

1 **COMMERCIAL WASTE FEE AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John Knotwell**

5 Senate Sponsor: Daniel Hemmert

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to a fee paid by an owner or operator of a
10 commercial radioactive waste treatment or disposal facility that receives radioactive
11 waste.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ reduces the annual fee paid by an owner or operator of a commercial radioactive
15 waste treatment or disposal facility that receives radioactive waste.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **19-3-106**, as last amended by Laws of Utah 2010, Chapter 17

23 **59-1-403**, as last amended by Laws of Utah 2017, Chapters 181, 277, and 430

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

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

27 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

28 (1) (a) An owner or operator of a commercial radioactive waste treatment or disposal

29 facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).

30 ~~[(b) (i) On or after July 1, 2010, but on or before June 30, 2011, the fee is equal to the~~
31 ~~sum of the following amounts:]~~

32 ~~[(A) 30 cents per cubic foot of radioactive waste, other than 11e.(2) byproduct material,~~
33 ~~received at the facility for disposal or treatment; and]~~

34 ~~[(B) \$1 per curie of radioactive waste, other than 11e.(2) byproduct material, received~~
35 ~~at the facility for disposal or treatment.]~~

36 ~~[(ii)] (i) On or after July 1, 2011, the fee shall be established by the department in~~
37 ~~accordance with Section 63J-1-504.~~

38 ~~[(iii)] (ii) In the development of a fee schedule prepared under Subsection~~
39 ~~(1)(b)[(ii)](i), the department may conduct by no later than July 1, 2011, a review of the~~
40 ~~program costs and indirect costs of regulating radioactive waste in the state.~~

41 ~~[(iv)] (iii) In addition to the process required by Section 63J-1-504, the department~~
42 ~~shall establish a fee that:~~

43 (A) is a flat fee, not based on the amount of waste treated or disposed of;

44 (B) provides for reasonable and timely oversight of radioactive waste by the
45 department; and

46 (C) adequately meets the needs of industry and the department, including allowing for
47 the department to employ qualified personnel to appropriately oversee industry regulation.

48 ~~[(2) (a) The portion of the fee required under Subsection (1)(b)(i)(A) shall be~~
49 ~~calculated by multiplying the total cubic feet of waste, computed to the first decimal place,~~
50 ~~received during the calendar month by 30 cents.]~~

51 ~~[(b) The portion of the fee required in Subsection (1)(b)(i)(B) shall be calculated by~~
52 ~~multiplying the total curies of waste, computed to the first decimal place, received during the~~
53 ~~calendar month by \$1.]~~

54 ~~[(3)] (2) (a) The owner or operator shall remit the fees imposed under this section to~~
55 ~~the department on or before the 15th day of the month following the month in which the fee~~

56 accrued.

57 (b) The department shall deposit the fees received under this section into the
58 Environmental Quality Restricted Account created in Section [19-1-108](#).

59 ~~[(c) The owner or operator shall submit to the department with the payment of the fee~~
60 ~~under this Subsection (3) a completed form as prescribed by the department that provides~~
61 ~~information the department requires to verify the amount of waste received and the fee amount~~
62 ~~for which the owner or operator is liable.]~~

63 (3) (a) The annual fee required under Subsection (1)(a) shall be reduced by the amount
64 paid in tax annually by the owner or operator under Section [59-24-103.5](#).

65 (b) Beginning June 2018, the State Tax Commission shall provide annually on or
66 before June 1 the tax information described in Subsection [59-1-403\(3\)\(v\)](#) indicating the
67 amount of tax paid for the previous calendar year under Section [59-24-103.5](#).

68 (c) The department shall apply the tax amount established in Subsection (3)(b) to
69 reduce the fee paid during the upcoming fiscal year, beginning fiscal year 2019, by the owner
70 or operator under Subsection (1)(a).

71 (4) The Legislature shall appropriate [to the department money to cover the cost of] the
72 fully burdened cost as determined by the annual fee set under Subsection (1)(b) to the
73 Environmental Quality Restricted Account created in Section [19-1-108](#) from the General Fund
74 for the regulation of radioactive waste treatment and disposal [supervision].

75 (5) If the Legislature fails to appropriate adequate funds to cover the fully burdened
76 cost as determined by the annual fee set under Subsection (1)(b), the owner or operator shall
77 pay the balance.

