

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0597.01 Richard Sweetman x4333

SENATE BILL 21-180

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SENATE SPONSORSHIP

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**Senate Committees**

Business, Labor, & Technology

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**A BILL FOR AN ACT**

101 **CONCERNING EFFORTS TO INCREASE RECYCLING IN COLORADO.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill creates the Colorado recycling and composting infrastructure enterprise (enterprise) within the department of public health and environment (department) to develop and modernize the recycling and composting infrastructure in the state. The enterprise is authorized to issue revenue bonds.

The bill creates the Colorado recycling and composting infrastructure enterprise grant program (grant program) within the department to provide grants to eligible entities to:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

- Create new or expand existing recycling, recovery, and composting operations;
- Create markets for recycled materials, including the use of food service packaging as feedstock in the production of new products; and
- Facilitate recycling, composting, litter cleanup, and education efforts concerning recycling and composting practices.

The bill creates the Colorado recycling and composting infrastructure enterprise board (enterprise board) to administer the grant program and submit an annual report concerning the grant program.

The bill creates the Colorado recycling and composting infrastructure enterprise grant program cash fund (cash fund) and requires the enterprise board to award grants from the cash fund.

The bill allows the executive board to promulgate rules to implement the grant program and requires the solid and hazardous waste commission (commission) to promulgate rules establishing a process for calculating the rates at which common types of food service packaging are being recycled or composted in the state, based on recently available data. On or before January 1, 2025, the commission must use the process to calculate such rates. Thereafter, the commission must recalculate each rate at least every 2 years. The enterprise board must evaluate the rates and advise the commission regarding their accuracy.

The bill requires the enterprise to determine and impose a fee on food service packaging that is initially sold or offered for sale in the state, as follows:

- On and after January 1, 2022, and until January 1, 2030, the enterprise shall impose a fee in an amount to be determined by the enterprise but which may not exceed three-tenths of a cent on each unit of the food service packaging;
- On and after January 1, 2030, and until January 1, 2035, if the food service packaging is a type of food service packaging for which the commission has calculated a recycling or composting rate that is less than 50%, the enterprise shall impose a fee in an amount to be determined by the enterprise but which may not exceed six-tenths of a cent on each unit of the food service packaging; and
- On and after January 1, 2035, if the food service packaging is a type of food service packaging for which the commission has calculated a recycling or composting rate that is less than 75%, the enterprise shall impose a fee in an amount to be determined by the enterprise but which may not exceed one cent on each unit of the food service packaging.

The enterprise shall collect the fee from the distributor that initially

sells the food service packaging into the state. All money collected as fees must be deposited into the cash fund.

The bill requires the commission to conduct an assessment of the state's recycling and composting infrastructure on or before January 1, 2022, including examining the types of food service packaging being collected, processed, recycled, or composted in the state.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 5 to article  
3 17 of title 25 as follows:

4 **PART 5**  
5 **COLORADO RECYCLING AND COMPOSTING**  
6 **INFRASTRUCTURE ENTERPRISE**

7 **25-17-501. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
8 FINDS THAT:

9 (a) COLORADO HAS ONE OF THE LOWEST RATES OF WASTE  
10 DIVERSION IN THE UNITED STATES, RECYCLING ONLY ABOUT FIFTEEN  
11 PERCENT OF ITS WASTE WHILE THE NATIONAL RATE IS THIRTY-FIVE  
12 PERCENT;

13 (b) THERE IS NO STATEWIDE OVERSIGHT OF THE RECYCLING AND  
14 COMPOSTING OF FOOD SERVICE PACKAGING, WHICH COULD BE RECYCLED  
15 AND COMPOSTED IN COLORADO, THEREBY CREATING LOCAL JOBS AND  
16 STRENGTHENING ECONOMIES;

17 (c) AN ENTERPRISE THAT SERVES THE PURPOSE OF COLLECTING  
18 FUNDS AND DISTRIBUTING GRANTS TO EXPAND RECYCLING AND  
19 COMPOSTING PROGRAMS, CREATE MARKETS FOR MATERIALS, AND  
20 FACILITATE RECYCLING EDUCATION EFFORTS WILL YIELD ECONOMIC,  
21 ENVIRONMENTAL, AND SOCIAL BENEFITS FOR ALL COLORADANS; AND

22 (d) THERE IS NO OTHER STATE ENTERPRISE AND NO LOCAL

1 ENTERPRISE THAT PRIMARILY SERVES THE PURPOSE OF FOSTERING SUCH A  
2 STATEWIDE PROGRAM AND YIELDING SUCH STATEWIDE BENEFITS.

