

Representative Lee B. Perry proposes the following substitute bill:

WASTE MANAGEMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill deals with fees set by the Division of Waste Management and Radiation Control.

Highlighted Provisions:

This bill:

- ▶ creates the Division of Waste Management and Radiation Control Expendable

⌚→ Special ←⌚

Revenue Fund and describes the uses of the fund;

- ▶ requires the Division of Waste Management and Radiation Control to upgrade technology;
- ▶ states that the annual fee schedule set by the Division of Waste Management and Radiation Control shall be equitable and fair, though not necessarily equal or uniform;
- ▶ provides criteria in setting the annual fee schedule;
- ▶ authorizes a landfill to conduct a self-inspection with reporting to the Division of Waste Management and Radiation Control;
- ▶ provides a repeal date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **19-1-108**, as last amended by Laws of Utah 2013, Chapter 330

32 **19-6-109**, as last amended by Laws of Utah 2012, Chapter 360

33 **19-6-119**, as last amended by Laws of Utah 2017, Chapter 281

34 **19-6-307**, as last amended by Laws of Utah 2013, Chapter 400

35 **63I-2-219**, as last amended by Laws of Utah 2016, Chapter 369

36 ENACTS:

37 **19-6-126**, Utah Code Annotated 1953



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

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

41 **19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of**
42 **restricted account -- Sources of funds -- Uses of funds.**

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

44 (2) The sources of money for the restricted account are:

45 (a) radioactive waste disposal fees collected under Sections **19-3-106** and **19-3-106.4**
46 and other fees collected under Subsection **19-3-104(5)**;

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

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

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

50 (e) the investment income derived from money in the Environmental Quality
51 Restricted Account.

52 (3) In each fiscal year[;]:

53 (a) the first [~~\$400,000~~] \$200,000 collected from the waste disposal fees listed in
54 Subsection (2), collectively, shall be deposited in the [~~General Fund as free revenue. The~~

55 ~~balance~~] Division of Waste Management and Radiation Control Expendable ~~Ĥ~~→ **Special** ←~~Ĥ~~

55a Revenue Fund

56 created in Section **19-6-126**; and

57 (b) the balance of the money collected from the waste disposal fees listed in Subsection
 58 (2), collectively, shall be deposited in the Environmental Quality Restricted Account.

59 (4) The Legislature may annually appropriate money from the Environmental Quality
 60 Restricted Account to the department for the costs of administering:

61 (a) [~~the department for the costs of administering~~] radiation control programs; and

62 (b) [~~the department for the costs of administering~~] solid and hazardous waste
 63 programs[~~; and~~].

64 [~~(c) subject to Subsection (6), the Hazardous Substances Mitigation Fund, up to~~
 65 ~~\$400,000, to provide money to:~~]

66 (5) Each year beginning July 1, 2018, and ending on June 30, 2022, the Division of
 67 Finance shall transfer \$200,000 from the Environmental Quality Restricted Account to the
 68 H→ [Hazard] Hazardous ←H Substances Mitigation Fund, to provide money to:

69 [(i)] (a) meet the state's cost share requirements for cleanup under the Comprehensive
 70 Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq.
 71 as amended; and

72 [(ii)] (b) respond to an emergency as provided in Section 19-6-309.

73 [(5)] (6) After the requirements of Subsection (3) are met, sources of money for the
 74 restricted account described in Subsection (2)(a) may only be used for the purpose described in
 75 Subsection (4)(a).

76 [~~(6) An annual request for money to be appropriated from the Environmental Quality~~
 77 ~~Restricted Account to the Hazardous Substances Mitigation Fund may be made by the~~
 78 ~~department only after the executive director's review of the Environmental Quality Restricted~~
 79 ~~Account's or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal~~
 80 ~~year immediately before the general session for which the request is made.]~~

81 (7) In order to stabilize funding for the radiation control program and the solid and
 82 hazardous waste program, the Legislature shall in years of excess revenues reserve in the
 83 Environmental Quality Restricted Account sufficient money to meet departmental needs in
 84 years of projected shortages.

