

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

6	Cosponsors:	Kay J. Christofferson	John R. Westwood
7	Carl R. Albrecht	Stephen G. Handy	
	Stewart E. Barlow		

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



24 Waste Management and Radiation Control;

25 ▶ provides a repeal date; and

26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **19-1-108**, as last amended by Laws of Utah 2013, Chapter 330

34 **19-6-109**, as last amended by Laws of Utah 2012, Chapter 360

35 **19-6-119**, as last amended by Laws of Utah 2017, Chapter 281

36 **19-6-307**, as last amended by Laws of Utah 2013, Chapter 400

37 **63I-2-219**, as last amended by Laws of Utah 2016, Chapter 369

38 ENACTS:

39 **19-6-126**, Utah Code Annotated 1953



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 money for the restricted account are:

47 (a) radioactive waste disposal fees collected under Sections **19-3-106** and **19-3-106.4**

48 and other fees collected under Subsection **19-3-104(5)**;

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) the investment income derived from money in the Environmental Quality

53 Restricted Account.

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

55 (a) the first ~~[\$400,000]~~ \$200,000 collected from the waste disposal fees listed in
 56 Subsection (2), collectively, shall be deposited in the ~~[General Fund as free revenue. The~~
 57 ~~balance]~~ Division of Waste Management and Radiation Control Expendable Special Revenue
 58 Fund created in Section 19-6-126; and

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

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

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

64 (b) ~~[the department for the costs of administering]~~ solid and hazardous waste
 65 programs~~[- and].~~

66 ~~[(c) subject to Subsection (6), the Hazardous Substances Mitigation Fund, up to~~
 67 ~~\$400,000, to provide money to:]~~

68 (5) (a) Each fiscal year beginning July 1, 2018, and ending on June 30, 2022, the
 69 Division of Finance shall transfer \$200,000 from the Environmental Quality Restricted
 70 Account to the Hazardous Substances Mitigation Fund, to provide money to:

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

74 (ii) respond to an emergency as provided in Section 19-6-309.

75 (b) Each fiscal year beginning July 1, 2018 and ending on June 30, 2020, the Division
 76 of Finance shall transfer \$200,000 from the Environmental Quality Restricted Account to the
 77 General Fund, to be deposited as free revenue.

78 ~~[(5)]~~ (6) After the requirements of Subsection (3) are met, sources of money for the
 79 restricted account described in Subsection (2)(a) may only be used for the purpose described in
 80 Subsection (4)(a).

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

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

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

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

96 (10) (a) The balance in the Environmental Quality Restricted Account may not exceed
97 \$4,000,000 above the anticipated revenue need for the money in the restricted account for the
98 fiscal year.

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

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

102 **19-6-109. Inspections authorized -- Fines for a self-inspected facility.**

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

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

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

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

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

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

123 (ii) The training described in Subsection (5)(b)(i) shall be no longer than five hours
124 total.

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

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

129 (ii) conduct the self-inspection annually and send a self-inspection report, certified by
130 an individual who completed the training described in Subsection (5)(b)(i), to the division upon
131 completion.

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

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

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

138 (iii) promptly upon receipt of a credible complaint about the solid waste management
139 facility; and

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

142 (6) (a) The division shall ensure that a fine assessed against a solid waste management
143 facility that elects to self-inspect for a violation of this chapter or a rule made by the board is
144 higher than the fine that would be assessed against a solid waste management facility that does
145 not elect to self-inspect.

146 (b) The division may determine that, upon a severe violation of this chapter or a rule
147 made by the board by a facility that elects to self-inspect, that a facility is no longer eligible to

148 self-inspect.