3 (2) THE GENERAL ASSEMBLY, THEREFORE, DECLARES THAT:

4 (a) PROVIDING A RECYCLING AND COMPOSTING INFRASTRUCTURE  
5 GRANT PROGRAM CONSTITUTES A VALUABLE SERVICE AND BENEFIT, AND  
6 THE GRANT PROGRAM WILL SERVE A CRITICAL GOAL IN DEVELOPING THE  
7 FINANCIAL MEANS TO PROMOTE EFFICIENT, EFFECTIVE RECYCLING AND  
8 COMPOSTING;

9 (b) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF  
10 THE STATE FOR THE BUSINESS SERVICES DESCRIBED IN THIS PART 5 TO BE  
11 PROVIDED THROUGH AN ENTERPRISE, AS THAT TERM IS USED IN SECTION  
12 20 OF ARTICLE X OF THE STATE CONSTITUTION AND CONSTRUED BY THE  
13 COURTS OF THE STATE;

14 (c) THE FEES COLLECTED BY THE ENTERPRISE CREATED IN THIS  
15 PART 5 ARE FEES, NOT TAXES, BECAUSE THEY ARE:

16 (I) IMPOSED FOR THE PURPOSE OF ALLOWING THE ENTERPRISE TO  
17 DEFRAID THE COSTS OF PROVIDING CERTAIN BUSINESS SERVICES; AND

18 (II) REASONABLY CALCULATED TO ALLOW THE ENTERPRISE TO  
19 PROVIDE SERVICES TO OR FOR THE BENEFIT OF AFFECTED PARTIES;

20 (d) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR  
21 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE  
22 REVENUES GENERATED FROM THE FEES COLLECTED BY THE ENTERPRISE  
23 ARE NOT STATE FISCAL YEAR SPENDING OR STATE REVENUES AND DO NOT  
24 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED  
25 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS  
26 STATE REVENUES CAP; AND

27 (e) THIS PART 5 IS NECESSARY TO PROVIDE INCENTIVES TO

1 VARIOUS ENTITIES INCLUDING LOCAL GOVERNMENTS AND NONPROFIT OR  
2 FOR-PROFIT BUSINESSES INVOLVED IN THE COLLECTION, PROCESSING,  
3 RECYCLING, OR COMPOSTING OF FOOD SERVICE PACKAGING.

4 **25-17-502. Definitions.** AS USED IN THIS PART 5, UNLESS THE  
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "BOARD" MEANS THE COLORADO RECYCLING AND COMPOSTING  
7 INFRASTRUCTURE ENTERPRISE BOARD CREATED IN SECTION 25-17-504.

8 (2) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE  
9 COMMISSION CREATED IN SECTION 25-15-302.

10 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
11 AND ENVIRONMENT.

12 (4) "DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE  
13 DEPARTMENT.

14 (5) "DISTRIBUTOR" MEANS A PERSON THAT OFFERS FOR SALE,  
15 SELLS, OR DISTRIBUTES FOOD SERVICE PACKAGING IN THE STATE.  
16 "DISTRIBUTOR" INCLUDES A FOOD SERVICE PACKAGING MANUFACTURER  
17 THAT OFFERS FOR SALE OR SELLS FOOD SERVICE PACKAGING IN THE STATE  
18 AND DOES NOT INCLUDE A RETAIL FOOD ESTABLISHMENT THAT PROVIDES  
19 FOOD SERVICE PACKAGING WHEN IT SELLS FOOD.

20 (6) "ELIGIBLE ENTITY" MEANS:

21 (a) A MUNICIPALITY, COUNTY, OR CITY AND COUNTY; OR

22 (b) A NONPROFIT OR FOR-PROFIT BUSINESS THAT IS INVOLVED IN  
23 THE COLLECTION, PROCESSING, RECYCLING, OR COMPOSTING OF FOOD  
24 SERVICE PACKAGING.

25 (7) "ENTERPRISE" MEANS THE COLORADO RECYCLING AND  
26 COMPOSTING INFRASTRUCTURE ENTERPRISE CREATED IN SECTION  
27 25-17-503 (1).

1 (8) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE  
2 SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE  
3 OR FOR SALE IN WHOLE OR IN PART FOR HUMAN CONSUMPTION. "FOOD"  
4 DOES NOT INCLUDE A DRUG, AS DEFINED IN SECTION 25-5-402 (9).

