

CHAPTER 192

HEALTH AND ENVIRONMENT

HOUSE BILL 24-1449

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AN ACT

CONCERNING MEASURES TO IMPROVE SUSTAINABILITY SERVICES THROUGH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND, IN CONNECTION THEREWITH, UPDATING THE "POLLUTION PREVENTION ACT OF 1992".

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, article 16.5 of title 25 as follows:

ARTICLE 16.5
Colorado Sustainability

25-16.5-101. Short title. THE SHORT TITLE OF THIS ARTICLE 16.5 IS THE "COLORADO SUSTAINABILITY ACT".

25-16.5-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) THE "POLLUTION PREVENTION ACT OF 1992", WHICH HAS BEEN INSTRUMENTAL IN ADDRESSING CERTAIN ENVIRONMENTAL CONCERNS OVER THE PREVIOUS THREE DECADES, SHOULD BE UPDATED TO MEET THE STATE'S EVOLVING SUSTAINABILITY AND CIRCULARITY NEEDS;

(b) CIRCULARITY, INCLUDING WASTE DIVERSION AND AVERSION, INVOLVES MORE THAN DIVERTING WASTE MATERIALS FROM THE LANDFILL. A CIRCULAR BUSINESS MODEL PREVENTS WASTE, USES RESOURCES EFFICIENTLY, PRIORITIZES RENEWABLE INPUTS, AND INVESTS IN IMPROVED PRODUCT DESIGN AS A MEANS TO MAXIMIZE A PRODUCT'S VALUE BY MAXIMIZING THE PRODUCT'S USAGE AND LIFETIME. AT THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

END OF A PRODUCT'S USEFUL LIFE, CIRCULARITY INVOLVES RECOVERING AND REUSING THE PRODUCT AND ANY BYPRODUCTS CREATED IN ITS MANUFACTURING TO MAKE NEW MATERIALS AND PRODUCTS.

(c) WASTE DIVERSION AND AVERSION, WHICH ARE IMPORTANT COMPONENTS OF CIRCULARITY AND INCLUDE ORGANICS MANAGEMENT:

- (I) EXTEND THE USEFUL LIFE OF LOCAL LANDFILLS;
- (II) MITIGATE GREENHOUSE GAS EMISSIONS;
- (III) PROTECT THE SOIL RELIED UPON FOR THE STATE'S FARMLAND; AND
- (IV) SAVE NATURAL RESOURCES;

(d) IT IS CRITICAL TO FOSTER AND RECOGNIZE PARTNERSHIPS BETWEEN GOVERNMENTS, BUSINESSES, AND COMMUNITIES IN ACHIEVING THE STATE'S SUSTAINABILITY AND CIRCULARITY OBJECTIVES. BUSINESSES HAVE THE POTENTIAL TO LEAD IN ENVIRONMENTAL STEWARDSHIP AND TO PLAY A VITAL ROLE IN REACHING THESE OBJECTIVES.

(e) EFFORTS TO IMPROVE SUSTAINABILITY SERVICES AND CIRCULARITY IN THE STATE, INCLUDING BY PROVIDING COACHING AND RECOGNITION OF BUSINESSES ENGAGED IN SUSTAINABILITY AND CIRCULARITY, SUPPORT COLORADO'S ENVIRONMENT AND ECONOMY AND THE SOCIAL FABRIC OF OUR STATE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT:

(a) BY MERGING THE RECYCLING RESOURCES ECONOMIC OPPORTUNITY PROGRAM AND THE FRONT RANGE WASTE DIVERSION ENTERPRISE INTO A NEW COLORADO CIRCULAR COMMUNITIES ENTERPRISE:

(I) THE IMPACT OF WASTE DISPOSAL THROUGHOUT THE STATE CAN BE MINIMIZED, AND, AS A RESULT, THE STATE'S NATURAL BEAUTY AND RESOURCES CAN BE BETTER MAINTAINED;

(II) INCREASED SERVICES MAY BE PROVIDED TO THE WASTE DISPOSAL SITE OPERATORS THAT PAY FEES, AS WELL AS TO RESIDENTS AND BUSINESSES THROUGHOUT THE STATE; AND

(III) MORE DIVERSE, EQUITABLE, EFFICIENT, AND INNOVATIVE SOLUTIONS TO WASTE MANAGEMENT CAN BE IMPLEMENTED THROUGH THE EVOLVING FIELD OF CIRCULARITY, INCLUDING REGIONAL AND STATEWIDE SOLUTIONS THAT BENEFIT COMMUNITIES OUTSIDE OF THE FRONT RANGE; AND

(b) THROUGH THE DEVELOPMENT OF REGIONAL SOLUTIONS, PUBLIC-PRIVATE PARTNERSHIPS, AND EXTENDED PROJECT PERIODS, THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE WILL PROVIDE LOCAL GOVERNMENTS, BUSINESSES, NONPROFITS, AND OTHER ELIGIBLE ENTITIES WITH ENHANCED PROJECT DESIGN OPTIONS TO SUPPORT COMMUNITY PROJECTS THAT WILL PROVIDE ENVIRONMENTAL AND ECONOMIC BENEFITS THROUGHOUT THE STATE.

(3) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

(a) THE MODERNIZATION OF THE "POLLUTION PREVENTION ACT OF 1992" IS NECESSARY TO BUILD A COMPREHENSIVE FRAMEWORK FOR ADVANCING SUSTAINABILITY AND CIRCULARITY EFFORTS IN THE STATE THROUGH TECHNICAL ASSISTANCE, FINANCIAL ASSISTANCE, AND RECOGNITION OF INNOVATIVE LEADERS IN SUSTAINABLE OPERATIONS; AND

(b) THIS ARTICLE 16.5 FOSTERS ENVIRONMENTAL SUSTAINABILITY BY SEEKING TO STRIKE A BALANCE BETWEEN ECONOMIC GROWTH AND ENVIRONMENTAL CARE IN A MANNER THAT MEETS THE NEEDS OF CURRENT GENERATIONS IN THE STATE WITHOUT COMPROMISING THE NEEDS OF FUTURE GENERATIONS.

25-16.5-103. Definitions. AS USED IN THIS ARTICLE 16.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CIRCULAR ECONOMY" HAS THE MEANING SET FORTH IN SECTION 25-17-601 (2).

(2) "COLORADO CIRCULAR COMMUNITIES ENTERPRISE" OR "ENTERPRISE" MEANS THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE CREATED IN SECTION 25-16.5-109 (3).

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

(4) "FEDERAL ACT" MEANS THE FEDERAL "EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986", 42 U.S.C. SEC. 11001 ET SEQ., TITLE III OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986", PUB.L. 99-499.

(5) "HAZARDOUS SUBSTANCE" MEANS THOSE CHEMICALS DEFINED AS HAZARDOUS SUBSTANCES UNDER SECTION 313 OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986" (SARA TITLE III), AS AMENDED, AND SECTIONS 101 (14) AND 102 OF THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980" (CERCLA), 42 U.S.C. SEC. 9601 ET SEQ., AS AMENDED.

(6) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE CITY, COUNTY, OR CITY AND COUNTY.

(7) "ORGANIC MATERIALS" HAS THE MEANING SET FORTH IN SECTION 25-17-901 (5).

(8) "SCHOOL" MEANS:

(a) A SCHOOL OF A SCHOOL DISTRICT;

(b) A DISTRICT CHARTER SCHOOL, AS DEFINED IN SECTION 22-11-103 (12);

(c) AN INSTITUTE CHARTER SCHOOL, AS DEFINED IN SECTION 22-30.5-502 (6);

(d) AN APPROVED FACILITY SCHOOL, AS DEFINED IN SECTION 22-2-402 (1); OR

(e) A BOARD OF COOPERATIVE SERVICES, AS DEFINED IN SECTION 22-5-103 (2).

(9) "STATE INSTITUTION OF HIGHER EDUCATION" HAS THE MEANING SET FORTH IN SECTION 23-18-102 (10).

