

**Senator Curtis S. Bramble** proposes the following substitute bill:

**REUSE OF INDUSTRIAL BYPRODUCT**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to the reuse of an industrial byproduct.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the Solid and Hazardous Waste Control Board to makes rules;
- ▶ authorizes the executive secretary to receive and act upon an application for reuse of an industrial byproduct; and
- ▶ requires the Department of Transportation to allow and encourage the reuse of an industrial byproduct in the construction of department projects.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**19-6-1101**, Utah Code Annotated 1953

**19-6-1102**, Utah Code Annotated 1953



- 26 19-6-1103, Utah Code Annotated 1953
- 27 19-6-1104, Utah Code Annotated 1953
- 28 72-6-106.5, Utah Code Annotated 1953



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

31 Section 1. Section 19-6-1101 is enacted to read:

32 **Part 11. Industrial Byproduct Reuse**

33 **19-6-1101. Title.**

34 This part is known as "Industrial Byproduct Reuse."

35 Section 2. Section 19-6-1102 is enacted to read:

36 **19-6-1102. Definitions.**

37 As used in this part:

38 (1) "Board" means the Solid and Hazardous Waste Control Board created under  
39 Section 19-1-106.

40 (2) "Executive secretary" means the executive secretary of the board.

41 (3) (a) "Industrial byproduct" means an industrial residual, including:

42 (i) inert construction debris;

43 (ii) fly ash;

44 (iii) bottom ash;

45 (iv) slag;

46 (v) flue gas emission control residuals generated primarily from the combustion of coal  
47 or other fossil fuel;

48 (vi) residual from the extraction, beneficiation, and processing of an ore or mineral;

49 (vii) cement kiln dust; or

50 (viii) contaminated soil extracted as a result of a corrective action subject to an  
51 operation plan under Part 1, Solid and Hazardous Waste Act.

52 (b) "Industrial byproduct" does not include material that:

53 (i) causes a public nuisance or public health hazard; or

54 (ii) is a hazardous waste under Part 1, Solid and Hazardous Waste Act.

55 (4) "Public project" means a project of the Department of Transportation to construct:

56 (a) a highway or road;

- 57 (b) a curb;
- 58 (c) a gutter;
- 59 (d) a walkway;
- 60 (e) a parking facility;
- 61 (f) a public transportation facility; or
- 62 (g) a facility, infrastructure, or transportation improvement that benefits the public.

63 (5) "Reuse" means to use an industrial byproduct in place of a raw material.

64 Section 3. Section **19-6-1103** is enacted to read:

65 **19-6-1103. Rulemaking -- Reporting.**

66 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
67 board may make rules to implement this part, including:

68 (1) a streamlined application procedure designed to encourage and allow reuse of an  
69 industrial byproduct in a public project; and

70 (2) reasonable, objective standards for demonstrating, without regard to the industrial  
71 byproduct's source, the safety of the reuse and future reuse of an industrial byproduct.

72 Section 4. Section **19-6-1104** is enacted to read:

73 **19-6-1104. Applications for industrial byproduct reuse -- Approval by the**  
74 **executive secretary.**

75 (1) A person may submit to the executive secretary an application for reuse of an  
76 industrial by product ~~to~~ **from an inactive industrial site defined in Section 17C-1-102** ~~to~~ .

77 (2) The executive secretary shall respond to an application submitted under Subsection  
78 (1) within 60 days of the day on which the executive secretary determines the application is  
79 complete.

80 (3) The executive secretary shall approve an application submitted under Subsection  
81 (1) if the applicant shows:

82 (a) the industrial byproduct meets the applicable health risk standard;

83 (b) the industrial byproduct satisfies the applicable toxicity characteristic leaching  
84 procedure; and

85 (c) the proposed method of installation and type of reuse meet the applicable health  
86 risk standard.

87 Section 5. Section **72-6-106.5** is enacted to read:

88 **72-6-106.5. Reuse of industrial byproducts.**

89 (1) As used in this section:

90 (a) "Executive secretary" has the same meaning as defined in Section 19-6-1102.

91 (b) "Industrial byproduct" has the same meaning as defined in Section 19-6-1102.

92 (c) "Public project" has the same meaning as defined in Section 19-6-1102.

93 (d) "Reuse" has the same meaning as defined in Section 19-6-1102.

94 (2) Consistent with the protection of public health and the environment and generally

95 accepted engineering practices, the department shall, to the maximum extent possible

96 considering budgetary factors:

97 (a) allow and encourage the reuse of an industrial byproduct in:

98 (i) a plan, specification, and estimate for a public project; and

99 (ii) advertising for a bid for a public project;

100 (b) allow for the reuse of an industrial byproduct in, among other uses:

101 (i) landscaping;

102 (ii) a general geotechnical fill;

103 (iii) a structural fill;

104 (iv) concrete or asphalt;

105 (v) a base or subbase; and

106 (vi) geotechnical drainage materials; and

107 (c) promulgate and apply public project specifications that allow reuse of an industrial

108 byproduct based upon:

109 (i) cost;

110 (ii) performance; and

111 (iii) engineered equivalency in lifespan, durability, and maintenance.

112 (3) After the executive secretary issues an approval under Section 19-6-1104 and the

113 department uses the industrial byproduct in compliance with the executive secretary's approval:

114 (a) the department is not responsible for further management of the industrial  
115 byproduct; and

116 (b) the generator or originator of the industrial byproduct is not responsible for the  
117 industrial byproduct under Title 19, Environmental Quality Code.

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**S.B. 224 1st Sub. (Green) - Reuse of Industrial Byproduct**

**Fiscal Note**

2009 General Session  
State of Utah

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**State Impact**

The cost to enact provisions of this bill are estimated to be \$1,600 one time from the General Fund to the Department of Environmental Quality for administrative rule making.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$1,600	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$1,600</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Individuals and businesses could benefit from provisions of this bill if they are not required to dispose of their industrial byproducts. It is unknown at this time how much of the industrial byproducts generate in the state would qualify under provisions of this bill, and therefore unknown what cost savings would benefit individual or business generators of the waste.