5 (9) (a) "FOOD SERVICE PACKAGING" MEANS A PRODUCT USED FOR  
6 SERVING OR TRANSPORTING READY-TO-EAT FOOD, INCLUDING PLATES,  
7 CUPS, BOWLS, TRAYS, AND HINGED OR LIDDED CONTAINERS.

8 (b) "FOOD SERVICE PACKAGING" DOES NOT INCLUDE:

9 (I) PREFILLED, SEALED BEVERAGE CONTAINERS;

10 (II) SINGLE-USE DISPOSABLE ITEMS SUCH AS STRAWS, CUP LIDS,  
11 PLASTIC BAGS, AND UTENSILS; OR

12 (III) SINGLE-USE DISPOSABLE PACKAGING USED TO STORE OR  
13 TRANSPORT FROM A POINT OF SALE RAW, UNCOOKED EGGS, BUTCHERED  
14 MEAT, FISH, POULTRY, SEAFOOD, OR PRODUCE.

15 (10) "FUND" MEANS THE COLORADO RECYCLING AND COMPOSTING  
16 INFRASTRUCTURE ENTERPRISE GRANT PROGRAM CASH FUND CREATED IN  
17 SECTION 25-17-503 (3).

18 (11) "GRANT PROGRAM" MEANS THE COLORADO RECYCLING AND  
19 COMPOSTING INFRASTRUCTURE ENTERPRISE GRANT PROGRAM CREATED IN  
20 SECTION 25-17-503 (2).

21 (12) "READY-TO-EAT FOOD" MEANS FOOD THAT IS COOKED OR  
22 OTHERWISE PREPARED FOR IMMEDIATE CONSUMPTION EITHER ON OR OFF  
23 A RETAIL FOOD ESTABLISHMENT'S PREMISES. "READY-TO-EAT FOOD" DOES  
24 NOT INCLUDE FOOD OR BEVERAGES THAT HAVE BEEN PREPACKAGED OR  
25 PREFILLED BY A THIRD PARTY BEFORE A RETAIL FOOD ESTABLISHMENT  
26 RECEIVES THEM.

27 (13) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET

1 FORTH IN SECTION 25-4-1602 (14).

2 (14) "SOLID WASTE INDUSTRY" MEANS BUSINESSES ACTIVELY  
3 ENGAGED IN THE COLLECTION, TRANSPORT, TREATMENT, OR DISPOSAL OF  
4 FOOD SERVICE PACKAGING.

5 (15) "TYPE OF FOOD SERVICE PACKAGING" MEANS THE PHYSICAL  
6 MATERIAL OR MATERIALS FROM WHICH A UNIT OF FOOD SERVICE  
7 PACKAGING IS FORMED OR CONSTRUCTED.

8 **25-17-503. Colorado recycling and composting infrastructure**  
9 **enterprise created - purpose - enterprise status - grant program**  
10 **created - cash fund created - rules. (1) Enterprise. (a) THE**  
11 **COLORADO RECYCLING AND COMPOSTING INFRASTRUCTURE ENTERPRISE**  
12 **IS CREATED IN THE DEPARTMENT FOR THE PURPOSE OF DEVELOPING AND**  
13 **MODERNIZING, CONSISTENT WITH CURRENT COMMERCIAL STANDARDS AND**  
14 **MARKET-BASED NEEDS, THE RECYCLING AND COMPOSTING**  
15 **INFRASTRUCTURE IN THE STATE. THE BOARD SHALL ADMINISTER THE**  
16 **ENTERPRISE IN ACCORDANCE WITH THIS PART 5.**

17 (b) (I) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR  
18 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO  
19 LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND  
20 RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS  
21 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND  
22 LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN  
23 ENTERPRISE, THE ENTERPRISE IS NOT A DISTRICT FOR PURPOSES OF SECTION  
24 20 OF ARTICLE X OF THE STATE CONSTITUTION.

25 (II) THE ENTERPRISE IS AUTHORIZED TO ISSUE REVENUE BONDS FOR  
26 THE EXPENSES OF THE ENTERPRISE, SECURED BY REVENUE OF THE  
27 ENTERPRISE.

