

CHAPTER 208

HEALTH AND ENVIRONMENT

SENATE BILL 23-191

BY SENATOR(S) Cutter, Buckner, Coleman, Exum, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Marchman, Moreno, Priola, Roberts, Rodriguez, Sullivan, Winter F., Fenberg;
also REPRESENTATIVE(S) Joseph and Kipp, Amabile, Bacon, Bird, Boesenecker, Brown, Dickson, Duran, Froelich, Garcia, Hamrick, Jodeh, Lindsay, Lukens, Mabrey, Mauro, McCormick, McLachlan, Michaelson Jenet, Ortiz, Ricks, Sharbini, Sirota, Story, Titone, Valdez, Velasco, Vigil, Willford, Young, McCluskie.

AN ACT**CONCERNING A STUDY REGARDING DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS.**

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Thirty-seven percent of the material that is landfilled in Colorado is organic material, including yard trimmings and food scraps, that could have been diverted from landfills through food donation, composting, or mulching. These diversion practices reduce greenhouse gas emissions, support resilient local economies, create green jobs, and, in the case of compost, build healthy soils, conserve water, and create more productive agricultural lands.

(b) The statewide organics management plan (plan) commissioned by the department of public health and environment (department) found that the "untapped demand for finished compost is potentially five times greater than the amount of compost being produced today." The plan also found that "[E]conomics, awareness, and lack of existing infrastructure are the greatest barriers to increased organics recovery in Colorado." Additionally, the plan stated that "[T]he [department] should work to gain interagency cooperation to implement strategies that lead to development of organics infrastructure and end-market use of compost." These findings underscore the timely need and opportunity to increase investment to divert more organic materials out of landfills and back into the circular economy. The plan highlighted the need for the construction and operation of more compost processing

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.

facilities to realize the potential cost savings, job creation, and agricultural and environmental benefits of diverting organic materials.

(2) The general assembly further declares that the department should conduct a study that:

(a) Evaluates policies intended to divert organic materials from landfills and into beneficial usages;

(b) Creates actionable parameters for determining if, where, and what types of infrastructure are needed and provides a proposed timeline and basic toolkit for infrastructure development for each region of the state;

(c) Generates a summary report outlining the options for future policies to increase organics diversion;

(d) Recommends policies that will incentivize and support the use of compost certified by the United States composting council's seal of testing assurance program; and

(e) Is completed by August 1, 2024, so that further legislation can be implemented to realize the benefits of increased organics diversion across the state beginning in 2025.

SECTION 2. In Colorado Revised Statutes, **add** part 9 to article 17 of title 25 as follows:

**PART 9
ORGANICS DIVERSION**

25-17-901. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COLORADO REGION" MEANS EACH OF THE FOUR GEOGRAPHIC REGIONS IDENTIFIED IN THE SOMP, WHICH ARE THE WESTERN SLOPE, MOUNTAINS, FRONT RANGE, AND EASTERN PLAINS.

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

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED IN SECTION 25-1-102.

(4) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY CITY, COUNTY, OR CITY AND COUNTY OR A SPECIAL DISTRICT FORMED UNDER TITLE 32.

(5) "ORGANIC MATERIALS" OR "ORGANICS" MEANS ANY SOLID WASTE THAT IS A BIOLOGICAL SUBSTANCE OF PLANT OR ANIMAL ORIGIN, INCLUDING FOOD SCRAPS AND YARD TRIMMINGS, THAT CAN BE BROKEN DOWN THROUGH BIOLOGICAL PROCESSES.

(6) "SOMP" MEANS THE STATEWIDE ORGANICS MANAGEMENT PLAN COMMISSIONED BY THE DEPARTMENT AND DATED AUGUST 29, 2022.

(7) "STUDY" MEANS THE ORGANICS DIVERSION STUDY REQUIRED BY SECTION 25-17-902.

25-17-902. Organics diversion study - report - funding. (1) THE DEPARTMENT SHALL CONDUCT OR CAUSE TO BE CONDUCTED A STUDY THAT EXPLORES WHAT LOCAL GOVERNMENTS, OTHER STATE AGENCIES, AND OTHER STATES ARE DOING TO FACILITATE THE DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS AND CREATES POLICY AND LEGISLATIVE RECOMMENDATIONS, INCLUDING THE FEASIBILITY OF REQUIRING DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS IN COLORADO.

(2) THE DEPARTMENT AND ANY THIRD PARTY CONDUCTING THE STUDY PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL ENGAGE WITH AND SEEK INPUT FROM STAKEHOLDERS THAT HAVE EXPERTISE AND INTEREST IN ORGANICS DIVERSION.

