

Representative David Ure proposes the following substitute bill:

WASTE TAX AND FEE AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

This act modifies the Environmental Quality Code and the Revenue and Taxation Code to increase fees on radioactive waste and hazardous waste, modify taxes paid by radioactive waste facilities, and impose taxes on hazardous waste facilities and nonhazardous solid waste facilities. This act increases a regulatory fee on radioactive waste received at a radioactive waste facility and increases a regulatory fee on hazardous waste received at a hazardous waste facility for treatment and disposal. This act eliminates a tax imposed on radioactive waste and imposes a tax on radioactive waste facilities. This act imposes a tax on hazardous waste facilities and nonhazardous solid waste facilities based on gross receipts derived from the treatment or disposal of hazardous waste and nonhazardous solid waste. This act increases the fee on the disposal of PCBs, nonhazardous solid waste, and municipal waste. This act amends the definition of gross receipts as it relates to radioactive waste.

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

AMENDS:

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

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

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

59-24-102, as enacted by Chapter 314, Laws of Utah 2001

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

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

ENACTS:



- 26 **59-24-103.5**, Utah Code Annotated 1953
- 27 **59-25-101**, Utah Code Annotated 1953
- 28 **59-25-102**, Utah Code Annotated 1953
- 29 **59-25-103**, Utah Code Annotated 1953
- 30 **59-25-104**, Utah Code Annotated 1953
- 31 **59-25-105**, Utah Code Annotated 1953
- 32 **59-25-106**, Utah Code Annotated 1953
- 33 **59-25-107**, Utah Code Annotated 1953
- 34 **59-25-108**, Utah Code Annotated 1953
- 35 **59-25-109**, Utah Code Annotated 1953

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

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

38 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

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

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

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

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

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

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

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

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

56 (2) (a) The owner or operator shall remit the fees imposed under this section to the

57 department on or before the 15th day of the month following the month in which the fee
58 accrued.

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

61 (c) The owner or operator shall submit to the department with the payment of the fee
62 under this Subsection (2) a completed form as prescribed by the department that provides
63 information the department requires to verify the amount of waste received and the fee amount
64 for which the owner or operator is liable.

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

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

68 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

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

74 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or
75 industrial furnace that receives for burning hazardous waste generated by off-site sources not
76 owned, controlled, or operated by the owner or operator is subject to the fee under Subsection
77 (2).

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

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

86 (c) (i) [~~Hazardous~~] On and after July 1, 1997 through June 30, 2003, hazardous waste
87 received at a land disposal facility is subject to a fee of \$14 per ton or fraction of a ton, rather

88 than the \$28 fee under Subsection (2)(a), if the waste is treated so that it:

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

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

91 (ii) On and after July 1, 2003, hazardous waste received at a land disposal facility for

92 treatment and disposal is subject to the \$28 fee imposed under Subsection (2)(a).

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

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

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

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

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

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

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

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

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

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

115 **59-24-101. Title.**

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

117 Section 4. Section **59-24-102** is amended to read:

118 **59-24-102. Definitions.**

119 As used in this chapter:

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

121 (i) mined for the extraction of its constituents or other matter from which source
122 material may be extracted in a licensed uranium or thorium mill; and

123 (ii) may be reprocessed for its source material content.

124 (b) "Alternate feed material" does not include:

125 (i) material containing hazardous waste listed under 40 C.F.R. Part 261, Subpart D;

126 (ii) natural or unprocessed ore; or

127 (iii) naturally occurring radioactive materials containing greater than 15 picocuries per
128 gram of radium-226.

129 (2) "Byproduct material" is as defined in 42 U.S.C. Sec. 2014(e)(2).

130 (3) "Class A low-level radioactive waste" means radioactive waste that is classified as
131 class A waste under 10 C.F.R. 61.55.

132 (4) "Containerized class A waste" means class A low-level radioactive waste that is
133 placed in the portion of a radioactive waste facility that is licensed to receive containerized
134 class A waste.

135 (5) (a) "Gross receipts" means all consideration an owner or operator of a radioactive
136 waste facility receives for the disposal of radioactive waste in the state, without any deduction
137 or expense paid or accrued related to the disposal of the radioactive waste.

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

140 (6) (a) "Processed class A waste" means waste that:

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

142 (ii) has been concentrated by a processor.

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

144 (7) "Radioactive waste" means:

145 (a) alternate feed material;

146 (b) byproduct material;

147 (c) containerized class A waste;

148 (d) processed class A waste; or

149 (e) uncontainerized, unprocessed class A waste.

150 (8) "Radioactive waste facility" or "facility" means:
151 (a) a facility licensed under Section 19-3-105; or
152 (b) a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source
153 Material.

154 (9) (a) "Uncontainerized, unprocessed class A waste" means class A low-level
155 radioactive waste that:

156 (i) is neither containerized class A waste, nor processed class A waste; and
157 (ii) must be disposed of under rules of the Nuclear Regulatory Commission in a
158 licensed low-level radioactive waste disposal facility.