1           (2) **Grant program.** (a) THE COLORADO RECYCLING AND  
2 COMPOSTING INFRASTRUCTURE ENTERPRISE GRANT PROGRAM IS CREATED.  
3 THE BOARD SHALL ADMINISTER THE GRANT PROGRAM AND, ON AND AFTER  
4 JULY 1, 2023, AWARD GRANTS TO ELIGIBLE ENTITIES FOR THE FOLLOWING  
5 PURPOSES:

6           (I) TO CREATE NEW OR EXPANDE EXISTING RECYCLING, RECOVERY,  
7 AND COMPOSTING OPERATIONS, INCLUDING RECYCLING, RECOVERY, AND  
8 COMPOSTING OF FOOD SERVICE PACKAGING;

9           (II) TO CREATE MARKETS FOR RECYCLED MATERIALS, INCLUDING  
10 THE USE OF FOOD SERVICE PACKAGING AS FEEDSTOCK IN THE PRODUCTION  
11 OF NEW PRODUCTS; AND

12           (III) TO FACILITATE RECYCLING, COMPOSTING, LITTER CLEANUP,  
13 AND EDUCATION EFFORTS CONCERNING RECYCLING AND COMPOSTING  
14 PRACTICES.

15           (b) TO RECEIVE A GRANT, AN ELIGIBLE ENTITY MUST SUBMIT AN  
16 APPLICATION TO THE ENTERPRISE IN A FORM AND MANNER SPECIFIED BY  
17 THE BOARD.

18           (c) THE BOARD SHALL REVIEW APPLICATIONS RECEIVED PURSUANT  
19 TO THIS SECTION. IN AWARDING GRANTS, THE BOARD SHALL CONSIDER THE  
20 EXTENT TO WHICH:

21           (I) AN APPLICANT'S PROJECT WILL ACHIEVE A CLEAR, MEASURABLE  
22 REDUCTION IN WASTE THROUGH PREVENTION, REUSE, AND RECYCLING;

23           (II) AN APPLICANT'S PROJECT ADDRESSES A SPECIFIC WASTE  
24 PREVENTION, REUSE, RECYCLING INFRASTRUCTURE, COMPOSTING  
25 INFRASTRUCTURE, OR MARKET NEED IN THE STATE;

26           (III) AN APPLICANT'S PROJECT WILL REMAIN ECONOMICALLY  
27 VIABLE AND SUSTAINABLE AFTER ALL AWARDED GRANT MONEY IS



1 EXHAUSTED; AND

2 (IV) AN APPLICANT POSSESSES SUFFICIENT BUSINESS PLANNING  
3 AND MANAGEMENT EXPERIENCE TO ESTABLISH A HIGH PROBABILITY OF  
4 THE PROJECT'S SUCCESS.

5 (d) AN ENTITY THAT RECEIVES A GRANT MAY USE THE GRANT  
6 MONEY ONLY TO PAY FOR:

7 (I) OPERATION COSTS;

8 (II) EQUIPMENT COSTS; OR

9 (III) CAPITAL IMPROVEMENTS.

10 (3) **Cash fund.** (a) THE COLORADO RECYCLING AND COMPOSTING  
11 INFRASTRUCTURE ENTERPRISE GRANT PROGRAM CASH FUND IS CREATED  
12 IN THE STATE TREASURY. THE FUND CONSISTS OF:

13 (I) MONEY RECEIVED AS FEES PURSUANT TO SECTION 25-17-506;

14 (II) ANY MONEY RECEIVED FROM THE ISSUANCE OF REVENUE  
15 BONDS, AS DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION; AND

16 (III) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY  
17 APPROPRIATE OR TRANSFER TO THE FUND.

18 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
19 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
20 FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY  
21 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE  
22 FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL  
23 FUND.

24 (c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
25 ASSEMBLY, THE BOARD MAY EXPEND MONEY FROM THE FUND FOR THE  
26 PURPOSES DESCRIBED IN THIS SECTION.

27 (d) THE BOARD MAY TRANSFER UP TO THREE PERCENT OF THE

1 MONEY ANNUALLY APPROPRIATED OR TRANSFERRED TO THE FUND TO THE  
2 DEPARTMENT TO PAY THE DIRECT AND INDIRECT COSTS THAT THE  
3 COMMISSION INCURS IN FULFILLING ITS DUTIES UNDER THIS PART 5.

4 (e) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,  
5 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF  
6 THIS PART 5. THE BOARD SHALL TRANSMIT ALL MONEY RECEIVED AS GIFTS,  
7 GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT  
8 THE MONEY TO THE FUND.

