to prevent the identification
311 of particular reports or returns; and

312 (c) the inspection by the attorney general or other legal representative of the state of the
313 report or return of any taxpayer:

314 (i) who brings action to set aside or review the tax based on such report or return;

315 (ii) against whom an action or proceeding is contemplated or has been instituted under this
316 title; or

317 (iii) against whom the state has an unsatisfied money judgment.

318 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission
319 may, by rule, provide for a reciprocal exchange of information with the United States Internal
320 Revenue Service or the revenue service of any other state.

321 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
322 corporate franchise tax, the commission may, by rule, share information gathered from returns and
323 other written statements with the federal government, any other state, any of their political
324 subdivisions, or any political subdivision of this state, except as limited by Sections 59-12-209 and
325 59-12-210, if these political subdivisions or the federal government grant substantially similar
326 privileges to this state.

327 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
328 corporate franchise tax, the commission may, by rule, provide for the issuance of information
329 concerning the identity and other information of taxpayers who have failed to file tax returns or
330 to pay any tax due.

331 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
332 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, any records,
333 returns, and other information filed with the commission under Title 59, Chapter 13, Motor and
334 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
335 participation fee, as requested by the executive secretary.

336 (e) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
337 as defined in Section 59-22-202, the commission shall report to the manufacturer:

338 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
339 manufacturer and reported to the commission for the previous calendar year under Section
340 59-14-407; and

341 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
342 manufacturer for which a tax refund was granted during the previous calendar year under Section
343 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

344 (f) Notwithstanding Subsection (1), the commission may:

345 (i) provide to the Division of Consumer Protection within the Department of Commerce
346 and the attorney general data:

347 (A) reported to the commission under Section 59-14-212; or

348 (B) related to a violation under Section 59-14-211; and

349 (ii) upon request provide to any person data reported to the commission under Subsections
350 59-14-212(1)(a) through (1)(c) and Subsection 59-14-212(1)(g).

351 (g) Notwithstanding Subsection (1), the commission shall, at the request of a committee
352 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning and
353 Budget, provide to the committee or office the total amount of revenues collected by the
354 commission under Chapter 24, Radioactive Waste Tax Act, for the time period specified by the
355 committee or office.

356 (4) Reports and returns shall be preserved for at least three years and then the commission
357 may destroy them.

358 (5) Any person who violates this section is guilty of a class A misdemeanor. If the
359 offender is an officer or employee of the state, he shall be dismissed from office and be
360 disqualified from holding public office in this state for a period of five years thereafter.

361 (6) This part does not apply to the property tax.

362 Section 9. Section **59-24-101** is enacted to read:

363 **CHAPTER 24. RADIOACTIVE WASTE TAX ACT**

364 **Part 1. Radioactive Waste Tax**

365 **59-24-101. Title.**

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

367 Section 10. Section **59-24-102** is enacted to read:

368 **59-24-102. Definitions.**

369 As used in this chapter:

370 (1) (a) "Alternate feed material" means a natural or native material:

371 (i) mined for the extraction of its constituents or other matter from which source material
372 is extracted in a licensed uranium or thorium mill; and

373 (ii) processed primarily for its source material content.

374 (b) "Alternate feed material" does not include material containing hazardous waste listed
375 under 40 C.F.R. Part 261, Subpart D.

376 (2) (a) "Broker" means a person who performs one or more of the following functions for
377 a generator:

378 (i) arranges for transportation of the radioactive waste;

379 (ii) collects or consolidates shipments of radioactive waste; or

380 (iii) processes radioactive waste in some manner.

381 (b) "Broker" does not include a carrier whose sole function is to transport the radioactive
382 waste.

383 (3) "Generator" means a person who:

384 (a) possesses any material or component:

385 (i) that contains radioactivity or is radioactively contaminated; and

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

387 (b) transfers the material or component to:

388 (i) a radioactive waste facility; or

389 (ii) a broker.