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

161 Section 5. Section **59-24-103** is amended to read:

162 **59-24-103. Tax imposed on radioactive waste.**

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

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

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

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

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

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

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

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

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

177 (a) gross receipts received:

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

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

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

- 181 (iv) not pursuant to a contract; or
182 (v) for the disposal of containerized class A waste; and
183 (b) alternate feed material or byproduct material received:
184 (i) pursuant to a contract entered into on or after April 30, 2001;
185 (ii) pursuant to a contract substantially modified on or after April 30, 2001;
186 (iii) pursuant to a contract renewed or extended on or after April 30, 2001; or
187 (iv) not pursuant to a contract.
188 (5) The tax imposed by this section does not apply to radioactive waste containing
189 material classified as hazardous waste under 40 C.F.R. Part 261.

190 Section 6. Section **59-24-103.5** is enacted to read:

191 **59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.**

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

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

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

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

199 (c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
200 uncontainerized, unprocessed class A waste from a governmental entity or an agent of a
201 governmental entity;

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

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

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

205 (iv) not pursuant to a contract;

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

209 (e) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
210 mixed waste received from an entity other than a governmental entity or an agent of a
211 governmental entity;

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

214 (g) 10 cents per cubic foot of byproduct material received at a radioactive waste facility
215 for disposal.

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

218 (4) Except as provided in Subsection (2)(e), the tax imposed by this section does not
219 apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R.
220 Part 261.

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

222 **59-24-105. Deposit of tax revenue.**

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

225 Section 8. Section **59-25-101** is enacted to read:

226 **CHAPTER 25. HAZARDOUS WASTE FACILITY AND NONHAZARDOUS**
227 **SOLID WASTE FACILITY TAX ACT**

228 **59-25-101. Title.**

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

231 Section 9. Section **59-25-102** is enacted to read:

232 **59-25-102. Definitions.**

233 As used in this chapter:

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

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

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

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

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

241 (6) "Municipal solid waste" means household waste, nonhazardous commercial solid
242 waste, and nonhazardous sludge.

243 (7) "Nonhazardous solid waste" is solid waste, as defined in Section 19-6-102, except
244 that it does not include:

- 245 (a) hazardous waste;
- 246 (b) municipal solid waste; or
- 247 (c) construction waste or demolition waste.

248 (8) "Nonhazardous solid waste facility" means a commercial nonhazardous solid waste
249 treatment or disposal facility as defined in Section 19-6-102.

250 (9) "Solid waste" is as defined in Section 19-6-102.

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

252 Section 10. Section **59-25-103** is enacted to read:

253 **59-25-103. Hazardous waste facility and nonhazardous solid waste facility tax.**

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

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

257 (a) 3% of the gross receipts of a hazardous waste facility derived from the treatment or
258 disposal of hazardous waste; and

259 (b) 3% of the gross receipts of a hazardous waste facility or nonhazardous solid waste
260 facility derived from the treatment or disposal of nonhazardous solid waste.

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

265 Section 11. Section **59-25-104** is enacted to read:

266 **59-25-104. Payment of tax.**

267 (1) The tax imposed by Section 59-25-103 shall be paid by the owner or operator of the
268 hazardous waste facility or nonhazardous solid waste facility that receives the hazardous waste
269 or nonhazardous solid waste for treatment or disposal.

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

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

273 Section 12. Section **59-25-105** is enacted to read:

274 **59-25-105. Deposit of tax revenue.**

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

277 Section 13. Section **59-25-106** is enacted to read:

278 **59-25-106. Records.**

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

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

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

289 Section 14. Section **59-25-107** is enacted to read:

290 **59-25-107. Action for collection of tax -- Action for refund or credit of tax.**

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

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

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

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

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

299 (b) does not file a return.

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

302 (a) the three-year period under Subsection (1) has not expired; and

303 (b) the commission and the taxpayer sign a written agreement:

304 (i) authorizing the extension; and

305 (ii) providing for the length of the extension.
306 (4) If the commission delays an audit at the request of a taxpayer, the commission may
307 make an assessment as provided in Subsection (5) if:
308 (a) the taxpayer subsequently refuses to agree to an extension request by the
309 commission; and
310 (b) the three-year period under Subsection (1) expires before the commission
311 completes the audit.
312 (5) An assessment under Subsection (4) shall be:
313 (a) for the time period for which the commission could not make an assessment
314 because of the expiration of the three-year period; and
315 (b) in an amount equal to the difference between:
316 (i) the commission's estimate of the amount of tax the taxpayer would have been
317 assessed for the time period described in Subsection (5)(a); and
318 (ii) the amount of tax the taxpayer actually paid for the time period described in
319 Subsection (5)(a).
320 (6) (a) Except as provided in Subsection (6)(b), the commission may not make a credit
321 or refund unless the taxpayer files a claim with the commission within three years of the date of
322 overpayment.
323 (b) The commission shall extend the period for a taxpayer to file a claim under
324 Subsection (6)(a) if:
325 (i) the three-year period under Subsection (6)(a) has not expired; and
326 (ii) the commission and the taxpayer sign a written agreement:
327 (A) authorizing the extension; and
328 (B) providing for the length of the extension.
329 Section 15. Section **59-25-108** is enacted to read:
330 **59-25-108. Rulemaking authority.**
331 The commission may make rules under Title 63, Chapter 46a, Utah Administrative
332 Rulemaking Act, to implement and enforce this chapter.
333 Section 16. Section **59-25-109** is enacted to read:
334 **59-25-109. Penalties and interest.**
335 An owner or operator of a hazardous waste facility or nonhazardous solid waste facility

336 who fails to comply with this chapter is subject to penalties and interest as provided in Sections
337 59-1-401 and 59-1-402.