9 (4) THE BOARD MAY PROMULGATE RULES AS NECESSARY TO:

10 (a) ESTABLISH THE FORM AND MANNER BY WHICH AN ELIGIBLE  
11 ENTITY MAY APPLY FOR A GRANT FROM THE GRANT PROGRAM;

12 (b) ESTABLISH CRITERIA AND PROCEDURES FOR THE REVIEW AND  
13 APPROVAL OF APPLICATIONS;

14 (c) FACILITATE THE DISTRIBUTION OF GRANT MONEY; AND

15 (d) ESTABLISH ACCOUNTING AND REPORTING REQUIREMENTS FOR  
16 GRANT RECIPIENTS IN ORDER TO ENSURE ACCOUNTABILITY IN THE USE OF  
17 GRANT MONEY.

18 **25-17-504. Colorado recycling and composting infrastructure**  
19 **enterprise board - created - membership - compensation - duties -**  
20 **rules. (1) (a) THE COLORADO RECYCLING AND COMPOSTING**

21 INFRASTRUCTURE ENTERPRISE BOARD IS CREATED TO ADMINISTER THE  
22 ENTERPRISE. THE BOARD'S PURPOSE IS TO INCREASE RECYCLING AND  
23 COMPOSTING IN THE STATE BY:

24 (I) DIVERTING MATERIALS FROM DISPOSAL;

25 (II) ASSISTING IN THE ESTABLISHMENT OF END-USE MARKETS FOR  
26 RECOVERED MATERIALS; AND

27 (III) REDUCING LITTER AND MARINE DEBRIS.

1 (b) THE BOARD INCLUDES THE DIRECTOR, OR THE DIRECTOR'S  
2 DESIGNEE, AND EIGHT OTHER MEMBERS APPOINTED BY THE GOVERNOR AS  
3 FOLLOWS:

4 (I) ONE MEMBER REPRESENTING THE SOLID WASTE INDUSTRY;

5 (II) TWO MEMBERS REPRESENTING LOCAL GOVERNMENT, ONE OF  
6 WHOM IS AN ELECTED OFFICIAL OR EMPLOYEE OF A CITY OR TOWN, AND  
7 ONE OF WHOM IS AN ELECTED OFFICIAL OR EMPLOYEE OF A COUNTY OR A  
8 CITY AND COUNTY;

9 (III) ONE MEMBER REPRESENTING A RECYCLING-RELATED  
10 BUSINESS;

11 (IV) ONE MEMBER REPRESENTING A COMPOSTING-RELATED  
12 BUSINESS;

13 (V) ONE MEMBER REPRESENTING THE PUBLIC WHO HAS SCIENTIFIC  
14 EXPERTISE AND TRAINING IN ENVIRONMENTAL PROTECTION; AND

15 (VI) TWO MEMBERS REPRESENTING DISTRIBUTORS.

16 (2) (a) THE GOVERNOR SHALL APPOINT FOUR BOARD MEMBERS TO  
17 TWO-YEAR TERMS BEGINNING JULY 1, 2021, AND FOUR BOARD MEMBERS  
18 FOR THREE-YEAR TERMS BEGINNING JULY 1, 2021.

19 (b) UPON THE EXPIRATION OF THE TERM OF ANY BOARD MEMBER  
20 WHO IS APPOINTED TO SERVE BEGINNING JULY 1, 2021, THE GOVERNOR  
21 SHALL APPOINT A BOARD MEMBER TO SERVE A TWO-YEAR TERM.  
22 THEREAFTER, NO BOARD MEMBER MAY SERVE MORE THAN THREE  
23 CONSECUTIVE TERMS; EXCEPT THAT THE DIRECTOR OR THE DIRECTOR'S  
24 DESIGNEE SHALL SERVE SO LONG AS THE DIRECTOR HOLDS THE POSITION  
25 OF DIRECTOR.

26 (3) THE GOVERNOR SHALL APPOINT AN INDIVIDUAL TO FILL ANY  
27 VACANCY THAT OCCURS ON THE BOARD, IN ACCORDANCE WITH

1 SUBSECTION (1)(b) OF THIS SECTION. AN INDIVIDUAL APPOINTED TO FILL  
2 A VACANCY SERVES FOR THE REMAINDER OF THE UNEXPIRED TERM, WHICH  
3 COUNTS AS THAT INDIVIDUAL'S FIRST TERM FOR THE PURPOSES OF  
4 SUBSECTION (2)(b) OF THIS SECTION.