390 (4) "Radioactive waste" means:

391 (a) low-level radioactive waste as defined in 42 U.S.C. Sec. 2021b;

392 (b) byproduct material as defined in 42 U.S.C. Sec. 2014(e)(2);

393 (c) mixed waste as defined in Section 19-6-102;

394 (d) naturally occurring or accelerator-produced radioactive materials containing greater
395 than 15 picocuries per gram of radium-226;

396 (e) tailings or wastes produced before November 8, 1978 by the extraction or concentration
397 of uranium or thorium from any ore processed primarily for its source material content; or

398 (f) alternate feed material.

399 (5) "Radioactive waste facility" or "facility" means a facility:

400 (a) for the treatment, reprocessing, or disposal of radioactive waste; and

401 (b) licensed under:

402 (i) Section 19-3-105; or

403 (ii) 10 C.F.R. Part 40, Domestic Licensing of Source Material.

404 Section 11. Section **59-24-103** is enacted to read:

405 **59-24-103. Tax imposed on radioactive waste -- Rate -- Exception.**

406 (1) On and after April 1, 2001, there is imposed a tax on radioactive waste received at a
407 radioactive waste facility as provided in this part.

408 (2) (a) The tax is the sum of:

409 (i) (A) \$1.00 per cubic foot of alternate feed material, received at the facility;

410 (B) \$1.00 per cubic foot of naturally occurring or accelerator-produced radioactive
411 materials containing greater than 15 picocuries per gram of radium-226, received at the facility;

412 (C) \$1.00 per cubic foot of tailings or wastes produced before August 9, 1978 by the
413 extraction or concentration of uranium or thorium from any ore processed primarily for its source
414 material content, received at the facility;

415 (D) \$3.00 per cubic foot of byproduct material as defined in U.S.C. Sec. 2014(e)(2),
416 received at the facility;

417 (E) \$4.00 per cubic foot of low-level radioactive waste as defined in 42 U.S.C. Sec.
418 2021b, received at the facility; or

419 (F) \$4.00 per cubic foot of mixed waste as defined in Section 19-6-102, received at the
420 facility; and

421 (ii) \$400 per curie of radioactive waste received at the facility.

422 (b) For purposes of the tax imposed by this section, a fraction of a cubic foot or a fraction
423 of a curie is considered to be a full cubic foot or a full curie.

424 (3) The tax imposed by this section applies to radioactive waste received at a radioactive
425 waste facility:

426 (a) under a contract entered into on or after the effective date of this act;

427 (b) under a contract that is substantially modified on or after the effective date of this act;

428 (c) under a contract renewed or extended on or after the effective date of this act;

429 (d) under a contract entered into before the effective date of this act, if the contract does
430 not include state taxes as part of the reprocessing, treatment, or disposal price; or

431 (e) on or after the effective date of this act, if the radioactive waste is not received pursuant
432 to a contract.

433 Section 12. Section **59-24-104** is enacted to read:

434 **59-24-104. Collection and remittance of tax.**

435 (1) The owner or operator of a radioactive waste facility that receives radioactive waste
436 for treatment, reprocessing, or disposal shall collect the taxes imposed by Section 59-24-103 from:

437 (a) the generator of the radioactive waste; or

438 (b) the broker, if the radioactive waste facility does not receive the radioactive waste from
439 the generator of the waste.

440 (2) (a) (i) The owner or operator shall, on or before the last day of the month following the
441 month in which the tax was collected, file with the commission a return for the preceding monthly
442 period.

443 (ii) The owner or operator shall remit with the return the amount of the tax required to be
444 collected under this part for the preceding monthly period.

445 (b) The commission and the Department of Environmental Quality may jointly develop
446 and use a single form for the collection of:

447 (i) the tax imposed under this chapter;

448 (ii) the fee imposed under Section 19-3-106; and

449 (iii) the mixed waste fee imposed under Section 19-6-118.

