

TAX AND FEE CLEAN-UP PROVISIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Ronald Winterton

LONG TITLE

General Description:

This bill modifies certain tax and fee provisions by repealing certain expired provisions.

Highlighted Provisions:

This bill:

- ▶ repeals provisions relating to hazardous and treated hazardous waste disposal fees that applied through June 30, 2014;
- ▶ repeals provisions for determining the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium through December 31, 2004;
- ▶ repeals provisions relating to a tax on radioactive waste received at a radioactive waste facility that applied through June 30, 2003;
- ▶ repeals the Hazardous Waste Facility and Nonhazardous Solid Waste Facility Tax Act that applied through December 31, 2003; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-118, as last amended by Laws of Utah 2013, Chapter 201



28 **59-5-203**, as last amended by Laws of Utah 2008, Chapter 382

29 **59-24-104**, as enacted by Laws of Utah 2001, Chapter 314

30 REPEALS:

31 **59-24-103**, as last amended by Laws of Utah 2003, Chapter 295

32 **59-25-101**, as enacted by Laws of Utah 2003, Chapter 295

33 **59-25-102**, as enacted by Laws of Utah 2003, Chapter 295

34 **59-25-103**, as last amended by Laws of Utah 2004, Chapter 311

35 **59-25-104**, as enacted by Laws of Utah 2003, Chapter 295

36 **59-25-105**, as enacted by Laws of Utah 2003, Chapter 295

37 **59-25-106**, as enacted by Laws of Utah 2003, Chapter 295

38 **59-25-108**, as last amended by Laws of Utah 2008, Chapter 382

39 **59-25-109**, as enacted by Laws of Utah 2003, Chapter 295



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

42 Section 1. Section **19-6-118** is amended to read:

43 **19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

44 [~~(1) As used in this section:~~]

45 [~~(a) "Demilitarization waste" means:~~]

46 [~~(i) a nerve, military, or chemical agent, including:~~]

47 [~~(A) CX;~~]

48 [~~(B) GA;~~]

49 [~~(C) GB;~~]

50 [~~(D) GD;~~]

51 [~~(E) H;~~]

52 [~~(F) HD;~~]

53 [~~(G) HL;~~]

54 [~~(H) HN-1;~~]

55 [~~(I) HN-2;~~]

56 [~~(J) HN-3;~~]

57 [~~(K) HT;~~]

58 [~~(L) L; or~~]

59 ~~[(M) VX; or]~~
60 ~~[(ii) waste or residue from demilitarization, treatment, testing, or disposal of an agent~~
61 ~~described in Subsection (1)(a)(i).]~~
62 ~~[(b) "Remediation project" means:]~~
63 ~~[(i) a superfund cleanup project;]~~
64 ~~[(ii) a Resource Conservation and Recovery Act closure or corrective action site; or]~~
65 ~~[(iii) a voluntary cleanup of:]~~
66 ~~[(A) hazardous debris; or]~~
67 ~~[(B) hazardous waste subject to regulation solely because of removal or remedial~~
68 ~~action taken in response to environmental contamination.]~~
69 ~~[(c) "Remediation waste" means waste from a remediation project.]~~
70 ~~[(2)] (1) (a) An owner or operator of any commercial hazardous waste or mixed waste~~
71 ~~disposal or treatment facility that primarily receives hazardous or mixed wastes generated by~~
72 ~~off-site sources not owned, controlled, or operated by the facility or site owner or operator, and~~
73 ~~that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection [(3)]~~
74 ~~(2).~~
75 (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or
76 industrial furnace that receives for burning hazardous waste generated by off-site sources not
77 owned, controlled, or operated by the owner or operator shall pay the fee under Subsection
78 [(3)] (2).
79 [(3) (a) (i) Through June 30, 2014, the owner or operator of each facility under
80 ~~Subsection (2) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste received~~
81 ~~at the facility for disposal, treatment, or both.]~~
82 ~~[(ii) The fee required under Subsection (3)(a)(i) shall be calculated by multiplying the~~
83 ~~total tonnage of waste, computed to the first decimal place, received during the calendar month~~
84 ~~by \$28.]~~
85 [(b) (i) Through June 30, 2014, hazardous waste received at a land disposal facility is
86 subject to a fee of \$14 per ton instead of the fee described in Subsection (3)(a) if the waste is
87 treated so that it:]
88 [(A) meets the state treatment standards required for land disposal at the facility; or]
89 [(B) is no longer a hazardous waste at the time of disposal at that facility.]