(10) "SUSTAINABILITY" MEANS NONREGULATORY ACTIVITIES THAT, FOR BOTH CURRENT AND FUTURE GENERATIONS, PROTECT THE ENVIRONMENT, SUPPORT LOCAL AND STATE ECONOMICS, AND PROMOTE PUBLIC HEALTH.

(11) "WASTE DIVERSION AND AVERSION" OR "WASTE DIVERSION OR AVERSION" MEANS THE SUSTAINABLE DESIGN, PRODUCTION, DISTRIBUTION, CONSUMPTION, RECOVERABILITY, REUSE, WASTE PREVENTION, REPAIR, COLLECTION, AND RECYCLING OF A VARIETY OF MATERIALS, INCLUDING CONSTRUCTION AND DEMOLITION MATERIALS, SINGLE-STREAM MATERIALS, TECHNOLOGY AND ELECTRONIC MATERIALS; FOOD RECOVERY; AND THE COMPOSTING OF RAW AND REUSED MATERIALS, INCLUDING ORGANIC MATERIALS.

25-16.5-104. Recycling resources economic opportunity fund - creation - repeal. (1) (a) THE RECYCLING RESOURCES ECONOMIC OPPORTUNITY FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS CREATED IN THE STATE TREASURY. MONEY IN THE FUND IS ANNUALLY APPROPRIATED TO THE DEPARTMENT FOR USE IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION. THE FUND CONSISTS OF ALL MONEY THAT MAY BE AVAILABLE TO THE FUND, INCLUDING MONEY MADE AVAILABLE FROM GIFTS, GRANTS, OR DONATIONS.

(b) ALL INTEREST DERIVED FROM THE DEPOSIT OF MONEY IN THE FUND SHALL BE CREDITED TO THE FUND. EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(2) MONEY IN THE FUND SHALL BE USED TO PAY FOR ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING HOUSE BILL 07-1288, ENACTED IN 2007.

(3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, MONEY IN THE FUND SHALL NOT BE USED FOR THE ADMINISTRATION, IMPLEMENTATION, OR ENFORCEMENT OF ANY STATE LAW OR RULE.

(4) ON SEPTEMBER 30, 2025, THE STATE TREASURER SHALL TRANSFER ANY MONEY REMAINING IN THE FUND TO THE COLORADO CIRCULAR COMMUNITIES FUND CREATED IN SECTION 25-16.5-109 (4).

(5) THIS SECTION IS REPEALED, EFFECTIVE OCTOBER 1, 2025.

25-16.5-105. Recycling resources economic opportunity program - grants - repeal. (1) TO ENSURE CONTINUITY OF OPERATIONS, ANY GRANT AGREEMENT OR CONTRACT THAT THE DEPARTMENT ENTERED INTO PURSUANT TO THIS SECTION AS IT EXISTED BEFORE HOUSE BILL 24-1449 WAS ENACTED IN 2024 IS TRANSFERRED OR

ASSIGNED TO THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE BOARD ESTABLISHED PURSUANT TO SECTION 25-16.5-109 (3). THE DEPARTMENT MAY ASSIGN ANY CONTRACT OR AGREEMENT TO THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE BOARD UNTIL JANUARY 31, 2025. THE DEPARTMENT MAY ADMINISTER THE SERVICES ON THE ENTERPRISE'S BEHALF IN THE INTERIM TO THE EXTENT NECESSARY TO MAINTAIN OPERATIONS. THE ENTERPRISE SHALL COMPENSATE THE DEPARTMENT AT FAIR MARKET VALUE FOR ANY INTERIM SERVICES THAT THE DEPARTMENT PROVIDES.

(2) THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE SHALL ADMINISTER ANY GRANTS THAT THE POLLUTION PREVENTION ADVISORY BOARD HAS APPROVED PRIOR TO THE BOARD'S REPEAL PURSUANT TO HOUSE BILL 24-1449, ENACTED IN 2024.

(3) THIS SECTION IS REPEALED, EFFECTIVE OCTOBER 1, 2025.

25-16.5-106. Statewide voluntary sustainability program. (1) THE DEPARTMENT SHALL ESTABLISH A STATEWIDE, VOLUNTARY PROGRAM THAT:

(a) ENCOURAGES, SUPPORTS, AND REWARDS BUSINESSES, SUCH AS FOR-PROFIT ENTITIES, NONPROFITS, LOCAL GOVERNMENTS, SCHOOLS, AND STATE INSTITUTIONS OF HIGHER EDUCATION; AND

(b) MOVES THE STATE TOWARD EVIDENCED SUSTAINABILITY.

(2) IN IMPLEMENTING THE STATEWIDE, VOLUNTARY PROGRAM, THE DEPARTMENT MAY:

(a) PROVIDE ASSESSMENTS AND TECHNICAL ASSISTANCE TO BUSINESSES SEEKING TO INCREASE SUSTAINABILITY IN THEIR OPERATIONS;

(b) FACILITATE BUSINESS COLLABORATIONS AND PEER-TO-PEER SUPPORT;

(c) ESTABLISH REGIONAL PARTNERSHIPS AND PARTNERSHIPS WITH LOCAL GOVERNMENTS, WHERE PARTNERS CONSISTENTLY APPLY THE DEPARTMENT FRAMEWORK FOR ACHIEVING SUSTAINABLE BUSINESS OPERATIONS;

(d) SUPPORT BUSINESSES IN MARKETING THEIR SUSTAINABILITY ACHIEVEMENTS AND EFFORTS;

(e) RECOGNIZE BUSINESSES' SUSTAINABILITY ACHIEVEMENTS;

(f) PROMOTE FUNDING OPPORTUNITIES THAT CAN ASSIST BUSINESSES WITH ACHIEVING THEIR SUSTAINABILITY GOALS;

(g) PROVIDE SERVICES AND FUNDING TO ASSIST SMALL BUSINESSES; AND

(h) AT THE DISCRETION OF THE DEPARTMENT, DELIVER ADDITIONAL SUSTAINABILITY SERVICES TO MEET BUSINESS NEEDS.

25-16.5-107. Pollution prevention fees. (1) (a) THE DEPARTMENT SHALL CHARGE AND COLLECT POLLUTION PREVENTION FEES FROM ANY REPORTING FACILITY

THAT IS REQUIRED TO FILE A REPORT WITH THE DEPARTMENT PURSUANT TO THE FEDERAL ACT AS FOLLOWS:

(I) FACILITIES REQUIRED TO REPORT PURSUANT TO SECTION 11002 OF THE FEDERAL ACT SHALL PAY AN ANNUAL FEE NOT TO EXCEED TEN DOLLARS PER REPORTING FACILITY;

(II) EACH FACILITY REQUIRED TO REPORT PURSUANT TO SECTION 11022 OF THE FEDERAL ACT IS REQUIRED TO PAY AN ANNUAL FEE NOT TO EXCEED TEN DOLLARS FOR EVERY HAZARDOUS SUBSTANCE LOCATED AT THE FACILITY IN EXCESS OF THE THRESHOLDS ADOPTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; AND

(III) EACH FACILITY REQUIRED TO REPORT PURSUANT TO SECTION 11023 OF THE FEDERAL ACT SHALL PAY AN ANNUAL FEE NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EVERY EXTREMELY HAZARDOUS SUBSTANCE LOCATED AT THE FACILITY IN EXCESS OF THE THRESHOLDS ADOPTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(b) THE DEPARTMENT SHALL CHARGE AND COLLECT POLLUTION PREVENTION FEES FROM ANY FEDERAL AGENCY FROM WHICH, PURSUANT TO FEDERAL EXECUTIVE ORDER No. 12856, AS PUBLISHED IN 58 FED. REG. 41981 (1993), THE DEPARTMENT HAS THE AUTHORITY TO COLLECT POLLUTION PREVENTION FEES.

(c) ANY RETAIL MOTOR FUEL OUTLET THAT IS REQUIRED TO REPORT PURSUANT TO THE FEDERAL ACT SHALL PAY ONE-HALF OF THE FEE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION.