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

150 **19-6-119. Nonhazardous solid waste disposal fees.**

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

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

158 (ii) 50 cents per ton on the following wastes if the facility disposes of one or more of
159 the following wastes in a cell exclusively designated for the waste being disposed:

160 (A) construction waste or demolition waste;

161 (B) yard waste, including vegetative matter resulting from landscaping, land
162 maintenance, and land clearing operations;

163 (C) dead animals;

164 (D) waste tires and materials derived from waste tires disposed of in accordance with
165 Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

166 (E) petroleum contaminated soils that are approved by the director; and

167 (iii) \$2.50 per ton on:

168 (A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

169 (B) (I) fly ash waste;

170 (II) bottom ash waste;

171 (III) slag waste;

172 (IV) flue gas emission control waste generated primarily from the combustion of coal
173 or other fossil fuels;

174 (V) waste from the extraction, beneficiation, and processing of ores and minerals; and

175 (VI) cement kiln dust wastes.

176 (b) A commercial nonhazardous solid waste disposal facility or incinerator subject to
177 the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii)
178 for those wastes described in Subsections (1)(a)(i) and (ii).

179 (c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall
180 pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.

181 (2) (a) Through December 31, 2018, and except as provided in Subsections (2)(c) and
182 (4), a waste facility that is owned by a political subdivision shall pay the following annual
183 facility fee to the department by January 15 of each year:

184 (i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal
185 waste each year;

186 (ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of
187 municipal waste each year;

188 (iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of
189 municipal waste each year;

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

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

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

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

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

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

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

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

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

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

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

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

208 (d) Waste received at a facility owned by a political subdivision under Subsection

209 (2)(c) may not be counted as part of the total tonnage received by the facility under Subsection

210 (2)(a).

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

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

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

218 (b) Through December 31, 2018, and except as provided in Subsection (4), the owner
219 or operator of a transfer station or recycling center shall pay to the department the following
220 fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that
221 is not subject to a fee under this section:

222 (i) \$1.25 per ton on:

223 (A) all nonhazardous solid waste; and

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

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

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

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

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

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

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

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

240 (c) with the fees required under Subsection (6)(b), submit to the department, on a form

241 prescribed by the department, information that verifies the amount of nonhazardous solid waste
242 received and the fees that the owner or operator is required to pay.

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

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

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

251 (i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid
252 by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a
253 regulatory burden to the department, based on the actual cost as described in Section [19-6-126](#)
254 and taking into consideration whether the owner or operator of a facility elects to self-inspect
255 under Section [19-6-109](#), except as provided in Subsection (6)(d);

256 (ii) cover the fully burdened costs of the program and provide for reasonable and
257 timely oversight by the department;

258 (iii) adequately meet the needs of industry, local government, and the department,
259 including enabling the department to employ the appropriate number of qualified personnel to
260 appropriately oversee industry and local government regulation;

261 (iv) provide stable funding for the Environmental Quality Restricted Account created
262 in Section [19-1-108](#); and

263 (v) [~~give consideration to a fee differential regarding~~] for solid waste managed at a
264 transfer facility, be no greater than [~~50 percent of the fee set for the treatment or disposal of the~~
265 ~~same solid waste~~] the cost of regulatory services provided to the transfer facility.

266 (d) Any person who treats, transfers, stores, or disposes of solid waste from the
267 extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or
268 operated by that person may not be charged a fee under this section for the treatment, transfer,
269 storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores
270 and minerals that are generated:

271 (i) on-site by the person; or

272 (ii) by off-site sources owned, controlled, or operated by the person.

273 (e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on
274 January 1, 2019.

275 (7) On and after January 1, 2019, a facility required to pay fees under this section shall:

276 (a) pay the fees imposed by this section to the department by the 15th day of the month
277 following the quarter in which the fees accrued; and

278 (b) with the fees required under Subsection (7)(a), submit to the department, on a form
279 prescribed by the department, information that verifies the amount of nonhazardous solid waste
280 received and the fees that the owner or operator is required to pay.

281 (8) In setting the fee schedule described in Subsection (6)(a), the department shall
282 ensure that a party is not charged multiple fees for the same solid waste, except the department
283 may charge a separate fee for a transfer station.