85 (8) The Legislature may not appropriate money from the General Fund to the
 86 department as a supplemental appropriation to cover the costs of the radiation control program
 87 and the solid and hazardous waste program in an amount exceeding 25% of the amount of

88 waste disposal fees collected during the most recent prior fiscal year.

89 (9) Money appropriated under this part that is not expended at the end of the fiscal year
90 lapses into the Environmental Quality Restricted Account.

91 (10) (a) The balance in the Environmental Quality Restricted Account may not exceed
92 \$4,000,000 above the anticipated revenue need for the money in the restricted account for the
93 fiscal year.

94 (b) Excess funds under Subsection (10)(a) shall be credited on a proportionate basis to
95 each person who paid money to the fund in the previous fiscal year.

96 Section 2. Section **19-6-109** is amended to read:

97 **19-6-109. Inspections authorized -- Fines for a self-inspected facility.**

98 ~~[Any]~~ (1) A duly authorized officer, employee, or representative of the director may, at
99 any reasonable time and upon presentation of appropriate credentials, enter upon and inspect
100 any property, premise, or place on or at which solid or hazardous wastes are generated,
101 transported, stored, treated, or disposed of, and have access to and the right to copy any records
102 relating to the wastes, for the purpose of ascertaining compliance with this part and the rules of
103 the board. ~~[Those persons referred to in this section]~~

104 (2) An inspector may also inspect any waste and obtain waste samples, including
105 samples from any vehicle in which wastes are being transported or samples of any containers or
106 labels.

107 (3) Any person obtaining samples shall give to the owner, operator, or agent a receipt
108 describing the sample obtained and, if requested, a portion of each sample of waste equal in
109 volume or weight to the portion retained.

110 (4) If any analysis is made of those samples, a copy of the results of that analysis shall
111 be furnished promptly to the owner, operator, or agent in charge.

112 (5) (a) Notwithstanding any other provision of this section, by January 1, 2019, the
113 division shall ensure that an owner or operator of a solid waste management facility may elect
114 to self-inspect the solid waste management facility.

115 (b) (i) The division shall create a training program to teach the owner or operator of a
116 solid waste management facility how to self-inspect the owner or operator's solid waste
117 management facility.

118 (ii) The training described in Subsection (5)(b)(i) shall be no longer than five hours

119 total.

120 (c) An owner or operator that elects to self-inspect a solid waste management facility
 121 under Subsection (5)(a) shall:

122 (i) provide all information to the division that is required by this chapter and any rules
 123 issued by the board; and

124 (ii) conduct the self-inspection annually and send a ~~H→~~ [certified] ~~←H~~ self-inspection
 124a report ~~H→~~, certified by an individual who completed the training described in Subsection
 124b (5)(b)(i), ~~←H~~ to
 125 the division upon completion.

126 (d) The division shall ensure that a solid waste management facility is inspected by an
 127 authorized division employee:

128 (i) every three to five years, if the solid waste management facility does not elect to
 129 self-inspect under Subsection (5)(a);

130 (ii) at least once every five years, regardless of whether the solid waste management
 131 facility elects to self-inspect under Subsection (5)(a);

132 (iii) promptly upon receipt of a ~~H→~~ [valid] credible ~~←H~~ complaint about the
 132a solid waste management
 133 facility; and

134 (iv) upon request by the solid waste management facility or upon issuance of a notice
 135 of violation.

136 (6) ~~H→~~ (a) ~~←H~~ The division shall ensure that a fine assessed against a solid
 136a waste management
 137 facility that elects to self-inspect for a violation of this chapter or a rule made by the board is
 138 higher than the fine that would be assessed against a solid waste management facility that does
 139 not elect to self-inspect.