90 ~~[(ii) Through June 30, 2014, demilitarization waste received at a land disposal facility~~
91 ~~is subject to the fee described in Subsection (3)(b)(i), if:]~~

92 ~~[(A) the demilitarization waste contains an additional constituent that is not~~
93 ~~demilitarization waste and is required by rule to be treated before land disposal; and]~~

94 ~~[(B) the additional constituent meets every applicable state treatment standard required~~
95 ~~for land disposal of that constituent at the facility.]~~

96 ~~[(iii) A fee required under Subsection (3)(b)(i) shall be calculated by multiplying the~~
97 ~~tonnage of waste, computed to the first decimal place, received during the calendar month by~~
98 ~~\$14.]~~

99 ~~[(c) Through June 30, 2014, when hazardous waste or mixed waste is received at a~~
100 ~~facility for treatment or disposal and the fee required under Subsection (3) is paid for that~~
101 ~~treatment or disposal, any subsequent treatment or disposal of the waste is not subject to~~
102 ~~additional fees under Subsection (3).]~~

103 ~~[(d)(i)]~~ (2)(a) In accordance with Section [63J-1-504](#), ~~[on or before July 1, 2014,]~~ the
104 department shall establish a fee schedule for the treatment and land disposal of hazardous
105 waste and mixed waste.

106 ~~[(ii)]~~ (b) To create the fee schedule described in Subsection ~~[(3)(d)(i)]~~ (2)(a), the
107 department shall, before establishing the fee schedule, complete a review of program costs and
108 indirect costs of regulating hazardous waste and mixed waste in the state.

109 ~~[(iii)]~~ (c) The fee schedule described in Subsection ~~[(3)(d)(i)]~~ (2)(a) shall:

110 ~~[(A)]~~ (i) implement a flat fee not calculated according to the amount of waste treated or
111 disposed;

112 ~~[(B)]~~ (ii) provide for reasonable and timely oversight by the department; and

113 ~~[(C)]~~ (iii) adequately meet the needs of industry and the department, including enabling
114 the department to employ qualified personnel to appropriately oversee industry regulation.

115 ~~[(iv)]~~ (d) A facility that treats or disposes of hazardous waste or mixed waste is
116 authorized to collect the fee established under Subsection ~~[(3)(d)(i)]~~ (2)(a) from the generator
117 of the waste.

118 ~~[(4)(a) Through June 30, 2014, remediation waste received at a hazardous waste land~~
119 ~~disposal or treatment facility from a remediation project is subject to a fee in the following~~
120 ~~amounts:]~~

121	[Amount of Remediation Waste Received — from a Remediation Project]	[Fee Amount]
122	[More than 0, but less than 1,000 tons]	[\$28 per ton]
123	[Equal to or greater than 1,000 tons, but less than 12,500 tons]	[\$10 per ton for all waste]
124	[Equal to or greater than 12,500 tons, but less than 25,000 tons]	[\$5 per ton for all waste]
125	[Equal to or greater than 25,000 tons]	[\$2.50 per ton for all waste]

126 ~~[(b) Through June 30, 2014, emission control dust/sludge from the primary production~~
 127 ~~of steel in electric furnaces (K061, as defined in 40 C.F.R. Sec. 261.32) received at a hazardous~~
 128 ~~waste land disposal or treatment facility is subject to a fee of \$5 per ton in lieu of the fee~~
 129 ~~established in Subsection (3).]~~

130 ~~[(c) Through June 30, 2014, demilitarization waste received at a hazardous waste~~
 131 ~~treatment, storage, or disposal facility is subject to a fee of \$5 per ton in addition to the fee~~
 132 ~~established in Subsection (3).]~~