450 Section 13. Section **59-24-105** is enacted to read:

451 **59-24-105. Administration, collection, and enforcement of the tax --Procedures --**
452 **Requirements, penalties, and interest.**

453 (1) The commission shall administer, collect, and enforce the tax imposed under this part
454 pursuant to the same procedures used in the administration, collection, and enforcement of the state
455 sales and use tax under Title 59, Chapter 1, Parts 3 through 7 and Title 59, Chapter 12, Part 1.

456 (2) For purposes of the administration, collection, and enforcement of the tax imposed
457 under this chapter, the owner or operator of a radioactive waste facility shall be subject to the same
458 requirements, penalties, and interest as a vendor is subject to in connection with the administration,
459 collection, and enforcement of state sales and use tax under Title 59, Chapter 1, Parts 3 through
460 7 and Title 59, Chapter 12, Part 1.

461 (3) The exemptions from state sales and use tax provided for in Section 59-12-104 do not

462 apply to this part.

463 Section 14. Section **59-24-106** is enacted to read:

464 **59-24-106. Deposit of tax revenue.**

465 The commission shall deposit the tax revenue collected under this part into the General

466 Fund.

467 Section 15. Section **59-24-107** is enacted to read:

468 **59-24-107. Rules.**

469 The commission may make rules, in accordance with Title 63, Chapter 46a, Utah

470 Administrative Rulemaking Act, to implement and enforce this chapter.

471 Section 16. Section **59-24-201** is enacted to read:

472 **Part 2. Radioactive Waste Fee**

473 **59-24-201. Payment of a fee in accordance with an agreement.**

474 (1) A generator or broker who is a federal government agency and is not required under
475 federal law to pay the tax imposed by this chapter, may pay a radioactive waste fee in an amount
476 equal to the radiation waste tax imposed by Part 1, Radioactive Waste Tax, in accordance with an
477 agreement made with the commission.

478 (2) The owner or operator of the radioactive waste facility shall, within a 30-day period
479 after the facility receives radioactive waste from a generator or broker that is a federal government
480 agency, notify the commission of the generator or broker that is a federal government agency.

481 (3) The commission may enter into an agreement with the federal government agency, in
482 which the agency agrees to pay a radioactive waste fee in an amount equal to the amount of
483 radioactive waste tax imposed by Part 1, Radioactive Waste Tax.

484 Section 17. Section **59-24-202** is enacted to read:

485 **59-24-202. Collection, administration, and enforcement.**

486 The collection of a radioactive waste fee shall be administered and enforced in the same
487 manner as the radioactive waste tax under Part 1, Radioactive Waste Tax, unless the agreement
488 for the payment of the radioactive waste fee provides for a different method of collection.

489 Section 18. Section **59-24-203** is enacted to read:

490 **59-24-203. Deposit of fee revenue.**

491 The commission shall deposit fee revenue collected under this part into the General Fund.

492 Section 19. **Interim study.**

493 The Legislative Management Committee shall direct one or more interim committees to
494 study the following:

495 (1) whether a commercial radioactive waste treatment or disposal facility should be subject
496 to rate-of-return regulation;

497 (2) whether the state should assume ownership of all, or a part of, a commercial
498 radioactive waste treatment or disposal facility and, if so, when the state should assume ownership;

499 (3) whether the state should continue to be a member of the Northwest Low-level
500 Radioactive Waste Compact;

501 (4) financial assurance requirements for closure and postclosure care of commercial
502 radioactive waste treatment or disposal facilities; and

503 (5) taxation of nuclear waste transportation.

504 **Section 20. Effective date.**

505 If approved by two-thirds of all the members elected to each house, this act takes effect
506 upon approval by the governor, or the day following the constitutional time limit of Utah
507 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
508 date of veto override.

509 **Section 21. Coordination clause.**

510 It is the intent of the Legislature that in preparing the Utah Code database for publication,
511 the Office of Legislative Research and General Counsel is directed to replace the language, "the
512 effective date of this act," in Section 59-24-103 with the actual effective date of the act.

Legislative Review Note
as of 2-21-01 2:09 PM

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

Office of Legislative Research and General Counsel