139a ~~H→~~ (b) The division may determine that, upon a severe violation of this chapter or a rule
 139b made by the board by a facility that elects to self-inspect, that a facility is no longer eligible to
 139c self-inspect. ~~←H~~

140 Section 3. Section 19-6-119 is amended to read:

141 **19-6-119. Nonhazardous solid waste disposal fees.**

142 (1) (a) Through December 31, 2018, and except as provided in Subsection (4), the
 143 owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator
 144 shall pay the following fees for waste received for treatment or disposal at the facility if the
 145 facility or incinerator is required to have operation plan approval under Section 19-6-108 and
 146 primarily receives waste generated by off-site sources not owned, controlled, or operated by the
 147 facility or site owner or operator:

148 (i) 13 cents per ton on all municipal waste and municipal incinerator ash;

149 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of

150 the following wastes in a cell exclusively designated for the waste being disposed:
151 (A) construction waste or demolition waste;
152 (B) yard waste, including vegetative matter resulting from landscaping, land
153 maintenance, and land clearing operations;
154 (C) dead animals;
155 (D) waste tires and materials derived from waste tires disposed of in accordance with
156 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and
157 (E) petroleum contaminated soils that are approved by the director; and
158 (iii) \$2.50 per ton on:
159 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and
160 (B) (I) fly ash waste;
161 (II) bottom ash waste;
162 (III) slag waste;
163 (IV) flue gas emission control waste generated primarily from the combustion of coal
164 or other fossil fuels;
165 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and
166 (VI) cement kiln dust wastes.
167 (b) A commercial nonhazardous solid waste disposal facility or incinerator subject to
168 the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii)
169 for those wastes described in Subsections (1)(a)(i) and (ii).
170 (c) The owner or operator of a facility described in Subsection [19-6-102\(3\)\(b\)\(iii\)](#) shall
171 pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.
172 (2) (a) Through December 31, 2018, and except as provided in Subsections (2)(c) and
173 (4), a waste facility that is owned by a political subdivision shall pay the following annual
174 facility fee to the department by January 15 of each year:
175 (i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal
176 waste each year;
177 (ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of
178 municipal waste each year;
179 (iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of
180 municipal waste each year;

181 (iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of
182 municipal waste each year;

183 (v) \$14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of
184 municipal waste each year;

185 (vi) \$33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of
186 municipal waste each year; and

187 (vii) \$66,000 if the facility receives 500,000 or more tons of municipal waste each
188 year.

189 (b) The fee identified in Subsection (2)(a) for 2018 shall be paid by January 15, 2019.

190 (c) Through December 31, 2018, and except as provided in Subsection (4), a waste
191 facility that is owned by a political subdivision shall pay \$2.50 per ton for:

192 (i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii)
193 received for disposal if the waste is:

194 (A) generated outside the boundaries of the political subdivision; and

195 (B) received from a single generator and exceeds 500 tons in a calendar year; and

196 (ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

197 (A) generated outside the boundaries of the political subdivision; and

198 (B) received from a single generator and exceeds 500 tons in a calendar year.

199 (d) Waste received at a facility owned by a political subdivision under Subsection
200 (2)(c) may not be counted as part of the total tonnage received by the facility under Subsection

201 (2)(a).

202 (3) (a) As used in this Subsection (3):

203 (i) "Recycling center" means a facility that extracts valuable materials from a waste
204 stream or transforms or remanufactures the material into a usable form that has demonstrated
205 or potential market value.

206 (ii) "Transfer station" means a permanent, fixed, supplemental collection and
207 transportation facility that is used to deposit collected solid waste from off-site into a transfer
208 vehicle for transport to a solid waste handling or disposal facility.

209 (b) Through December 31, 2018, and except as provided in Subsection (4), the owner
210 or operator of a transfer station or recycling center shall pay to the department the following
211 fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that

212 is not subject to a fee under this section:

213 (i) \$1.25 per ton on:

214 (A) all nonhazardous solid waste; and

215 (B) waste described in Subsection (1)(a)(iii)(B);

216 (ii) 10 cents per ton on all construction and demolition waste; and

217 (iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

218 (c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee
219 required under Subsection (3)(b)(i).