5 (4) BOARD MEMBERS SERVE WITHOUT COMPENSATION BUT ARE  
6 ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES  
7 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

8 (5) THE BOARD SHALL:

9 (a) PROMULGATE RULES FOR THE REGULATION OF ITS AFFAIRS AND  
10 THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS SECTION;

11 (b) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS, THE  
12 DEPARTMENT, AND LEGAL COUNSEL, INCLUDING THE ATTORNEY GENERAL,  
13 FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO  
14 SUPPLY OTHER SERVICES RELATED TO THE AFFAIRS OF THE ENTERPRISE.  
15 THE BOARD SHALL ENCOURAGE DIVERSITY IN APPLICANTS FOR CONTRACTS  
16 AND, TO THE EXTENT PRACTICABLE, AVOID USING SINGLE-SOURCE BIDS.  
17 THE DEPARTMENT SHALL PROVIDE OFFICE SPACE AND ADMINISTRATIVE  
18 STAFF TO THE ENTERPRISE PURSUANT TO A CONTRACT EXECUTED  
19 PURSUANT TO THIS SUBSECTION (5)(b).

20 (c) USE ITS BEST EFFORTS TO AWARD GRANTS WITHIN NINETY DAYS  
21 AFTER RECEIVING AN APPLICATION FROM AN ELIGIBLE ENTITY THAT IS  
22 AWARDED A GRANT.

23 (d) EVALUATE RECYCLING AND COMPOSTING RATES CALCULATED  
24 BY THE COMMISSION FOR TYPES OF FOOD SERVICE PACKAGING, AND  
25 ADVISE THE COMMISSION CONCERNING THE ACCURACY OF SUCH RATES, AS  
26 DESCRIBED IN SECTION 25-17-506 (6); AND

27 (e) PREPARE AND SUBMIT AN ANNUAL REPORT CONCERNING THE

1 GRANT PROGRAM, AS DESCRIBED IN SECTION 25-17-505.

2 **25-17-505. Annual report.** (1) NOTWITHSTANDING SECTION  
3 24-1-136 (11)(a), ON OR BEFORE SEPTEMBER 1, 2023, AND ON OR BEFORE  
4 EACH SEPTEMBER 1 THEREAFTER, THE BOARD SHALL PREPARE AND SUBMIT  
5 TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
6 HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADERS OF THE SENATE  
7 AND THE HOUSE OF REPRESENTATIVES A REPORT CONCERNING THE GRANT  
8 PROGRAM THAT INCLUDES:

9 (a) THE UNOBLIGATED BALANCE OF THE FUND;

10 (b) THE NUMBER OF GRANT APPLICATIONS RECEIVED DURING THE  
11 PRECEDING FISCAL YEAR, INCLUDING THE NAME OF EACH ELIGIBLE ENTITY  
12 THAT APPLIED FOR A GRANT; AND

13 (c) A RECORD OF EACH GRANT AWARDED DURING THE PRECEDING  
14 FISCAL YEAR, INCLUDING:

15 (I) THE NAME OF THE ELIGIBLE ENTITY THAT RECEIVED THE  
16 GRANT;

17 (II) THE AMOUNT OF GRANT MONEY AWARDED;

18 (III) THE NATURE OF THE PROJECT THAT IS THE SUBJECT OF THE  
19 GRANT; AND

20 (IV) THE ACTIONS OR OUTCOMES RESULTING FROM THE AWARD OF  
21 THE GRANT.

22 (2) THE REPORT DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS  
23 A PUBLIC DOCUMENT, AND THE DEPARTMENT SHALL PUBLISH THE REPORT  
24 ON ITS WEBSITE.

25 **25-17-506. Food service packaging recycling and composting**  
26 **rates - calculations - fees - rules.** (1) THE ENTERPRISE SHALL DETERMINE  
27 AND IMPOSE A FEE ON DISTRIBUTORS OF FOOD SERVICE PACKAGING THAT

1 IS INITIALLY SOLD IN THE STATE, AS FOLLOWS:

2 (a) ON AND AFTER JANUARY 1, 2022, AND UNTIL JANUARY 1, 2030,  
3 THE ENTERPRISE SHALL IMPOSE A FEE IN AN AMOUNT TO BE DETERMINED  
4 BY THE ENTERPRISE BUT WHICH MAY NOT EXCEED THREE-TENTHS OF A  
5 CENT ON EACH UNIT OF FOOD SERVICE PACKAGING;