78 ~~[(5)]~~ (6) Radioactive waste that is subject to a fee under this section is not subject to a
79 fee under Section [19-6-119](#).

80 Section 2. Section **59-1-403** is amended to read:

81 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

82 (1) (a) Any of the following may not divulge or make known in any manner any

83 information gained by that person from any return filed with the commission:

84 (i) a tax commissioner;

85 (ii) an agent, clerk, or other officer or employee of the commission; or

86 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
87 town.

88 (b) An official charged with the custody of a return filed with the commission is not
89 required to produce the return or evidence of anything contained in the return in any action or
90 proceeding in any court, except:

91 (i) in accordance with judicial order;

92 (ii) on behalf of the commission in any action or proceeding under:

93 (A) this title; or

94 (B) other law under which persons are required to file returns with the commission;

95 (iii) on behalf of the commission in any action or proceeding to which the commission
96 is a party; or

97 (iv) on behalf of any party to any action or proceeding under this title if the report or
98 facts shown by the return are directly involved in the action or proceeding.

99 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
100 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
101 pertinent to the action or proceeding.

102 (2) This section does not prohibit:

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

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

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

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

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

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

113 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
114 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
115 Rulemaking Act, provide for a reciprocal exchange of information with:

116 (i) the United States Internal Revenue Service; or

117 (ii) the revenue service of any other state.

118 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
119 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
120 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
121 other written statements with the federal government, any other state, any of the political
122 subdivisions of another state, or any political subdivision of this state, except as limited by
123 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
124 government grant substantially similar privileges to this state.

125 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
126 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
127 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
128 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
129 due.

130 (d) Notwithstanding Subsection (1), the commission shall provide to the director of the
131 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
132 requested by the director of the Division of Environmental Response and Remediation, any
133 records, returns, or other information filed with the commission under Chapter 13, Motor and
134 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
135 participation fee.

136 (e) Notwithstanding Subsection (1), at the request of any person the commission shall

137 provide that person sales and purchase volume data reported to the commission on a report,
138 return, or other information filed with the commission under:

139 (i) Chapter 13, Part 2, Motor Fuel; or

140 (ii) Chapter 13, Part 4, Aviation Fuel.

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

143 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
144 manufacturer and reported to the commission for the previous calendar year under Section
145 59-14-407; and

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

149 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
150 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
151 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

152 (h) Notwithstanding Subsection (1), the commission may:

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

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

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

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

159 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
160 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of
161 Management and Budget, provide to the committee or office the total amount of revenues
162 collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the
163 time period specified by the committee or office.

164 (j) Notwithstanding Subsection (1), the commission shall make the directory required
165 by Section 59-14-603 available for public inspection.

166 (k) Notwithstanding Subsection (1), the commission may share information with
167 federal, state, or local agencies as provided in Subsection 59-14-606(3).

168 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
169 Recovery Services within the Department of Human Services any relevant information
170 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
171 who has become obligated to the Office of Recovery Services.

172 (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of
173 Recovery Services to any other state's child support collection agency involved in enforcing
174 that support obligation.

175 (m) (i) Notwithstanding Subsection (1), upon request from the state court
176 administrator, the commission shall provide to the state court administrator, the name, address,
177 telephone number, county of residence, and social security number on resident returns filed
178 under Chapter 10, Individual Income Tax Act.

179 (ii) The state court administrator may use the information described in Subsection
180 (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

181 (n) (i) As used in this Subsection (3)(n):

182 (A) "Income tax information" means information gained by the commission that is
183 required to be attached to or included in a return filed with the commission under Chapter 7,
184 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

185 (B) "Office" means the Office of the Legislative Fiscal Analyst, established in Section
186 36-12-13, the Office of Legislative Research and General Counsel, established in Section
187 36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or
188 the Governor's Office of Management and Budget, created in Section 63J-4-2011.

189 (C) "Other tax information" means information gained by the commission that is
190 required to be attached to or included in a return filed with the commission except for a return

191 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
192 Income Tax Act.

193 (D) "Tax information" means income tax information or other tax information.

194 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
195 (3)(n)(ii)(B) or (C), the commission shall at the request of an office provide to the office all
196 income tax information.

197 (B) For purposes of a request for income tax information made under Subsection
198 (3)(n)(ii)(A), an office may not request and the commission may not provide to an office a
199 person's address, name, social security number, or taxpayer identification number.

