

Senator Michael K. McKell proposes the following substitute bill:

TAX MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses taxation related to radioactive waste facilities.

Highlighted Provisions:

This bill:

- ▶ creates a new tax rate for certain uncontainerized, unprocessed class A waste;
- ▶ includes radioactive waste facility tax revenue in the calculation of a taxpayer's high cost infrastructure development tax credit; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-24-103.5, as last amended by Laws of Utah 2005, Chapter 10

79-6-602, as last amended by Laws of Utah 2023, Chapter 473

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



26 Section 1. Section 59-24-103.5 is amended to read:

27 **59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.**

28 (1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, or a
29 processing or recycling facility, as provided in this chapter.

30 (2) The tax is equal to the sum of the following amounts:

31 (a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of
32 containerized class A waste;

33 (b) 10% of the gross receipts of a radioactive waste facility derived from the disposal
34 of processed class A waste;

35 (c) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive
36 waste facility derived from the disposal of uncontainerized, unprocessed class A waste from a
37 governmental entity or an agent of a governmental entity:

38 (i) pursuant to a contract entered into on or after April 30, 2001;

39 (ii) pursuant to a contract substantially modified on or after April 30, 2001;

40 (iii) pursuant to a contract renewed or extended on or after April 30, 2001; or

41 (iv) not pursuant to a contract;

42 (d) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive
43 waste facility derived from the disposal of uncontainerized, unprocessed class A waste received
44 by the facility from an entity other than a governmental entity or an agent of a governmental
45 entity;

46 (e) .5% of the gross receipts of a radioactive waste facility derived from the disposal of
47 uncontainerized, unprocessed class A waste received by the facility if the uncontainerized,
48 unprocessed class A waste does not exceed 10% of the radioactive concentration limit for class
49 A waste as defined in 10 C.F.R. Sec. 61.55;

50 [~~(e)~~] (f) 5% of the gross receipts of a radioactive waste facility derived from the
51 disposal of mixed waste, other than the mixed waste described in Subsection [~~(2)(f)~~] (2)(g),
52 received from:

53 (i) an entity other than a governmental entity or an agent of a governmental entity; or

54 (ii) a governmental entity or an agent of a governmental entity:

55 (A) pursuant to a contract entered into on or after April 30, 2005;

56 (B) pursuant to a contract substantially modified on or after April 30, 2005;

57 (C) pursuant to a contract renewed or extended on or after April 30, 2005; or
 58 (D) not pursuant to a contract;
 59 ~~[(f)]~~ (g) 10% of the gross receipts of a radioactive waste facility derived from the
 60 disposal of mixed waste:

61 (i) (A) received from an entity other than a governmental entity or an agent of a
 62 governmental entity; or

63 (B) received from a governmental entity or an agent of a governmental entity:

64 (I) pursuant to a contract entered into on or after April 30, 2005;

65 (II) pursuant to a contract substantially modified on or after April 30, 2005;

66 (III) pursuant to a contract renewed or extended on or after April 30, 2005; or

67 (IV) not pursuant to a contract; and

68 (ii) that contains a higher radionuclide concentration level than the mixed waste
 69 received by any radioactive waste facility in the state ~~[prior to]~~ before April 1, 2004;

70 ~~[(g)]~~ (h) 10 cents per cubic foot of alternate feed material received at a radioactive
 71 waste facility for disposal or reprocessing; and

72 ~~[(h)]~~ (i) 10 cents per cubic foot of byproduct material received at a radioactive waste
 73 facility for disposal.

74 (3) For purposes of the tax imposed by this section, a fraction of a cubic foot is
 75 considered to be a full cubic foot.

76 (4) Except as provided in Subsections ~~[(2)(e) and (2)(f)]~~ (2)(f) and (g), the tax imposed
 77 by this section does not apply to radioactive waste containing material classified as hazardous
 78 waste under 40 C.F.R. Part 261.

79 Section 2. Section **79-6-602** is amended to read:

80 **79-6-602. Definitions.**

81 As used in this part:

82 (1) "Applicant" means a person that conducts business in the state and that applies for a
 83 tax credit under this part.

84 (2) "Energy delivery project" means a project that is designed to:

85 (a) increase the capacity for the delivery of energy to a user of energy inside or outside
 86 the state; or

87 (b) increase the capability of an existing energy delivery system or related facility to

88 deliver energy to a user of energy inside or outside the state.

89 (3) "Fuel standard compliance project" means a project designed to retrofit a fuel
90 refinery in order to make the refinery capable of producing fuel that complies with the United
91 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40
92 C.F.R. Sec. 79.54.

93 (4) "High cost infrastructure project" means a project, including an energy delivery
94 project or a fuel standard compliance project:

95 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture
96 activity in the state, not including a retail business;

97 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,
98 mining, manufacturing, or agriculture entity, by the entity; or

99 (iii) for the construction of a plant or other facility for the storage or production of fuel
100 used for transportation, electricity generation, or industrial use;

101 (b) that requires or is directly facilitated by infrastructure construction; and

102 (c) for which the cost of infrastructure construction to the entity creating the project is
103 greater than:

104 (i) 10% of the total cost of the project; or

105 (ii) \$10,000,000.

106 (5) "Infrastructure" means:

107 (a) an energy delivery project;

108 (b) a railroad as defined in Section [54-2-1](#);

109 (c) a fuel standard compliance project;

110 (d) a road improvement project;

111 (e) a water self-supply project;

112 (f) a water removal system project;

113 (g) a solution-mined subsurface salt cavern;

114 (h) a project that is designed to:

115 (i) increase the capacity for water delivery to a water user in the state; or

116 (ii) increase the capability of an existing water delivery system or related facility to
117 deliver water to a water user in the state; or

118 (i) an underground mine infrastructure project.

119 (6) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an
120 agreement with the office that qualifies the applicant to receive a tax credit as provided in this
121 part.

122 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as
123 defined in Section [59-10-1402](#), of a person described in Subsection (6)(a).

124 (7) "Infrastructure-related revenue" means an amount of tax revenue, for an entity
125 creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high
126 cost infrastructure project, under:

127 (a) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

128 (b) Title 59, Chapter 5, Part 2, Mining Severance Tax;

129 (c) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

130 (d) Title 59, Chapter 10, Individual Income Tax Act; [~~and~~]

131 (e) Title 59, Chapter 12, Sales and Use Tax Act[:]; and

132 (f) Title 59, Chapter 24, Radioactive Waste Facility Tax Act.

133 (8) "Office" means the Office of Energy Development created in Section [79-6-401](#).

134 (9) "Tax credit" means a tax credit under Section [59-7-619](#) or [59-10-1034](#).

135 (10) "Tax credit certificate" means a certificate issued by the office to an infrastructure
136 cost-burdened entity that:

137 (a) lists the name of the infrastructure cost-burdened entity;

138 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;

139 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
140 cost-burdened entity under this part; and

141 (d) includes other information as determined by the office.

142 (11) (a) "Underground mine infrastructure project" means a project that:

143 (i) is designed to create permanent underground infrastructure to facilitate underground
144 mining operations; and

145 (ii) services multiple levels or areas of an underground mine or multiple underground
146 mines.

147 (b) "Underground mine infrastructure project" includes:

148 (i) an underground access or a haulage road, entry, ramp, or decline;

149 (ii) a vertical or incline mine shaft;

150 (iii) a ventilation shaft or an air course; or

151 (iv) a conveyor or a truck haulageway.

152 Section 3. **Effective date.**

153 This bill takes effect on July 1, 2024.