6 (b) ON AND AFTER JANUARY 1, 2030, AND UNTIL JANUARY 1, 2035,  
7 IF FOOD SERVICE PACKAGING IS A TYPE OF FOOD SERVICE PACKAGING FOR  
8 WHICH THE COMMISSION HAS CALCULATED A RECYCLING OR COMPOSTING  
9 RATE PURSUANT TO SUBSECTION (5) OF THIS SECTION, AND THE RATE IS  
10 LESS THAN FIFTY PERCENT, THE ENTERPRISE SHALL IMPOSE A FEE IN AN  
11 AMOUNT TO BE DETERMINED BY THE ENTERPRISE BUT WHICH MAY NOT  
12 EXCEED SIX-TENTHS OF A CENT ON EACH UNIT OF THE FOOD SERVICE  
13 PACKAGING; AND

14 (c) ON AND AFTER JANUARY 1, 2035, IF THE FOOD SERVICE  
15 PACKAGING IS A TYPE OF FOOD SERVICE PACKAGING FOR WHICH THE  
16 COMMISSION HAS CALCULATED A RECYCLING OR COMPOSTING RATE  
17 PURSUANT TO SUBSECTION (5) OF THIS SECTION, AND THE RATE IS LESS  
18 THAN SEVENTY-FIVE PERCENT, THE ENTERPRISE SHALL IMPOSE A FEE IN AN  
19 AMOUNT TO BE DETERMINED BY THE ENTERPRISE BUT WHICH MAY NOT  
20 EXCEED ONE CENT ON EACH UNIT OF THE FOOD SERVICE PACKAGING.

21 (2) THE ENTERPRISE SHALL COLLECT THE FEE DESCRIBED IN  
22 SUBSECTION (1) OF THIS SECTION FROM THE DISTRIBUTOR THAT INITIALLY  
23 SELLS THE FOOD SERVICE PACKAGING IN THE STATE. NOTWITHSTANDING  
24 ANY PROVISION OF PART 2 OF ARTICLE 72 OF TITLE 24 TO THE CONTRARY,  
25 INFORMATION COLLECTED BY THE COMMISSION PURSUANT TO THIS  
26 SECTION IS NOT A PUBLIC RECORD AND THE COMMISSION IS NOT REQUIRED  
27 TO DISCLOSE SUCH INFORMATION.

1           (3) THE ENTERPRISE SHALL TRANSMIT ALL MONEY COLLECTED AS  
2 FEES PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT  
3 IN THE FUND.

4           (4) ON OR BEFORE JANUARY 1, 2024, THE COMMISSION SHALL  
5 PROMULGATE RULES ESTABLISHING A PROCESS FOR CALCULATING THE  
6 RATES AT WHICH COMMON TYPES OF FOOD SERVICE PACKAGING ARE BEING  
7 RECYCLED OR COMPOSTED IN THE STATE, BASED ON RECENTLY AVAILABLE  
8 DATA. IN ESTABLISHING THE CALCULATION PROCESS, THE COMMISSION  
9 SHALL SEEK INPUT AND FEEDBACK FROM THE BOARD AND FROM  
10 STAKEHOLDERS, INCLUDING DISTRIBUTORS AND REPRESENTATIVES OF THE  
11 SOLID WASTE, RECYCLING, AND COMPOSTING INDUSTRIES.

12           (5) ON OR BEFORE JANUARY 1, 2025, THE COMMISSION SHALL USE  
13 THE PROCESS ESTABLISHED BY RULES PROMULGATED PURSUANT TO  
14 SUBSECTION (4) OF THIS SECTION TO CALCULATE THE RATES AT WHICH  
15 COMMON TYPES OF FOOD SERVICE PACKAGING ARE BEING RECYCLED OR  
16 COMPOSTED IN THE STATE. THEREAFTER, THE COMMISSION SHALL  
17 RECALCULATE EACH SUCH RATE AT LEAST EVERY TWO YEARS. THE  
18 DEPARTMENT SHALL PUBLISH THE CALCULATED RATES ON ITS WEBSITE.

19           (6) ON OR BEFORE SEPTEMBER 1, 2029, AND ON OR BEFORE  
20 SEPTEMBER 1 OF EACH YEAR THEREAFTER, THE BOARD SHALL EVALUATE  
21 EACH RECYCLING AND COMPOSTING RATE CALCULATED BY THE  
22 COMMISSION FOR A TYPE OF FOOD SERVICE PACKAGING PURSUANT TO  
23 SUBSECTION (5) OF THIS SECTION. THE BOARD SHALL ADVISE THE  
24 COMMISSION AS NECESSARY REGARDING THE ACCURACY OF EACH SUCH  
25 RATE.