(d) ANY SINGLE REPORTING ORGANIZATION THAT OWNS OR OPERATES MULTIPLE REPORTING FACILITIES IS NOT REQUIRED TO PAY MORE THAN A TOTAL OF ONE THOUSAND DOLLARS FOR ALL POLLUTION PREVENTION FEES REQUIRED BY THIS SECTION.

(e) AGRICULTURAL BUSINESSES THAT ARE REQUIRED TO REPORT UNDER THE FEDERAL ACT ARE NOT REQUIRED TO PAY THE POLLUTION PREVENTION FEES SET FORTH IN THIS SUBSECTION (1).

(f) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT COLLECT ALL FEES FROM ANY REPORTING FACILITY REQUIRED TO REPORT UNDER THE FEDERAL ACT, INCLUDING THE POLLUTION PREVENTION FEE, IN A SINGLE, CENTRALIZED BILLING PROCEDURE.

(2) THE DEPARTMENT SHALL TRANSMIT ANY MONEY COLLECTED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE STATE TREASURER AND THE STATE TREASURER SHALL CREDIT THE MONEY TO THE POLLUTION PREVENTION FUND CREATED IN SECTION 25-16.5-108.

25-16.5-108. Pollution prevention fund - created. (1) THERE IS CREATED IN THE STATE TREASURY THE POLLUTION PREVENTION FUND. ANY MONEY COLLECTED PURSUANT TO SECTION 25-16.5-107 IS CREDITED TO THE FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND IS CREDITED

TO THE GENERAL FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND IS NOT CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(2) THE MONEY GENERATED FROM THE POLLUTION PREVENTION FEES PURSUANT TO SECTION 25-16.5-107 IS ANNUALLY APPROPRIATED TO THE DEPARTMENT TO COVER THE DIRECT AND INDIRECT COSTS FOR SUSTAINABILITY SERVICES SET FORTH IN SECTION 25-16.5-106. THE MONEY IN THE FUND SHALL NOT BE USED FOR THE ENFORCEMENT OF ANY STATE LAW OR REGULATION GOVERNING ENVIRONMENTAL PROTECTION.

25-16.5-109. Colorado circular communities enterprise - legislative declaration - fund - goals - grant program - personal property tax reimbursements - gifts, grants, or donations - definitions - repeal.

(1) **Legislative declaration.** THE GENERAL ASSEMBLY:

(a) FINDS THAT:

(I) COLORADO HAS ONE OF THE LOWEST RATES OF WASTE DIVERSION IN THE UNITED STATES, RECYCLING ONLY ABOUT TWELVE PERCENT OF OUR WASTE COMPARED TO THIRTY-FIVE PERCENT NATIONWIDE;

(II) COLORADO DISPOSED OF A RECORD AMOUNT OF TRASH IN LANDFILLS IN 2017, OVER NINE MILLION TONS, WHILE THERE WAS ESSENTIALLY NO INCREASE IN THE MUNICIPAL WASTE DIVERSION RATE;

(III) RECYCLING, REUSE, AND REMANUFACTURING CONTRIBUTE ALMOST NINE BILLION DOLLARS TO THE COLORADO ECONOMY ANNUALLY, YET WE ARE THROWING AWAY IN OUR LANDFILLS MORE THAN ONE-QUARTER BILLION DOLLARS' WORTH ANNUALLY OF RECYCLABLE MATERIAL, SUCH AS ALUMINUM, CARDBOARD, PAPER, GLASS, AND PLASTICS, WHICH MATERIAL COULD HAVE BEEN RECYCLED HERE IN COLORADO, THEREBY CREATING LOCAL JOBS AND STRENGTHENING LOCAL ECONOMIES;

(IV) RECYCLING CREATES AN AVERAGE OF NINE TIMES MORE JOBS PER TON OF WASTE THAN DOES DISPOSAL IN A LANDFILL, AND RECYCLING IS ONE OF THE FASTEST, EASIEST, AND MOST COST-EFFECTIVE WAYS TO REDUCE GREENHOUSE GAS EMISSIONS;

(V) THE FRONT RANGE:

(A) GENERATES ABOUT EIGHTY-FIVE PERCENT OF THE WASTE STATEWIDE AND HAS MOST OF THE INFRASTRUCTURE IN PLACE TO DIVERT WASTE FROM LANDFILLS; AND

(B) HAS HIGHER DENSITIES OF WASTE PRODUCERS AND RECYCLING FACILITIES THAN THE REST OF THE STATE AND THUS FEWER CHALLENGES REGARDING LONG DISTANCES TO RECYCLING FACILITIES AND MARKETS;

(VI) TO SUPPORT WASTE DIVERSION EFFORTS, THE AVERAGE FAMILY LIVING ALONG THE FRONT RANGE PAYS ABOUT EIGHTY-SIX CENTS PER YEAR IN THE FORM OF USER FEES ASSESSED AT FOURTEEN CENTS PER CUBIC YARD OF WASTE DISPOSED OF

AT ATTENDED LANDFILLS, WHICH FEES ARE USED TO SUPPORT WASTE DIVERSION EFFORTS; AND

(VII) CIRCULARITY CAN ONLY BE ACHIEVED WHEN WORKING COLLABORATIVELY ACROSS THE STATE TO MAXIMIZE THE USE OF LOCAL MATERIALS AND THE LOCAL USE OF END PRODUCTS;

(VIII) CIRCULARITY AND WASTE DIVERSION AND AVERSION INFRASTRUCTURE IS NEEDED STATEWIDE THROUGH A COMBINATION OF LOCAL, REGIONAL, AND STATEWIDE SOLUTIONS; AND

(IX) CIRCULARITY SERVICES, INCLUDING WASTE DIVERSION AND AVERSION, SUPPORT OPERATORS OF ATTENDED SOLID WASTE DISPOSAL SITES, WASTE PRODUCERS, AND PERSONS PAYING THE FEE BY EXTENDING THE USEFUL LIFE OF LANDFILLS, SUPPORTING EXPANSION OF FEE SERVICES TO MEET COMMUNITY DEMAND FOR COMPOSTING AND RECYCLING SERVICES, AND ESTABLISHING LOCAL USES FOR COLLECTED MATERIALS THAT REDUCE THE TRANSPORTATION COSTS OF OPERATORS OF ATTENDED SOLID WASTE DISPOSAL SITES, WASTE PRODUCERS, AND PERSONS PAYING THE FEE;

(b) DETERMINES THAT:

(I) A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION, HAS SUBSTANTIAL ECONOMIC AND ENVIRONMENTAL BENEFITS FOR THE STATE;

(II) THE OPPORTUNITY FOR IMPROVEMENT IS GREAT, YET THE STATE LACKS:

(A) A SUFFICIENT FUNDING SOURCE TO MAKE THESE IMPROVEMENTS; AND

(B) A COHERENT CIRCULAR ECONOMY POLICY, INCLUDING WASTE DIVERSION AND AVERSION POLICIES, AT THE LOCAL LEVEL; AND

(III) IT IS IN THE STATE'S INTEREST TO PROVIDE FINANCIAL AND TECHNICAL ASSISTANCE TO COMMUNITIES TO DEVELOP A CIRCULAR ECONOMY AND REACH THEIR WASTE DIVERSION AND AVERSION GOALS THROUGH TECHNICAL ASSISTANCE AND A GRANT AND FUNDING OPPORTUNITY PROGRAM FINANCED BY USER FEES; AND

(c) DECLARES THAT:

(I) PROVIDING TECHNICAL ASSISTANCE, GRANTS, AND FUNDING OPPORTUNITIES TO SUPPORT A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION, CONSTITUTES A VALUABLE SERVICE AND BENEFIT, AND THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE PROVIDES USEFUL BUSINESS SERVICES TO WASTE PRODUCERS WHEN, IN EXCHANGE FOR PAYMENT OF USER FEES, IT PROVIDES TECHNICAL ASSISTANCE AND AWARDS GRANTS OR FUNDING FINANCED BY THE FEES TO ENTITIES THAT PROMOTE A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION;

(II) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (1)(b)(III) AND (1)(c)(I) OF THIS SECTION, THE ENTERPRISE ENGAGES

IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

(III) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL v. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE USER FEE COLLECTED BY THE ENTERPRISE IS A FEE, NOT A TAX, BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTIONS (1)(b)(III) AND (1)(c)(I) OF THIS SECTION TO WASTE PRODUCERS THAT ULTIMATELY PAY THE FEE AND IS COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY THOSE WASTE PRODUCERS;

(IV) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUE FROM THE USER FEES COLLECTED BY THE ENTERPRISE IS NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G); AND

(V) THIS SECTION IS NECESSARY TO PROVIDE INCENTIVES TO LOCAL GOVERNMENTS, FOR-PROFIT WASTE MANAGEMENT AND WASTE DIVERSION COMPANIES, STATE INSTITUTIONS OF HIGHER EDUCATION, NONPROFIT ORGANIZATIONS, OR OTHER ENTITIES THAT THE BOARD IDENTIFIES AS PURSUING A CIRCULAR ECONOMY FOR THE STATE, INCLUDING WASTE DIVERSION AND AVERSION.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ENTERPRISE.