133 ~~[(d) (i) Through June 30, 2014, the department may in accordance with this Subsection~~
 134 ~~(4)(d) assess a person required to pay a fee under this section a special assessment if the~~
 135 ~~department determines that the aggregate of the following fees is insufficient to cover the~~
 136 ~~department's costs of administering its hazardous waste program:]~~

137 ~~[(A) a fee imposed under this section; and]~~

138 ~~[(B) a fee imposed under Section 19-6-118.5.]~~

139 ~~[(ii) In determining the amount of a special assessment under this Subsection (4)(d),~~
 140 ~~the department shall calculate the amount of the insufficiency and assess each person subject to~~
 141 ~~the special assessment a proportion of the insufficiency equal to the proportion of fees paid by~~
 142 ~~that person.]~~

143 ~~[(iii) The department shall deposit a special assessment collected under this Subsection~~
 144 ~~(4)(d) into the Environmental Quality Restricted Account created in Section 19-1-108.]~~

145 ~~[(e) Through June 30, 2014, the department shall annually review the fee established in~~
 146 ~~Subsection (4)(a) and make recommendations to the Legislature's Natural Resources,~~

147 ~~Agriculture, and Environment Interim Committee concerning the amount of the fee:]~~

148 ~~[(5) (a) Through June 30, 2014, the department shall allocate at least 10% of the fees~~
149 ~~received from a facility under this section to the county where the facility is located, not~~
150 ~~including a special assessment.]~~

151 ~~[(b)]~~ (3) (a) ~~[Beginning on July 1, 2014, the]~~ The department shall allocate and pay to a
152 county at least 10% of the fee established under Subsection ~~[(3)(d)(i)]~~ (2)(a) that the
153 department receives from a facility in that county.

154 ~~[(c)]~~ (b) The county may use fees allocated under this Subsection ~~[(5)]~~ (3) to carry out
155 its hazardous waste monitoring and response programs.

156 ~~[(6)]~~ (4) The department shall deposit the state portion of a fee received under this
157 section into the Environmental Quality Restricted Account created in Section 19-1-108.

158 ~~[(7) (a) (i) Except as provided in Subsection (7)(a)(ii), the owner or operator shall pay a~~
159 ~~fee, accrued under this section before June 30, 2014, to the department on or before the 15th~~
160 ~~day of the month following the month in which the fee accrued.]~~

161 ~~[(ii) If a fee accrues on remediation waste under this section before June 30, 2014, the~~
162 ~~fee shall be paid in accordance with a schedule determined by the department:]~~

163 ~~[(A) made in consultation with the person paying the fee; and]~~

164 ~~[(B) considering any contractual schedule for payment between the person paying the~~
165 ~~fee and another person with whom the person paying the fee has contracted:]~~

166 ~~[(b) With the monthly fee described in Subsection (7)(a)(i), the owner or operator shall~~
167 ~~submit a completed form, as prescribed by the department, specifying information required by~~
168 ~~the department to verify the amount of waste received and the fee amount for which the owner~~
169 ~~or operator is liable.]~~

170 ~~[(c)]~~ (5) ~~[Beginning on July 1, 2014, an]~~ An owner or operator shall submit payment of
171 the fee established in Subsection ~~[(3)(d)(i)]~~ (2)(a) to the department:

172 ~~[(i)]~~ (a) in accordance with a schedule provided by the department; and

173 ~~[(ii)]~~ (b) using forms provided by the department.

174 ~~[(8)]~~ (6) (a) The department shall oversee and monitor hazardous waste treatment,
175 disposal, and incineration facilities, including federal government facilities located within the
176 state.

177 (b) The department may determine facility oversight priorities.

178 ~~[(9)]~~ (7) (a) The department, in preparing its budget for the governor and the
179 Legislature, shall separately indicate the amount necessary to administer the hazardous waste
180 program established by this part.

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

182 ~~[(10)]~~ (8) The Office of Legislative Fiscal Analyst shall monitor a fee collected under
183 this part.

184 ~~[(11)]~~ (9) Mixed waste subject to a fee under this section is not subject to a fee under
185 Section 19-3-106.