200 (C) In providing income tax information to an office, the commission shall in all
201 instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

202 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
203 (3)(n)(iii)(B), the commission shall at the request of an office provide to the office other tax
204 information.

205 (B) Before providing other tax information to an office, the commission shall redact or
206 remove any name, address, social security number, or taxpayer identification number.

207 (iv) An office may provide tax information received from the commission in
208 accordance with this Subsection (3)(n) only:

209 (A) as a fiscal estimate, fiscal note information, or statistical information; and

210 (B) if the tax information is classified to prevent the identification of a particular
211 return.

212 (v) (A) A person may not request tax information from an office under Title 63G,
213 Chapter 2, Government Records Access and Management Act, or this section, if that office
214 received the tax information from the commission in accordance with this Subsection (3)(n).

215 (B) An office may not provide to a person that requests tax information in accordance
216 with Subsection (3)(n)(v)(A) any tax information other than the tax information the office
217 provides in accordance with Subsection (3)(n)(iv).

218 (o) Notwithstanding Subsection (1), the commission may provide to the governing
219 board of the agreement or a taxing official of another state, the District of Columbia, the United
220 States, or a territory of the United States:

221 (i) the following relating to an agreement sales and use tax:

222 (A) information contained in a return filed with the commission;

223 (B) information contained in a report filed with the commission;

224 (C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

225 (D) a document filed with the commission; or

226 (ii) a report of an audit or investigation made with respect to an agreement sales and
227 use tax.

228 (p) Notwithstanding Subsection (1), the commission may provide information
229 concerning a taxpayer's state income tax return or state income tax withholding information to
230 the Driver License Division if the Driver License Division:

231 (i) requests the information; and

232 (ii) provides the commission with a signed release form from the taxpayer allowing the
233 Driver License Division access to the information.

234 (q) Notwithstanding Subsection (1), the commission shall provide to the Utah
235 Communications Authority, or a division of the Utah Communications Authority, the
236 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
237 [63H-7a-502](#).

238 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah
239 Educational Savings Plan information related to a resident or nonresident individual's
240 contribution to a Utah Educational Savings Plan account as designated on the resident or
241 nonresident's individual income tax return as provided under Section [59-10-1313](#).

242 (s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under
243 Sections [26-18-2.5](#) and [26-40-105](#), the commission shall provide an eligibility worker with the
244 Department of Health or its designee with the adjusted gross income of an individual if:

245 (i) an eligibility worker with the Department of Health or its designee requests the
246 information from the commission; and

247 (ii) the eligibility worker has complied with the identity verification and consent
248 provisions of Sections [26-18-2.5](#) and [26-40-105](#).

249 (t) Notwithstanding Subsection (1), the commission may provide to a county, as
250 determined by the commission, information declared on an individual income tax return in
251 accordance with Section [59-10-103.1](#) that relates to eligibility to claim a residential exemption
252 authorized under Section [59-2-103](#).

253 (u) Notwithstanding Subsection (1), the commission shall provide a report regarding
254 any access line provider that is over 90 days delinquent in payment to the commission of
255 amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency
256 Service Charges, to:

257 (i) the board of the Utah Communications Authority created in Section [63H-7a-201](#);
258 and

259 (ii) the Public Utilities, Energy, and Technology Interim Committee.

260 (v) Notwithstanding Subsection (1), the commission shall provide the Department of
261 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the
262 previous calendar year under Section [59-24-103.5](#).

263 (4) (a) Each report and return shall be preserved for at least three years.

264 (b) After the three-year period provided in Subsection (4)(a) the commission may
265 destroy a report or return.

266 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

267 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
268 the person shall be dismissed from office and be disqualified from holding public office in this
269 state for a period of five years thereafter.

270 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
271 accordance with Subsection (3)(n)(iii) or a person that requests information in accordance with

- 272 Subsection (3)(n)(v):
- 273 (i) is not guilty of a class A misdemeanor; and
- 274 (ii) is not subject to:
- 275 (A) dismissal from office in accordance with Subsection (5)(b); or
- 276 (B) disqualification from holding public office in accordance with Subsection (5)(b).
- 277 (6) Except as provided in Section [59-1-404](#), this part does not apply to the property tax.