284 (9) The department shall:

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

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

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

292 (a) the development of a solid waste management plan required under Section
293 17-15-23; and

294 (b) pass-through of available funding.

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

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

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

301 **19-6-126. Division of Waste Management and Radiation Control Expendable**
302 **Special Revenue Fund.**

- 303 (1) There is created the Division of Waste Management and Radiation Control
304 Expendable Special Revenue Fund.
- 305 (2) The fund consists of money deposited in the fund pursuant to Section 19-1-108.
- 306 (3) The Division of Waste Management and Radiation Control may expend money in
307 the fund to upgrade technology for permitting and compliance purposes, and other expenditures
308 that will result in increased efficiency and reduced cost, as described in this section.
- 309 (4) The technology upgrade authorized in this section shall be designed to assist the
310 division in the following ways:
- 311 (a) allowing forms to be digitized and accessible online for:
- 312 (i) completion and submission by a division employee or the owner or operator of a
313 facility that elects to self-inspect; and
- 314 (ii) review by a regulated facility;
- 315 (b) tracking expenses of a division employee, including travel time to inspected
316 facilities; and
- 317 (c) increasing employee efficiency and government transparency.
- 318 (5) The Division of Waste Management and Radiation Control may use money in the
319 fund to create training materials for the owner or operator of a solid waste management facility
320 to learn how to self-inspect the solid waste management facility.
- 321 (6) (a) Once the technology described in this section is in place, the Division of Waste
322 Management and Radiation Control shall implement a method for a solid waste management
323 facility to use the technology to self-inspect as described in Section 19-6-109.
- 324 (b) Before the technology described in this section is in place, an owner or operator
325 who elects to self-inspect shall use the standard form used by a Division of Waste Management
326 and Radiation Control employee to conduct an inspection.
- 327 (7) In implementing this section, the Division of Waste Management and Radiation
328 Control shall work with the Department of Technology Services.
- 329 (8) On December 31, 2019, the Division of Finance shall transfer any money remaining
330 in the fund to the General Fund.

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

332 **19-6-307. Hazardous Substances Mitigation Fund -- Uses.**

333 (1) There is created an expendable special revenue fund entitled the "Hazardous

334 Substances Mitigation Fund."

- 335 (2) The fund consists of money generated from the following revenue sources:
- 336 (a) any voluntary contributions received for the cleanup of hazardous substances
- 337 facilities;
- 338 (b) appropriations made to the fund by the Legislature; [~~and~~]
- 339 (c) money received by the state under Section 19-6-310 and Section 19-6-316[-]; and
- 340 (d) money from waste disposal fees, as described in Section 19-1-108.

- 341 (3) (a) The fund shall earn interest.
- 342 (b) All interest earned on fund money shall be deposited into the fund.
- 343 (4) The executive director may use fund money to:
- 344 (a) take emergency action as provided in Sections 19-6-309 and 19-6-310;
- 345 (b) conduct remedial investigations as provided in Sections 19-6-314 through
- 346 19-6-316;
- 347 (c) pay the amount required by the federal government as the state's portion of the cost
- 348 of cleanups under authority of CERCLA, as appropriated by the Legislature for that purpose;
- 349 and
- 350 (d) pay the amount required by the federal government as the state's portion of the cost
- 351 of cleanups under 42 U.S.C. 6991 et seq., the Leaking Underground Storage Tank Trust Fund,
- 352 as appropriated by the Legislature for that purpose.

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

354 **63I-2-219. Repeal dates -- Title 19.**

355 [~~(1) Subsection 19-1-403(2)(c)(i), the language that states "minus the amount of any~~

356 tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]

357 [~~(2) Subsection 19-1-403(2)(c)(ii), the language that states "minus the amount of any~~

358 tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]

- 359 (1) (a) Subsection 19-1-108(3)(a) is repealed on June 30, 2019.
- 360 (b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and
- 361 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
- 362 necessary changes to subsection numbering and cross references.

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

364 Section 7. **Effective date.**

365

This bill takes effect on July 1, 2018.