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Fiscal Note

Drafting Number: LLS 24-1156 Date: April 16, 2024
Prime Sponsors: Rep. Joseph; Lindsay Bill Status: House Energy & Environment
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Bill Topic: ENVIRONMENTAL SUSTAINABILITY CIRCULAR ECONOMY

Summary of Fiscal Impact: [X] State Revenue [X] State Transfer [X] Local Government
[X] State Expenditure [X] TABOR Refund [ ] Statutory Public Entity

The bill consolidates existing waste diversion programs, including an existing enterprise, into a new enterprise. It increases state revenue and expenditures, creates a transfer, and may increase local government revenue and expenditures beginning in FY 2024-25.

Appropriation Summary: No appropriation is required as the Colorado Circular Communities Cash Fund is continuously appropriated to the Colorado Circular Communities Enterprise.

Fiscal Note Status: The fiscal note reflects the introduced bill. This analysis is preliminary and will be updated following further review and any additional information received.

Table 1
State Fiscal Impacts Under HB 24-1449

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Total Expenditures), Transfers (Front Range Waste Diversion Cash Fund, Colorado Circular Communities Cash Fund, Net Transfer), and Other Budget Impacts.

1 The fiscal note assumes the Front Range Waste Diversion Cash Fund balance will transfer to the Colorado Circular Communities Cash Fund. See Technical Note.

## **Summary of Legislation**

The bill repeals and reenacts the Pollution Prevention Act of 1992 by renaming it the Colorado Sustainability Act, modifying its programs, and consolidating them into the new Colorado Circular Communities Enterprise in the Department of Public Health and Environment (CDPHE).

**Enterprises.** The bill replaces the existing Front Range Waste Diversion Enterprise with the Colorado Circular Communities Enterprise. The new enterprise inherits any existing contracts or in-process responsibilities of the existing enterprise to provide continuity of operations. The enterprise is overseen by a board of directors which includes representatives from CDPHE, local governments, and the solid waste disposal industry. The bill creates the Colorado Circular Communities Cash Fund, which is continuously appropriated to the enterprise.

The enterprise is charged with promoting a circular economy, including promoting reuse of natural resources, promoting reduction of greenhouse gas emissions, incentivizing businesses to use recyclable and compostable materials, supporting sustainability infrastructure, creating local jobs, extending the life of local landfills, and supporting waste diversion. It must collaborate with the Circular Economy Development Center, the Producer Responsibility Program in CDPHE, and the Office of Economic Development and International Trade.

The existing enterprise operates a grant program to achieve statutory waste diversion goals. The bill repeals those goals and the new enterprise awards grants that more generally promote a circular economy, including waste diversion and diversion.

On September 1, 2029, the existing enterprise is scheduled to repeal and any remaining cash fund balance transfers to the General Fund. The new enterprise remains in operation until September 1, 2032.

**Stakeholder report.** Stakeholders may provide feedback to CDPHE on the enterprise's effectiveness. By January 1, 2030, CDPHE must submit a report to the General Assembly with its recommendations based on stakeholder feedback, including the enterprise's repeal date, enterprise fee amounts, and progress towards delivering its services.

**Solid waste user fees.** Under current law, an operator of solid waste disposal site located outside the front range charges a fee based on the type of vehicle transporting the solid waste and an amount per volume or weight of solid waste disposed. Fee revenue accrues to the Recycling Resources Economic Opportunity Fund for CDPHE to administer the Recycling Resources Economic Opportunity Program. A similar fee on the volume or weight of solid waste disposed in the front range supports the existing enterprise. The bill redirects these fees to the new cash fund supporting the new enterprise and increases the front range fee.

**Voluntary sustainability program.** The bill creates a voluntary sustainability program that encourages businesses, nonprofit organizations, local governments, schools, and state institutions of higher education to move towards evidenced sustainability. CDPHE must provide technical assistance, facilitate collaboration, support sustainability marketing, and provide services and funding to small businesses.

**Pollution Prevention Fee.** Under current law, CDPHE collects a Pollution Prevention Fee on facilities that house certain hazardous substances. The fee revenue pays for the activities of the Pollution Prevention Advisory Board in CDPHE, which awards grants, offers technical assistance, and makes policy recommendations on waste diversion issues. Under the bill, the advisory board repeals and the fee revenue instead supports the voluntary sustainability program.