186 Section 2. Section 59-5-203 is amended to read:

187 **59-5-203. Determining taxable value.**

188 (1) Except as provided in Subsection (3), the basis for computing the gross proceeds,
189 prior to those deductions or adjustments specified in this chapter, in determining the taxable
190 value of the metals or metalliferous minerals sold or otherwise disposed of, in the order of
191 priority, is as follows:

192 (a) If the metals or metalliferous mineral products are actually sold, the value of those
193 metals or metalliferous mineral products shall be the gross amount the producer receives from
194 that sale, provided that the metals or metalliferous mineral products are sold under a bona fide
195 contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates,
196 gross proceeds shall be the gross amount the producer receives from the sale of processed
197 uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a
198 bona fide contract of sale between unaffiliated parties.

199 (b) If the metals or metalliferous mineral products are not actually sold but are shipped,
200 transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable
201 units of finished metals, or of the finished metals contained in the metalliferous minerals
202 shipped, and the average daily price per unit of contained metals as quoted by an established
203 authority for market prices of metals for the period during which the tax imposed by this
204 chapter is due. The established authority or authorities shall be designated by the commission
205 by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
206 Act.

207 (c) In the case of metals or metalliferous minerals not sold, but otherwise disposed of,
208 for which there is no established authority for market prices of metals for the period during

209 which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the
210 state the same proportion of the producer's total sales of metals or metalliferous minerals sold
211 or otherwise disposed of as the producer's total Utah costs bear to the total costs associated
212 with sale or disposal of the metal or metalliferous mineral.

213 (d) In the event of a sale of metals or metalliferous minerals between affiliated
214 companies which is not a bona fide sale because the value received is not proportionate to the
215 fair market value of the metals or metalliferous minerals or in the event that Subsection (1)(a),
216 (b), or (c) are not applicable, the commission shall determine the value of such metals or
217 metalliferous minerals in an equitable manner by reference to an objective standard as specified
218 in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah
219 Administrative Rulemaking Act.

220 (2) For all metals except beryllium, the taxable value of the metalliferous mineral sold
221 or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise
222 disposed of by the producer of the metal.

223 ~~[(3)(a) Beginning on January 1, 1990, through December 31, 2004, for beryllium sold~~
224 ~~or otherwise disposed of, the taxable value is 20% of the gross proceeds received for the~~
225 ~~beryllium sold or otherwise disposed of by the producer.]~~

226 ~~[(b)(i)] (3) Notwithstanding Subsection (1) or (4) [and subject to Subsection (3)(b)(ii),~~
227 ~~beginning on January 1, 2005], the taxable value of beryllium sold or otherwise disposed of by~~
228 ~~the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the~~
229 ~~beryllium.~~

230 ~~[(ii) For an action or proceeding filed on or after January 1, 2005, if the taxable value~~
231 ~~of beryllium is calculated under Subsection (3)(a) for purposes of imposing a tax on beryllium~~
232 ~~under this part, the taxable value of beryllium calculated under Subsection (3)(a) may not~~
233 ~~exceed the taxable value of beryllium calculated under Subsection (3)(b)(i).]~~

234 (4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise
235 disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of
236 the gross proceeds.

237 Section 3. Section **59-24-104** is amended to read:

238 **59-24-104. Payment of tax.**

239 (1) The tax imposed by Section ~~[59-24-103]~~ 59-24-103.5 shall be paid by the owner or

240 operator of a radioactive waste facility that receives radioactive waste for disposal or
241 reprocessing.

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

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

245 Section 4. **Repealer.**

246 This bill repeals:

247 Section **59-24-103, Tax imposed on radioactive waste.**

248 Section **59-25-101, Title.**

249 Section **59-25-102, Definitions.**

250 Section **59-25-103, Hazardous waste facility and nonhazardous solid waste facility**
251 **tax.**

252 Section **59-25-104, Payment of tax.**

253 Section **59-25-105, Deposit of tax revenue.**

254 Section **59-25-106, Records.**

255 Section **59-25-108, Rulemaking authority.**

256 Section **59-25-109, Penalties and interest.**