(b) "CIRCULAR ECONOMY DEVELOPMENT CENTER" MEANS THE CIRCULAR ECONOMY DEVELOPMENT CENTER CREATED IN SECTION 25-17-602 (1).

(c) (I) "ELIGIBLE ENTITY" MEANS THE FOLLOWING ENTITIES LOCATED OR PROVIDING SERVICES IN COLORADO:

(A) CITIES, COUNTIES, AND CITIES AND COUNTIES;

(B) NONPROFIT AND FOR-PROFIT BUSINESSES PROMOTING A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION OR AVERSION;

(C) STATE INSTITUTIONS OF HIGHER EDUCATION AND PUBLIC OR PRIVATE SCHOOLS; AND

(D) ANY OTHER ENTITY IDENTIFIED BY THE BOARD AS SUPPORTING OR PURSUING

A CIRCULAR ECONOMY FOR COLORADO, INCLUDING WASTE DIVERSION AND AVERSION.

(II) "ELIGIBLE ENTITY" INCLUDES AN ENTITY LISTED IN SUBSECTION (2)(c)(I) OF THIS SECTION THAT IS LOCATING TO COLORADO AFTER RECRUITMENT BY THE CIRCULAR ECONOMY DEVELOPMENT CENTER PURSUANT TO SECTION 25-17-602 (1)(d) AND IN ACCORDANCE WITH SUBSECTION (2)(c)(III) OF THIS SECTION.

(III) TO QUALIFY AS AN "ELIGIBLE ENTITY" BY LOCATING TO COLORADO AFTER RECRUITMENT PURSUANT TO SUBSECTION (2)(c)(II) OF THIS SECTION, AN ENTITY THAT IS LOCATING TO COLORADO MUST DEMONSTRATE THAT IT HAS:

(A) BEEN IN BUSINESS IN ANOTHER JURISDICTION FOR A MINIMUM OF THREE YEARS;

(B) IDENTIFIED A COLORADO LOCATION TO RELOCATE OR EXPAND ITS BUSINESS TO;

(C) REGISTERED WITH THE COLORADO SECRETARY OF STATE; AND

(D) BEEN RECOMMENDED BY THE CIRCULAR ECONOMY DEVELOPMENT CENTER.

(d) "ENTERPRISE" MEANS THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

(e) "FEE" OR "FEES" MEANS MONEY COLLECTED BY MEANS OF THE USER FEES AUTHORIZED BY SECTION 25-16-104.5 (3.9).

(f) "FUND" MEANS THE COLORADO CIRCULAR COMMUNITIES CASH FUND CREATED IN SUBSECTION (4) OF THIS SECTION.

(g) (I) "GRANT AND FUNDING PROGRAM" MEANS THE COLORADO CIRCULAR COMMUNITIES GRANT AND FUNDING PROGRAM CREATED IN SUBSECTION (6) OF THIS SECTION.

(II) "GRANT AND FUNDING PROGRAM" INCLUDES:

(A) GRANTS;

(B) PURCHASES;

(C) LOANS;

(D) REBATES;

(E) NONCOMPETITIVE FORMULA FUNDING; AND

(F) FUNDING THAT MAY RESULT FROM A REQUEST TO THE BOARD FROM ONE OR MORE PUBLIC OR PRIVATE PARTNERS ACROSS MULTIPLE JURISDICTIONS.

(h) "PRODUCER RESPONSIBILITY PROGRAM" MEANS THE PRODUCER RESPONSIBILITY PROGRAM FOR STATEWIDE RECYCLING ESTABLISHED PURSUANT TO PART 7 OF ARTICLE 17 OF THIS TITLE 25.

(3) **Enterprise.** (a) THERE IS CREATED IN THE DEPARTMENT THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT FOR THE PURPOSE OF COLLECTING THE FEE CHARGED TO WASTE PRODUCERS AND USING THE FEE TO PROVIDE GRANTS, FUNDING, AND TECHNICAL ASSISTANCE AND TO PAY FOR STUDIES TO PROMOTE A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION. THE ENTERPRISE IS A **TYPE 1** ENTITY, AS DEFINED IN SECTION 24-1-105, AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT.

(b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(c) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE TO:

(I) COLLECT THE FEE;

(II) PROMOTE A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION, BY PROVIDING TECHNICAL ASSISTANCE AND ISSUING GRANTS AND FUNDING, AS SPECIFIED IN SUBSECTION (6) OF THIS SECTION;

(III) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE ENTERPRISE TO PROMOTE A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION, AS SPECIFIED IN THIS SECTION;

(IV) PUBLISH EACH YEAR, ON THE DEPARTMENT'S WEBSITE AND AS OTHERWISE DEEMED APPROPRIATE BY THE BOARD, THE STRATEGIES THAT THE BOARD HAS PRIORITIZED FOR FUNDING THROUGH THE GRANT AND FUNDING PROGRAM;

(V) ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION OF THE ENTERPRISE'S AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS SECTION, INCLUDING ESTABLISHING APPLICATION, REVIEW, APPROVAL, REPORTING, AND OTHER REQUIREMENTS FOR GRANTS AND FUNDING;

(VI) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL, INCLUDING THE DEPARTMENT AND THE ATTORNEY GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE BOARD SHALL ENCOURAGE DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL GENERALLY AVOID USING SINGLE-SOURCE BIDS. THE DEPARTMENT SHALL PROVIDE

OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION (3)(c)(VI).

(VII) IN COORDINATION WITH THE DEPARTMENT, PAY THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE DEPARTMENT'S OVERSIGHT AND THE ADMINISTRATOR'S OPERATION OF THE CIRCULAR ECONOMY DEVELOPMENT CENTER;

(VIII)(A) IN COORDINATION WITH THE DEPARTMENT, PAY THE COSTS ASSOCIATED WITH CONDUCTING THE ORGANICS DIVERSION STUDY REQUIRED BY SECTION 25-17-902.

(B) THIS SUBSECTION (3)(c)(VIII) IS REPEALED, EFFECTIVE JULY 1, 2025.

(IX) ENSURE CONTINUITY OF ENTERPRISE OPERATIONS. TO ENSURE CONTINUITY, ANY GRANT AGREEMENT OR CONTRACT ENTERED INTO BY THE FRONT RANGE WASTE DIVERSION ENTERPRISE BOARD PURSUANT TO THIS SECTION AS IT EXISTED BEFORE HOUSE BILL 24-1449 WAS ENACTED IN 2024 IS TRANSFERRED OR ASSIGNED TO THE COLORADO CIRCULAR COMMUNITIES ENTERPRISE BOARD. THE CHAIR OF THE FRONT RANGE WASTE DIVERSION BOARD OR THE CHAIR'S DESIGNEE IS AUTHORIZED TO ASSIGN ANY CONTRACT OR AGREEMENT OF THE FRONT RANGE WASTE DIVERSION ENTERPRISE BOARD ON BEHALF OF THE DISSOLVED FRONT RANGE WASTE DIVERSION ENTERPRISE BOARD TO THE CIRCULAR COMMUNITIES ENTERPRISE BOARD UNTIL JANUARY 31, 2025. THE DEPARTMENT IS AUTHORIZED TO ADMINISTER THE SERVICES ON BEHALF OF THE ENTERPRISE IN THE INTERIM TO THE EXTENT NECESSARY TO MAINTAIN OPERATIONS. THE ENTERPRISE SHALL COMPENSATE THE DEPARTMENT AT FAIR MARKET VALUE FOR ANY INTERIM SERVICES THAT THE DEPARTMENT PROVIDES.