220 (4) The owner or operator of a waste disposal facility that receives nonhazardous solid
221 waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those
222 nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or
223 reprocessing.

224 (5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility
225 required to pay fees under this section shall:

226 (a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste
227 received during the calendar month, computed to the first decimal place, by the required fee
228 rate;

229 (b) pay the fees imposed by this section to the department by the 15th day of the month
230 following the month in which the fees accrued; and

231 (c) with the fees required under Subsection (6)(b), submit to the department, on a form
232 prescribed by the department, information that verifies the amount of nonhazardous solid waste
233 received and the fees that the owner or operator is required to pay.

234 (6) (a) In accordance with Section [63J-1-504](#), on or before July 1, 2018, and each fiscal
235 year thereafter, the department shall establish a fee schedule for the treatment, transfer, and
236 disposal of all nonhazardous solid waste.

237 (b) The department shall, before establishing the annual fee schedule described in
238 Subsection (6)(a), consult with industry and local government and complete a review of
239 program costs and indirect costs of regulating nonhazardous solid waste in the state and use the
240 findings of the review to create the fee schedule.

241 (c) The fee schedule described in Subsection (6)(a) shall:

242 (i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid

243 by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a
 244 regulatory burden to the department, based on the actual cost as described in Section 19-6-126
 244a **H→ and taking into consideration whether the owner or operator of a facility elects to self-**
 244b **inspect under Section 19-6-109 ←H** 2
 245 except as provided in Subsection (6)(d);
 246 (ii) cover the fully burdened costs of the program and provide for reasonable and
 247 timely oversight by the department;
 248 (iii) adequately meet the needs of industry, local government, and the department,
 249 including enabling the department to employ the appropriate number of qualified personnel to
 250 appropriately oversee industry and local government regulation;
 251 (iv) provide stable funding for the Environmental Quality Restricted Account created
 252 in Section 19-1-108; and
 253 (v) [~~give consideration to a fee differential regarding~~] for solid waste managed at a
 254 transfer facility, be no greater than [~~50 percent of the fee set for the treatment or disposal of the~~
 255 ~~same solid waste~~] the cost of regulatory services provided to the transfer facility.
 256 (d) Any person who treats, transfers, stores, or disposes of solid waste from the
 257 extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or
 258 operated by that person may not be charged a fee under this section for the treatment, transfer,
 259 storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores
 260 and minerals that are generated:
 261 (i) on-site by the person; or
 262 (ii) by off-site sources owned, controlled, or operated by the person.
 263 (e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on
 264 January 1, 2019.
 265 (7) On and after January 1, 2019, a facility required to pay fees under this section shall:
 266 (a) pay the fees imposed by this section to the department by the 15th day of the month
 267 following the quarter in which the fees accrued; and
 268 (b) with the fees required under Subsection (7)(a), submit to the department, on a form
 269 prescribed by the department, information that verifies the amount of nonhazardous solid waste
 270 received and the fees that the owner or operator is required to pay.
 271 (8) In setting the fee schedule described in Subsection (6)(a), the department shall
 272 ensure that a party is not charged multiple fees for the same solid waste, except the department
 273 may charge a separate fee for a transfer station.

274 (9) The department shall:

275 (a) deposit all fees received under this section into the Environmental Quality
276 Restricted Account created in Section 19-1-108; and

277 (b) in preparing its budget for the governor and the Legislature, separately indicate the
278 amount of the department's budget necessary to administer the solid and hazardous waste
279 program established by this part.

280 (10) The department may contract or agree with a county to assist in performing
281 nonhazardous solid waste management activities, including agreements for:

282 (a) the development of a solid waste management plan required under Section
283 17-15-23; and

284 (b) pass-through of available funding.

285 (11) This section does not exempt any facility from applicable regulation under the
286 Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

287 (12) The department shall report to the Natural Resources, Agriculture, and
288 Environment Interim Committee by November 30, 2017, on the fee schedule described in
289 Subsection (6)(a).