26           **25-17-507. Statewide assessment - recycling and composting**  
27 **infrastructure - repeal.** (1) ON OR BEFORE JANUARY 1, 2022, THE

1 COMMISSION SHALL CONDUCT AN ASSESSMENT OF THE STATE'S RECYCLING  
2 AND COMPOSTING INFRASTRUCTURE, INCLUDING EXAMINING THE TYPES OF  
3 FOOD SERVICE PACKAGING BEING COLLECTED, PROCESSED, RECYCLED, OR  
4 COMPOSTED IN THE STATE. AT A MINIMUM, THE ASSESSMENT MUST:

5 (a) IDENTIFY OPPORTUNITIES TO IMPROVE AND EXPAND WASTE  
6 COLLECTION AND PROCESSING CAPABILITIES, INCLUDING THE USE OF  
7 INNOVATIVE NEW TECHNOLOGIES;

8 (b) ANALYZE THE VARIATIONS BETWEEN LOCAL WASTE  
9 PROGRAMS, RECYCLING PROGRAMS, AND COMPOSTING PROGRAMS AND  
10 IDENTIFY OPPORTUNITIES FOR STATEWIDE HARMONIZATION, INCLUDING  
11 IDENTIFYING BARRIERS TO COOPERATION AND STANDARDIZATION AND  
12 IMPROVING PUBLIC EDUCATION PROGRAMS AND MESSAGING;

13 (c) EVALUATE END-USE MARKETS FOR COLLECTED MATERIALS AND  
14 IDENTIFY POLICIES THAT MAY BE NEEDED TO STIMULATE DOMESTIC  
15 MARKETS; AND

16 (d) ANALYZE ECONOMIC INCENTIVES AND POLICIES TO MAXIMIZE  
17 AND ENCOURAGE IN-STATE PROCESSING OF COLLECTED MATERIAL AND  
18 THE USE OF RECYCLED MATERIAL IN FOOD SERVICE PACKAGING.

19 (2) IN COMPLETING THE ASSESSMENT DESCRIBED IN SUBSECTION  
20 (1) OF THIS SECTION, THE COMMISSION SHALL SOLICIT INPUT FROM  
21 STAKEHOLDERS INCLUDING:

22 (a) CONSUMERS;

23 (b) LOCAL GOVERNMENTS;

24 (c) REPRESENTATIVES OF THE SOLID WASTE, RECYCLING, AND  
25 COMPOSTING INDUSTRIES;

26 (d) DISTRIBUTORS;

27 (e) MATERIAL SUPPLIERS;



- 1 (f) END-USERS OF RECYCLED AND COMPOSTED MATERIALS;  
2 (g) ENVIRONMENTAL ORGANIZATIONS; AND  
3 (h) RETAIL FOOD ESTABLISHMENTS.

4 (3) THE ASSESSMENT DESCRIBED IN SUBSECTION (1) OF THIS  
5 SECTION IS A PUBLIC RECORD, AND THE COMMISSION SHALL POST THE  
6 ASSESSMENT ON ITS PUBLIC WEBSITE AND DELIVER THE ASSESSMENT TO  
7 THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
8 HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADERS OF THE SENATE  
9 AND THE HOUSE OF REPRESENTATIVES, AS WELL AS TO EACH MEMBER OF  
10 THE BOARD.

11 (4) PURSUANT TO SECTION 25-17-503 (3)(d), THE ENTERPRISE  
12 SHALL TRANSFER MONEY FROM THE FUND TO THE DEPARTMENT TO PAY  
13 THE DIRECT AND INDIRECT COSTS THAT THE COMMISSION INCURS IN  
14 FULFILLING ITS DUTIES PURSUANT TO THIS SECTION.

15 (5) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2022.

16 **SECTION 2.** In Colorado Revised Statutes, 25-15-302, **amend**  
17 (2) introductory portion; and **add** (2)(m) as follows:

18 **25-15-302. Solid and hazardous waste commission - creation**  
19 **- membership - rules - fees - administration - definition.** (2) The  
20 commission shall promulgate rules pertaining to hazardous waste in  
21 accordance with this part 3 and in accordance with the procedures and  
22 other provisions of article 4 of title 24. ~~C.R.S. Such~~ THE rules ~~shall~~  
23 ~~provide protection of~~ MUST PROTECT public health and the environment  
24 and ~~shall~~ include:

25 (m) RULES ESTABLISHING A PROCESS FOR CALCULATING THE  
26 RATES AT WHICH COMMON TYPES OF FOOD SERVICE PACKAGING ARE BEING  
27 RECYCLED OR COMPOSTED IN THE STATE, AS DESCRIBED IN SECTION

1 25-17-506 (4).

2           **SECTION 3. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, or safety.