(d)(I) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL APPOINT THE FOLLOWING THIRTEEN MEMBERS OF THE BOARD:

(A) ONE MEMBER REPRESENTING THE DEPARTMENT; AND

(B) TWELVE MEMBERS WHO, TO THE EXTENT PRACTICABLE, REPRESENT A BALANCE OF FOR-PROFIT AND NONPROFIT BUSINESSES AND LOCAL GOVERNMENTS AND MEET THE ELIGIBILITY REQUIREMENTS SET FORTH IN SUBSECTIONS (3)(d)(II) AND (3)(d)(III) OF THIS SECTION.

(II) MEMBERS APPOINTED PURSUANT TO SUBSECTION (3)(d)(I)(B) OF THIS SECTION MUST HAVE EXPERTISE IN ONE OR MORE OF THE FOLLOWING AREAS:

(A) THE CIRCULAR ECONOMY;

(B) PRODUCER RESPONSIBILITY;

(C) ENVIRONMENTAL HEALTH AND SAFETY;

(D) CIRCULAR ECONOMY OR RENEWABLE ENERGY BUSINESS DEVELOPMENT OR INVESTMENT;

(E) ECONOMIC DEVELOPMENT;

(F) PUBLIC FINANCE; OR

(G) EXPERTISE IN STATEWIDE OR COMMUNITY-WIDE WASTE DIVERSION OR AVERSION PLANNING AND IMPLEMENTATION.

(III) WHEN APPOINTING MEMBERS OF THE BOARD, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL ENSURE THAT, TO THE EXTENT PRACTICABLE:

(A) AT LEAST THREE MEMBERS REPRESENT A LOCAL GOVERNMENT, AND AT LEAST ONE OF THE THREE MEMBERS LIVES IN OR REPRESENTS A COMMUNITY OUTSIDE OF THE FRONT RANGE, AS DEFINED IN SECTION 25-16-104.5 (3.9)(c.5);

(B) AT LEAST THREE MEMBERS REPRESENT WASTE HAULERS OR LANDFILL OPERATORS;

(C) AT LEAST THREE MEMBERS LIVE IN OR REPRESENT COMMUNITIES OUTSIDE OF THE FRONT RANGE, AS DEFINED IN SECTION 25-16-104.5 (3.9)(c.5); AND

(D) AT LEAST ONE MEMBER REPRESENTS AN ORGANIZATION THAT WORKS TO REDUCE BURDENS EXPERIENCED BY DISPROPORTIONATELY IMPACTED COMMUNITIES.

(e) THE MEMBER APPOINTED PURSUANT TO SUBSECTION (3)(d)(I)(A) OF THIS SECTION SHALL CALL THE FIRST MEETING OF THE BOARD. THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS, AS DETERMINED BY THE BOARD. THE BOARD SHALL MEET AT LEAST QUARTERLY, AND THE CHAIR MAY CALL ADDITIONAL MEETINGS AS NECESSARY FOR THE BOARD TO COMPLETE ITS DUTIES. EACH MEMBER OF THE BOARD IS ENTITLED TO RECEIVE FROM MONEY IN THE FUND A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH DAY SPENT ATTENDING AN OFFICIAL BOARD MEETING.

(f) THE TERM OF OFFICE OF BOARD MEMBERS IS THREE YEARS; EXCEPT THAT THE INITIAL TERM OF FIVE MEMBERS APPOINTED PURSUANT TO SUBSECTION (3)(d)(I)(B) OF THIS SECTION IS TWO YEARS. MEMBERS MAY SERVE FOR MULTIPLE CONSECUTIVE OR NONCONSECUTIVE TERMS.

(4) **Fund.** (a) THERE IS CREATED IN THE STATE TREASURY THE COLORADO CIRCULAR COMMUNITIES CASH FUND. THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO SECTIONS 25-16-104.5 (3.9) AND 18-4-511 (4)(b) AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. THE ENTERPRISE IS EXEMPT FROM SECTION 24-77-108.

(b) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE TO:

(I) COVER THE DIRECT AND INDIRECT COSTS FOR ADMINISTERING THE ENTERPRISE AND ITS SERVICES;

(II) AWARD GRANTS AND FUNDING IN ACCORDANCE WITH THIS SECTION;

(III) PROVIDE TECHNICAL ASSISTANCE, INCLUDING THROUGH THE DEVELOPMENT

AND IMPLEMENTATION OF PUBLIC POLICY, TO ELIGIBLE ENTITIES TO PROMOTE A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION;

(IV) PAY THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE DEPARTMENT'S OVERSIGHT AND THE ADMINISTRATOR'S OPERATION OF THE CIRCULAR ECONOMY DEVELOPMENT CENTER; AND

(V) (A) PAY THE COSTS ASSOCIATED WITH CONDUCTING THE ORGANICS DIVERSION STUDY REQUIRED BY SECTION 25-17-902.

(B) THIS SUBSECTION (4)(b)(V) IS REPEALED, EFFECTIVE JULY 1, 2025.

(c) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION.

(d) (I) ON JULY 1, 2024, THE STATE TREASURER SHALL TRANSFER ANY MONEY REMAINING IN THE FRONT RANGE WASTE DIVERSION CASH FUND, AS IT EXISTED BEFORE HOUSE BILL 24-1449 WAS ENACTED IN 2024, TO THE COLORADO CIRCULAR COMMUNITIES CASH FUND.

(II) THIS SUBSECTION (4)(d) IS REPEALED, EFFECTIVE JULY 1, 2025.

(5) **Circular economy promotion.** (a) THE ENTERPRISE SHALL PROMOTE A CIRCULAR ECONOMY IN THE STATE, INCLUDING WASTE DIVERSION AND AVERSION. IN PROMOTING A CIRCULAR ECONOMY, THE ENTERPRISE SHALL CONSIDER:

(I) PROMOTING REUSE OF NATURAL RESOURCES AND REDUCTION OF GREENHOUSE GAS EMISSIONS;

(II) INCENTIVIZING COLORADO BUSINESSES TO:

(A) USE MATERIALS THAT COLORADANS RECYCLE AND COMPOST;

(B) PRODUCE NEW PRODUCTS THAT MEET KNOWN HEALTH AND SAFETY STANDARDS;

(C) MAXIMIZE THE RECOVERY AND REUSE OF BYPRODUCTS DURING THE MANUFACTURING PROCESS; AND

(D) MINIMIZE WASTE WHEN MANUFACTURING, SELLING, OR DISTRIBUTING PRODUCTS;

(III) INCENTIVIZING AND SUPPORTING LOCAL, REGIONAL, AND STATEWIDE INFRASTRUCTURE, SYSTEMS, LOGISTICS, STUDIES, AND MARKETING TO HELP CREATE A SUSTAINABLE CIRCULAR ECONOMY;

(IV) CREATING LOCAL JOBS, DEVELOPING COLORADO'S WORKFORCE, SUPPORTING REGIONAL BUSINESSES, AND DIVERSIFYING CURRENT AND NEW END MARKETS;

(V) SUPPORTING CIRCULAR ECONOMY AND SUSTAINABLE RESOURCE EDUCATION;

(VI) EXTENDING THE USEFUL LIFE OF LOCAL LANDFILLS; AND

(VII) SUPPORTING STATEWIDE MUNICIPAL WASTE DIVERSION AND AVERSION AND WASTE REDUCTION GOALS.