290 Section 4. Section 19-6-126 is enacted to read:

291 **19-6-126. Division of Waste Management and Radiation Control Expendable**

291a **H→ Special ←H**

292 **Revenue Fund.**

293 (1) There is created the Division of Waste Management and Radiation Control
294 Expendable H→ Special ←H Revenue Fund.

295 (2) The fund consists of money deposited in the fund pursuant to Section 19-1-108.

296 (3) The Division of Waste Management and Radiation Control may expend money in
297 the fund to upgrade technology for permitting and compliance purposes, and other expenditures
298 that will result in increased efficiency and reduced cost, as described in this section.

299 (4) The technology upgrade authorized in this section shall be designed to assist the
300 division in the following ways:

301 (a) allowing forms to be digitized and accessible online for:

302 (i) completion and submission by a division employee H→ or the owner or operator of a
302a facility that elects to self-inspect ←H ; and

303 (ii) review by a regulated facility;

304 (b) tracking expenses of a division employee, including travel time to inspected

305 facilities; and

306 (c) increasing employee efficiency and government transparency.

307 (5) The Division of Waste Management and Radiation Control may use money in the
308 fund to create training materials for the owner or operator of a solid waste management facility
309 to learn how to self-inspect the solid waste management facility.

310 (6) (a) Once the technology described in this section is in place, the Division of Waste
311 Management and Radiation Control shall implement a method for a solid waste management
312 facility to use the technology to self-inspect as described in Section [19-6-109](#).

313 (b) Before the technology described in this section is in place, an owner or operator
314 who elects to self-inspect shall use the standard form used by a Division of Waste Management
315 and Radiation Control employee to conduct an inspection.

316 (7) In implementing this section, the Division of Waste Management and Radiation
317 Control shall work with the Department of Technology Services.

318 (8) On December 31, 2019, the Division of Finance shall transfer any money remaining
319 in the fund to the General Fund.

320 Section 5. Section **19-6-307** is amended to read:

321 **19-6-307. Hazardous Substances Mitigation Fund -- Uses.**

322 (1) There is created an expendable special revenue fund entitled the "Hazardous
323 Substances Mitigation Fund."

324 (2) The fund consists of money generated from the following revenue sources:

325 (a) any voluntary contributions received for the cleanup of hazardous substances
326 facilities;

327 (b) appropriations made to the fund by the Legislature; [~~and~~]

328 (c) money received by the state under Section [19-6-310](#) and Section [19-6-316](#)[.]; and

329 (d) money from waste disposal fees, as described in Section [19-1-108](#).

330 (3) (a) The fund shall earn interest.

331 (b) All interest earned on fund money shall be deposited into the fund.

332 (4) The executive director may use fund money to:

333 (a) take emergency action as provided in Sections [19-6-309](#) and [19-6-310](#);

334 (b) conduct remedial investigations as provided in Sections [19-6-314](#) through

335 [19-6-316](#);

336 (c) pay the amount required by the federal government as the state's portion of the cost
337 of cleanups under authority of CERCLA, as appropriated by the Legislature for that purpose;
338 and

339 (d) pay the amount required by the federal government as the state's portion of the cost
340 of cleanups under 42 U.S.C. 6991 et seq., the Leaking Underground Storage Tank Trust Fund,
341 as appropriated by the Legislature for that purpose.

342 Section 6. Section **63I-2-219** is amended to read:

343 **63I-2-219. Repeal dates -- Title 19.**

344 [~~(1) Subsection 19-1-403(2)(c)(i), the language that states "minus the amount of any~~
345 ~~tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]~~

346 [~~(2) Subsection 19-1-403(2)(c)(ii), the language that states "minus the amount of any~~
347 ~~tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]~~

348 (1) (a) Subsection 19-1-108(3)(a) is repealed on June 30, 2019.

349 (b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and
350 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
351 necessary changes to subsection numbering and cross references.

352 (2) Section 19-6-126 is repealed on January 1, 2020.

353 Section 7. **Effective date.**

354 This bill takes effect on July 1, 2018.