**Conforming changes.** Any other fees or fines that support the Recycling Resources Economic Opportunity Program or the existing enterprise, and any programs paid for from that revenue, including the Circular Economy Development Center as created by [House Bill 22-1159](#) and the Organics Diversion Study required by [Senate Bill 23-191](#), now fall under the authority of the new enterprise.

## State Revenue

The bill increases state revenue by increasing the fee on solid waste disposal in the front range and potentially from gifts, grants, and donations.

**Fee impact on solid waste disposal.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The revenue amounts are estimates only; actual revenue will depend on the amount of solid waste disposed each year that originates in the front range. The existing fee is 60 cents per cubic yard in FY 2023-24, indexed to inflation; the fiscal note estimates that the current law fee would be 63 cents per cubic yard in FY 2024-25 and 65 cents per cubic yard in FY 2025-26. The bill sets the fee at 74 cents per cubic yard for FY 2024-25 and 78 cents per cubic yard beginning in FY 2025-26. Fee revenue collected by the enterprise is not subject to TABOR. The table below identifies the fee impact of this bill.

**Table 2**  
**Fee Impact on Solid Waste Disposal**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee Increase</b>	<b>Yd<sup>3</sup> Affected</b>	<b>Total Fee Impact</b>
<b>FY 2024-25</b>	Front Range Solid Waste Disposal	\$0.11	7.1 million	\$800,000
<b>FY 2025-26</b>	Front Range Solid Waste Disposal	\$0.13	7.1 million	\$900,000

**Gifts, grants, and donations.** The bill potentially increases state revenue to the Colorado Circular Communities Cash Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

## State Transfers

The fiscal note assumes that the bill transfers the balance of the Front Range Waste Diversion Cash Fund to the Colorado Circular Communities Cash Fund on July 1, 2024. This amount is estimated at \$18 million. See Technical Note below. Any remaining funding on September 1, 2032, will transfer to the General Fund.

The bill transfers the balance of the Recycling Resources Economic Opportunity Fund to the Colorado Circular Communities Cash Fund on September 30, 2025. This transfer is expected to be minimal.

## State Expenditures

The bill increases state expenditures by an estimated \$800,000 in FY 2024-25 and \$900,000 in FY 2025-26 from the Colorado Circular Communities Cash Fund.

**Department of Public Health and Environment.** The Colorado Circular Communities Enterprise will have additional fee revenue to spend under the bill, as well as minimal workload increases.

- **Circular economy activities.** By increasing fee revenue to the enterprise, the bill may increase expenditures for activities that promote a circular economy by up to the same amounts: an estimated \$800,000 in FY 2024-25 and \$900,000 in FY 2025-26.
- **Voluntary sustainability program.** Workload increases to administer the new program, while workload decreases to support the Pollution Prevention Advisory Board. Because these are supported by the same fund source, the fiscal note assumes that the overall level of expenditures remains the same.
- **Legal services.** CDPHE may require legal services to update rules related to the repeal of existing programs or the creation of new programs. This can be accomplished within existing legal services appropriations. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

**Office of Economic Development and International Trade.** Workload may increase to collaborate with the enterprise. This can be accomplished within existing appropriations.

## Other Budget Impacts

**TABOR refunds.** The fiscal note assumes that there will be a downward adjustment to the Referendum C cap of about \$200,000 to reflect the shift in current state revenue subject to TABOR becoming part of an enterprise. Thus, the bill will not have an impact on TABOR refunds, as it reduces state revenue subject to TABOR and the amount of the cap by equal amounts. Ongoing and additional revenue to the enterprise is not subject to TABOR and will not affect future TABOR refunds.

## Local Government and School Districts

The bill increases revenue and expenditures in any local government or school district that applies for and is awarded a grant under the expanded grant program.

## **Technical Note**

The bill repeals the Front Range Waste Diversion Cash Fund when it repeals the existing enterprise, but does not specify what happens to the fund's balance upon repeal. The fiscal note assumes that the balance is transferred to the new cash fund for use by the new enterprise, which continues many of the functions of the existing enterprise.

## **Effective Date**

The bill takes effect July 1, 2024.

## **State Appropriations**

The Colorado Circular Communities Cash Fund is continuously appropriated to the Colorado Circular Communities Enterprise, so no appropriation is required.

## **State and Local Government Contacts**

Law	Office of Economic Development	Personnel
Public Health and Environment	Treasury	

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).