(b) TO THE EXTENT PRACTICABLE, IN PRIORITIZING AND DESIGNING ITS SERVICES, THE ENTERPRISE SHALL COORDINATE WITH:

(I) THE CIRCULAR ECONOMY DEVELOPMENT CENTER;

(II) THE PRODUCER RESPONSIBILITY PROGRAM AND NONPROFIT ORGANIZATION THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT DESIGNATES PURSUANT TO SECTION 25-17-705 (1)(b)(II) AS THE PRODUCER RESPONSIBILITY ORGANIZATION TO IMPLEMENT AND ADMINISTER THE PRODUCER RESPONSIBILITY PROGRAM;

(III) THE OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101 (1); AND

(IV) ANY SIMILAR PUBLIC AND PRIVATE INITIATIVES IDENTIFIED BY THE BOARD AS SUPPORTING A CIRCULAR ECONOMY.

(6) **Grant and funding program.** (a) (I) THE ENTERPRISE SHALL ADMINISTER THE GRANT AND FUNDING PROGRAM AND, SUBJECT TO AVAILABLE REVENUE, SHALL AWARD GRANTS AND FUNDING FROM THE FUND AS PROVIDED IN THIS SUBSECTION (6).

(II) BEFORE DISTRIBUTING MONEY, THE BOARD SHALL ASSESS AND DETERMINE AN EQUITABLE DISTRIBUTION OF MONEY FROM THE FUND FOR RURAL COUNTIES. THIS ASSESSMENT MAY OCCUR WITHIN EACH GRANT OR FUNDING OPPORTUNITY OR WITHIN THE OVERALL DISTRIBUTION OF MONEY, AS DETERMINED BY THE BOARD.

(III) IF THE GRANT APPLICATIONS OR FUNDING REQUESTS ARE INSUFFICIENT TO ACHIEVE THE DESIRED DISTRIBUTION, THE BOARD MAY DISTRIBUTE MONEY IN A MANNER THAT DEVIATES FROM THE EQUITABLE DISTRIBUTION DETERMINED BY THE BOARD, BUT THE BOARD SHALL THEN EVALUATE AND IDENTIFY STRATEGIES TO WORK TOWARD AN EQUITABLE DISTRIBUTION OF MONEY FROM THE FUND FOR FUTURE GRANT AND FUNDING OPPORTUNITIES.

(b) (I) THE PURPOSE OF THE GRANT AND FUNDING PROGRAM IS TO PROVIDE ECONOMIC AND TECHNICAL ASSISTANCE TO ELIGIBLE ENTITIES IN THEIR EFFORTS TO PROMOTE A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION, AS DESCRIBED IN THIS SECTION.

(II) THE BOARD SHALL ESTABLISH CRITERIA TO EVALUATE AND PRIORITIZE APPLICATIONS OR REQUESTS FOR GRANTS OR AWARDS OF FUNDING. AS PART OF THE SERVICES THAT THE BOARD MAY CONTRACT FOR THE ENTERPRISE PURSUANT TO SUBSECTION (3)(c)(VI) OF THIS SECTION, THE DEPARTMENT SHALL REVIEW APPLICATIONS AND REQUESTS FOR FUNDING UTILIZING CRITERIA THAT THE BOARD ESTABLISHES.

(III) (A) SUBJECT TO SUBSECTION (6)(b)(III)(B) OF THIS SECTION, IN REVIEWING APPLICATIONS AND REQUESTS FOR FUNDING, THE DEPARTMENT MAY ENGAGE STAKEHOLDERS TO INFORM THE DESIGN OF, IDENTIFY GAPS IN, OR ASSIST IN THE REVIEW PROCESS OR TO GAIN INCREASED UNDERSTANDING OF TOPICS THAT MAY MERIT INCLUSION IN THE APPROVED PROJECT ACTIVITIES AND DELIVERABLES, SUCH AS INDUSTRY STANDARDS, ENVIRONMENTAL HEALTH AND SAFETY STANDARDS, BUSINESS REQUIREMENTS, ECONOMIC OR INVESTMENT CONSIDERATIONS, OR SIMILAR TOPICS THAT WILL SUPPORT THE SUCCESSFUL IMPLEMENTATION OF AN APPROVED PROJECT.

(B) IN ENGAGING A STAKEHOLDER, THE DEPARTMENT SHALL DETERMINE THAT THE STAKEHOLDER DOES NOT HAVE A CONFLICT OF INTEREST REGARDING THE GRANT APPLICATION OR FUNDING REQUEST BEING DESIGNED OR REVIEWED OR, IF THE STAKEHOLDER HAS A CONFLICT OF INTEREST, THAT THE CONFLICT CAN BE MANAGED THROUGH BUSINESS PRACTICES, INCLUDING DISCLOSURES AND RECUSALS, TO MAXIMIZE FAIRNESS ACROSS ALL APPLICANTS AND ENTITIES REQUESTING FUNDING. A BOARD MEMBER MAY SERVE AS A STAKEHOLDER FOR THE PURPOSE OF THIS SUBSECTION (6)(b)(III) IF THE BOARD MEMBER DOES NOT HAVE A CONFLICT OF INTEREST OR THE CONFLICT OF INTEREST CAN BE MANAGED IN THE SAME MANNER AS OTHER STAKEHOLDERS.

(IV) THE DEPARTMENT SHALL DEVELOP GRANT AND FUNDING RECOMMENDATIONS FOR THE BOARD THAT INCLUDE THE RECOMMENDED GRANT OR FUNDING RECIPIENT, THE PROJECT AND ITS CONTRIBUTION TO A CIRCULAR ECONOMY, THE GRANT OR FUNDING AWARD AMOUNT, THE DURATION OF THE GRANT, AND WHETHER THE GRANT BENEFITS RURAL AREAS OF THE STATE. THE BOARD SHALL REVIEW THE DEPARTMENT'S RECOMMENDATIONS IN AWARDED GRANTS OR FUNDING.

(c) AT A MINIMUM, AT THE TIME OF APPLICATION OR REQUEST FOR FUNDING OR, IF APPROPRIATE AS DETERMINED BY THE BOARD, AT THE TIME OF AWARDED A GRANT OR FUNDING, AN AWARD OF A GRANT OR OF FUNDING MUST INCLUDE THE FOLLOWING INFORMATION:

(I) A NARRATIVE DESCRIPTION OF THE PROJECT;

(II) A DESCRIPTION OF HOW THE PROJECT PROMOTES A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION;

(III) THE AMOUNT OF IN-KIND CONTRIBUTIONS OR MATCHING FUNDS, IF ANY, THAT THE APPLICANT OR OUTSIDE SOURCES WILL PROVIDE FOR THE PROJECT BUDGET; AND

(IV) FOR NONPROFIT AND FOR-PROFIT GRANT PROJECT APPLICATIONS, WHETHER THERE IS LOCAL GOVERNMENT SUPPORT FOR THE GRANT APPLICATION.

(d) GRANT AND FUNDING RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH THE GRANT AND FUNDING PROGRAM FOR STAFFING, SUPPLIES, EQUIPMENT, MARKETING AND COMMUNICATIONS, PLANNING, POLICY RESEARCH AND DEVELOPMENT, COMMUNITY ENGAGEMENT, AND PROGRAMMING AND SERVICES REQUIRED BY THE BOARD.

(e) THE BOARD SHALL:

(I) USE ITS BEST EFFORTS TO AWARD GRANTS WITHIN NINETY DAYS AFTER RECEIPT OF APPLICATIONS AND TO AWARD OTHER FUNDING AS SOON AS PRACTICABLE;

(II) NOT ALLOCATE MORE THAN FIFTY PERCENT OF THE ANNUAL FEE REVENUE IN ANY SINGLE GRANT AWARD;

(III) INCLUDE A SCOPE OF WORK OR CONDITIONS OF FUNDING, INCLUDING MILEPOSTS AND DEADLINES FOR ACHIEVEMENT OF SPECIFIED GOALS, IN GRANT AWARD AND FUNDING AGREEMENTS; AND

(IV) DETERMINE THE CRITERIA FOR MEASURING PROGRESS. THE BOARD SHALL CONSIDER A GRANTEE'S OR FUNDING RECIPIENT'S PROGRESS IN AWARDING FURTHER GRANTS TO THE GRANTEE OR FUNDING TO THE FUNDING RECIPIENT.

(f) (I) A GRANTEE OR FUNDING RECIPIENT SHALL REPORT TO THE BOARD ON THE PROGRESS OF THE PROJECT FINANCED BY THE GRANT OR AWARD OF FUNDING PURSUANT TO TERMS SPECIFIED BY THE BOARD BUT NO LESS THAN ON AN ANNUAL BASIS.

(II) THE BOARD MAY DEVELOP A POLICY REGARDING A GRANTEE'S NONCOMPLIANCE WITH THE GRANT OR FUNDING AGREEMENT ENTERED INTO BY THE GRANTEE OR FUNDING RECIPIENT AND THE BOARD, WHICH POLICY MAY INCLUDE A MECHANISM FOR THE BOARD TO CONVERT THE GRANTEE'S GRANT OR FUNDING AWARD TO A LOAN WITH INTEREST. NOTHING IN THIS SUBSECTION (6)(f) LIMITS THE BOARD'S AUTHORITY TO ADDRESS NONCOMPLIANCE WITH ACTION UP TO AND INCLUDING TERMINATION OF THE GRANT OR FUNDING AGREEMENT.

(7) **Reporting.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE BOARD SHALL SUBMIT A REPORT BY JULY 1 OF EACH YEAR TO THE COMMITTEES OF REFERENCE OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER ENVIRONMENT MATTERS REGARDING:

(a) THE UNOBLIGATED BALANCE OF THE FUND;

(b) AN OVERVIEW OF THE GRANTS AND FUNDING AWARDED AND OF ANY TECHNICAL ASSISTANCE PROVIDED;

(c) THE PROGRESS TOWARD ACHIEVEMENT OF A CIRCULAR ECONOMY, INCLUDING WASTE DIVERSION AND AVERSION, AND THE PRIMARY FACTORS FACILITATING AND INHIBITING THAT PROGRESS; AND

(d) ANY SUGGESTED LEGISLATION OR POLICY CHANGES.

(8) **Repeal.** (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2032.

(b) THE STATE TREASURER SHALL TRANSFER ANY MONEY REMAINING IN THE FUND ON SEPTEMBER 1, 2032, TO THE GENERAL FUND.

25-16.5-110. Stakeholder feedback - report. (1) STAKEHOLDERS MAY PROVIDE THE DEPARTMENT WITH FEEDBACK ABOUT THE EFFECTIVENESS OF THE ENTERPRISE, INCLUDING ANY FACTORS THAT FACILITATE OR INHIBIT PROGRESS, WHICH FACTORS

MAY RELATE TO THE ENTERPRISE ITSELF OR TO OTHER AREAS SUCH AS THE CIRCULAR ECONOMY DEVELOPMENT CENTER OR PRODUCER RESPONSIBILITY PROGRAM. AT ANY TIME THE DEPARTMENT CHOOSES, THE DEPARTMENT SHALL SHARE THE FEEDBACK WITH THE BOARD TO INFORM THE BOARD'S STRATEGIES AND DECISIONS.

(2) BY JANUARY 1, 2030, THE DEPARTMENT, AFTER ENGAGING STAKEHOLDERS, SHALL SUBMIT A REPORT TO THE COMMITTEES OF REFERENCE OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER ENVIRONMENTAL MATTERS REGARDING THE ENTERPRISE AND ANY RECOMMENDATIONS. THE DEPARTMENT'S RECOMMENDATIONS IN THE REPORT MAY INCLUDE:

- (a) THE STATUTORY REPEAL DATE OF THE ENTERPRISE, IF ANY;
- (b) ENTERPRISE FEE AMOUNTS, INCLUDING A PROPOSED SCHEDULE FOR FEE INCREASES OR A RECOMMENDATION TO MOVE TO A SINGLE, STATEWIDE FEE; AND
- (c) PROGRESS TOWARD DELIVERING STATEWIDE SERVICES.

SECTION 2. In Colorado Revised Statutes, 25-16-104.5, **amend** (3.9) as follows:

25-16-104.5. Solid waste user fee - imposed - rate - legislative declaration - definition - repeal. (3.9) (a) BEGINNING JULY 1, 2024, AND subject to subsection (1.5) of this section, in addition to any other user fee imposed by this section, on or after July 1, 2007, there is hereby imposed a user fee to fund the recycling resources economic opportunity program COLORADO CIRCULAR COMMUNITIES ENTERPRISE created in section 25-16.5-106.7. Such fee shall be collected by 25-16.5-109 (3)(a). The operator of an attended solid waste disposal site LOCATED OUTSIDE OF THE FRONT RANGE, INCLUDING SITES LOCATED IN THE COUNTIES OF CUSTER, FREMONT, MORGAN, AND OTERO, UNLESS MODIFIED PURSUANT TO SUBSECTION (3.9)(c)(II) OF THIS SECTION, SHALL COLLECT THE FEE at the time of disposal. and THE FEE shall be imposed and passed through to waste producers and other persons disposing of waste at the following rate or at an equivalent rate established by the department COMMISSION:

(I) Two cents per load transported by a motor vehicle that is commonly used for the noncommercial transport of persons over public highways;

(II) Four cents per load transported by a truck, as defined in section 42-1-102 (108), C.R.S., that is commonly used for the noncommercial transport of persons and property over the public highways; and

(III) An amount, per cubic yard per load transported by any commercial vehicle or other vehicle not included in the vehicles described in subparagraph (I) or (II) of this paragraph (a), in accordance with the following schedule: SUBSECTIONS (3.9)(a)(I) AND (3.9)(a)(II) OF THIS SECTION,

(A) Through December 31, 2013, seven cents per cubic yard per load;

(B) From January 1, 2014, through December 31, 2014, nine cents per cubic yard per load;

~~(C) From January 1, 2015, through December 31, 2015, eleven cents per cubic yard per load; and~~

~~(D) on and after January 1, 2016, of fourteen cents per cubic yard per load, WHICH AMOUNT IS EQUIVALENT TO FORTY-SEVEN CENTS PER TON.~~

(b) BEGINNING JULY 1, 2024, any user fee collected by the operator of a solid waste disposal site or facility pursuant to ~~paragraph (a) of this subsection (3.9)~~ SUBSECTION (3.9)(a) OF THIS SECTION shall be transmitted by the last day of the month following the end of each calendar quarter to the state treasurer, who shall credit one hundred percent of ~~such moneys~~ THE MONEY to the ~~recycling resources economic opportunity~~ COLORADO CIRCULAR COMMUNITIES CASH fund created in section ~~25-16.5-106.5~~ 25-16.5-109 (4), to fund the ~~recycling resources economic opportunity program~~ COLORADO CIRCULAR COMMUNITIES ENTERPRISE pursuant to section ~~25-16.5-106.7~~ 25-16.5-109.

(c) (I) Subject to subsections (1.5) and ~~(3.9)(c)(VI)~~ (3.9)(c)(II) of this section, in addition to any other user fee imposed by this section, on or after September 1, 2019, there is hereby imposed a user fee to finance the ~~front range waste diversion grant program~~ COLORADO CIRCULAR COMMUNITIES ENTERPRISE created in section ~~25-16.5-111~~ 25-16.5-109. At the time of disposal, the operator of an attended solid waste disposal site located in the front range ~~as that term is defined in section 25-16.5-111 (2)(f)~~; shall collect the fee, which may be passed through to waste producers and other persons disposing of waste, in an amount per cubic yard per load transported by any commercial vehicle, or by other vehicle not included in the vehicles described in subsection (3.9)(a)(I) or (3.9)(a)(II) of this section, as set forth in the following schedule: ~~except as modified by subsection (3.9)(c)(II) of this section:~~

~~(A) to (C) Repealed.~~

~~(D) (A) On and after January 1, 2023, sixty AND AFTER JULY 1, 2024, BUT BEFORE JANUARY 1, 2025, SEVENTY-FOUR cents per cubic yard per load, WHICH IS EQUIVALENT TO TWO DOLLARS AND FORTY-SEVEN CENTS PER TON; AND~~

~~(B) ON AND AFTER JANUARY 1, 2025, SEVENTY-EIGHT CENTS PER CUBIC YARD PER LOAD, WHICH IS EQUIVALENT TO TWO DOLLARS AND SIXTY CENTS PER TON.~~

~~(H) Effective January 1, 2024, and on each succeeding January 1, the amount of the fee specified in subsection (3.9)(c)(I)(D) of this section is adjusted by the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its applicable successor index.~~

~~(III) Repealed.~~

~~(IV) (II) Solid waste disposal sites or facilities located in the county of Custer, Fremont, Morgan, or Otero shall collect the fee specified in this subsection (3.9)(c) on loads that originate from the front range. as that term is defined in section 25-16.5-111 (2)(f).~~

~~(V)~~ (III) BEGINNING JULY 1, 2024, an operator of a solid waste disposal site or facility subject to this subsection ~~(3.9)~~ (3.9)(c) shall transmit the user fee collected pursuant to this subsection (3.9)(c) by the last day of the month following the end of each calendar quarter to the state treasurer, who shall credit it to the ~~front range waste diversion~~ COLORADO CIRCULAR COMMUNITIES cash fund created in section ~~25-16.5-111(4)~~ 25-16.5-109 (4) to finance the ~~front range waste diversion grant program~~ COLORADO CIRCULAR COMMUNITIES ENTERPRISE pursuant to section ~~25-16.5-111(6)~~ 25-16.5-109.

~~(VI)~~ (IV) An operator of an attended solid waste disposal site located in the front range need not collect the fee specified in this subsection (3.9)(c) on a load that contains any of the following materials that are separated out from the rest of the load: Asbestos-containing material, asbestos waste, friable asbestos-containing material as that term is defined in section 25-7-502 (6), friable asbestos, nonfriable asbestos waste, regulated asbestos-contaminated soil, nonregulated asbestos-contaminated soil, pathological waste, pharmaceutical waste, ash, biohazardous waste, infectious waste as that term is defined in section 25-15-402 (1)(a), medical waste, exploration and production waste as that term is defined in section 30-20-109 (1.5)(a)(I), technologically enhanced naturally occurring radioactive material as that term is defined in section 25-11-201 (1)(f), grit and sludge, automobile shredder residue, dead animals, special waste liquids, or contaminated soils.

~~(VII) Repealed.~~

(c.5) AS USED IN THIS SUBSECTION (3.9), "FRONT RANGE" MEANS THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, DOUGLAS, ELBERT, EL PASO, JEFFERSON, LARIMER, PUEBLO, TELLER, AND WELD AND THE CITIES AND COUNTIES OF BROOMFIELD AND DENVER.

(d) This subsection (3.9) is repealed, effective September 1, ~~2030~~ 2032.

SECTION 3. In Colorado Revised Statutes, 18-4-511, **amend** (4)(b) as follows:

18-4-511. Littering of public or private property - repeal. (4) (b) (I) On and after January 1, 2020, the mandatory fines specified in subsection (4)(a) of this section are adjusted annually by the annual percentage change in the United States department of labor's bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its applicable successor index. Notwithstanding any other provision of law, the clerk of the court shall transmit the amount of the fine attributable to the adjustment specified in this subsection (4)(b)(I) to the state treasurer, who shall credit ~~it~~ THE MONEY to the ~~front range waste diversion~~ COLORADO CIRCULAR COMMUNITIES cash fund created in section ~~25-16.5-111(4)~~ 25-16.5-109 (4).

(II) This subsection (4)(b) is repealed, effective September 1, ~~2029~~ 2032.

SECTION 4. In Colorado Revised Statutes, 24-1-119, **amend** (18) as follows:

24-1-119. Department of public health and environment - creation. (18) The ~~front range waste diversion~~ COLORADO CIRCULAR COMMUNITIES enterprise, created

in section ~~25-16.5-111(3)~~ 25-16.5-109 (3), is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

SECTION 5. In Colorado Revised Statutes, 25-17-602, **amend** (5) as follows:

25-17-602. Circular economy development center - creation - administration - reports - repeal. (5) **Costs.** The direct and indirect costs associated with the department's oversight and the administrator's operation of the center shall be paid by money appropriated to the department from:

(a) The ~~front range waste diversion~~ COLORADO CIRCULAR COMMUNITIES cash fund, pursuant to section ~~25-16.5-111(4)(b)(v)~~ 25-16.5-109 (4); and

(b) (I) THROUGH SEPTEMBER 30, 2025, the recycling resources economic opportunity fund, pursuant to section ~~25-16.5-106.5(2)(c)~~ 25-16.5-104 (2).

(II) THIS SUBSECTION (5)(b) IS REPEALED, EFFECTIVE OCTOBER 1, 2025.

SECTION 6. In Colorado Revised Statutes, 25-17-702, **amend** (1) introductory portion and (1)(d) as follows:

25-17-702. Legislative declaration. (1) The general assembly ~~hereby~~ finds and declares that:

(d) Colorado is not on track to meet the statewide recycling and waste diversion goals that the pollution prevention advisory board assistance committee ~~created in section 25-16.5-105.5(2)~~, adopted in 2016 and set forth in an integrated solid waste and materials management plan;

SECTION 7. In Colorado Revised Statutes, 25-17-703, **amend** (20) as follows:

25-17-703. Definitions. As used in this part 7, unless the context otherwise requires:

(20) "Materials recovery facility" means a facility for processing covered materials that are collected for recycling before they are conveyed to end-market businesses. ~~as defined in section 25-16.5-112(4)(a).~~

SECTION 8. In Colorado Revised Statutes, 25-17-710, **amend** (4) as follows:

25-17-710. Violations - enforcement - administrative penalty - injunction. (4) The executive director shall transfer any money collected under this section to the state treasurer, who shall credit the money to the ~~recycling resources economic opportunity~~ COLORADO CIRCULAR COMMUNITIES CASH fund created in section ~~25-16.5-106.5(1)~~ 25-16.5-109 (4).

SECTION 9. In Colorado Revised Statutes, 25-17-902, **amend** (3)(j)(I) as follows:

25-17-902. Organics diversion study - report - funding. (3) The study must, at a minimum:

(j) Regarding funding sources to enable diversion of organic materials from landfills:

(I) Review and identify potential funding sources to support development of collection, contamination reduction, and processing infrastructure. Potential funding sources may include existing state funds, including the ~~front range waste diversion~~ COLORADO CIRCULAR COMMUNITIES cash fund created in section ~~25-16.5-111(4)~~, ~~the recycling resources economic opportunity fund created in section 25-16.5-106.5~~, 25-16.5-109 (4) and the Colorado economic development fund created in section 24-46-105; grants from other state agencies, including the department of local affairs created in section 24-1-125; federal funds; and generator- or producer-funded programs.

SECTION 10. In Colorado Revised Statutes, 30-20-122, **amend** (1)(a) introductory portion and (1)(a)(VI) as follows:

30-20-122. Additional duties of the department - data collection on recycling, solid waste, and solid waste diversion - report. (1) (a) The department shall collect information and data on recycling, solid waste, and solid waste diversion. Data required to be collected by the department on recycling, solid waste, and solid waste diversion as required by this subsection (1) ~~shall include without limitation~~ INCLUDES:

(VI) The number of jobs created and any other economic impacts resulting from the awarding of ~~recycling resources economic opportunity~~ COLORADO CIRCULAR COMMUNITY ENTERPRISE grants AND FUNDING made available pursuant to section ~~25-16.5-106.7, C.R.S.~~ 25-16.5-109 (6); and

SECTION 11. Effective date. This act takes effect July 1, 2024.

SECTION 12. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 17, 2024