(3) THE STUDY MUST, AT A MINIMUM:

(a) INCORPORATE AND UTILIZE DATA CONTAINED IN THE SOMP, OTHER EXISTING COLORADO STUDIES, AND RESEARCH FROM OTHER STATES;

(b) REVIEW AND IDENTIFY HOW TO LEVERAGE EXISTING ORGANICS DIVERSION PROJECTS IN COLORADO TO INFORM IMPLEMENTATION OF BROADER ORGANICS DIVERSION PROJECTS THROUGHOUT COLORADO;

(c) CONSIDER THE COSTS, FEASIBILITY, AND BENEFITS OF DIVERSION POLICIES FOR BOTH YARD TRIMMINGS AND FOOD SCRAPS. THE REPORT MAY EVALUATE THE FEASIBILITY AND BENEFITS OF POLICIES AIMED AT INCREASING DIVERSION OF YARD TRIMMINGS INDIVIDUALLY AND FOOD SCRAPS INDIVIDUALLY OR EVALUATE BOTH COMBINED.

(d) REGARDING THE BENEFITS OF DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS:

(I) EVALUATE THE POTENTIAL TO EXTEND THE LIFE OF LANDFILLS BY REDUCING THE AMOUNT OF ORGANIC MATERIALS LANDFILLED;

(II) EVALUATE THE GREENHOUSE GAS EMISSION AVOIDANCE OF DIVERTING ORGANIC MATERIALS FROM LANDFILLS; AND

(III) EVALUATE THE WATER SAVINGS POTENTIAL OF APPLYING FINISHED COMPOST TO COLORADO SOILS;

(e) REGARDING THE INFRASTRUCTURE NEEDED TO ENABLE DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS:

(I) CREATE ACTIONABLE PARAMETERS TO CONSIDER IF AND WHAT TYPE OF FACILITIES ARE NEEDED TO PROCESS ORGANIC MATERIALS AND WHERE THE FACILITIES SHOULD BE LOCATED. PARAMETERS MAY INCLUDE POPULATION DENSITY, MATERIAL TYPE AND VOLUME GENERATION, DISTANCE TO EXISTING

INFRASTRUCTURE, ACCESS TO TRANSPORTATION INFRASTRUCTURE, AND POTENTIAL FOR COLOCATING WITH ANOTHER FACILITY, INCLUDING A LANDFILL, TRANSFER STATION, OR RECYCLING FACILITY.

(II) PROVIDE A PLAN FOR HOW INFRASTRUCTURE MAY BE FUNDED AND CREATE A TIMELINE FOR INFRASTRUCTURE DEVELOPMENT. THE PLAN MUST INCLUDE BEST PRACTICES FROM OTHER STATES THAT HAVE INCENTIVIZED OR FACILITATED DEVELOPMENT OF ORGANICS PROCESSING INFRASTRUCTURE.

(III) DETERMINE THE BEST METHODS FOR COLLECTING ORGANIC MATERIALS BASED ON THE MATERIALS, GENERATORS, POPULATION DENSITY, AND TYPES OF COLLECTION FACILITIES AND VEHICLES;

(IV) DETERMINE THE SORTING INFRASTRUCTURE, POLICIES, OR OTHER MECHANISMS REQUIRED TO REDUCE CONTAMINATION AND SORT OUT REMAINING CONTAMINANTS;

(V)(A) COMPARE THE DISTANCES REQUIRED TO TRANSPORT ORGANIC MATERIALS TO LANDFILLS BY COLORADO REGION VERSUS CURRENT AND POTENTIAL DISTANCES REQUIRED TO TRANSPORT ORGANIC MATERIALS TO PERMITTED COMPOSTING OPERATIONS; AND

(B) UTILIZE THE INFORMATION GATHERED REGARDING THE DISTANCES TO DEVELOP RECOMMENDATIONS TO MINIMIZE EMISSIONS AND TRANSPORTATION COSTS;

(VI) EVALUATE THE BENEFITS OF INCREASING ORGANICS PROCESSING CAPACITY AND THE FUNDING, INFRASTRUCTURE, AND REGULATORY CHANGES NEEDED TO BUILD OUT NECESSARY INFRASTRUCTURE WITHIN EACH COLORADO REGION; AND

(VII) DETERMINE HOW TO BEST SERVE AREAS WITH LOW POPULATION DENSITY AND THOSE AT HIGH ALTITUDES. THE STUDY SHOULD EXAMINE DIFFERENT TYPES OF COMPOSTING INFRASTRUCTURE, INCLUDING IN-VESSEL COMPOSTING AND ANAEROBIC DIGESTION.

(f) REGARDING POLICIES AND REGULATIONS TO ENABLE DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS:

(I) WHERE APPROPRIATE TO SUPPORT DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS, RECOMMEND UPDATES OR AMENDMENTS TO EXISTING STATE REGULATIONS TO BEST ACCOMMODATE, IMPLEMENT, MONITOR, AND ENFORCE ANY PROPOSED ORGANICS DIVERSION POLICIES;

(II) RECOMMEND DIVERSION GOALS BY COLORADO REGION TO THE COMMISSION AND, IF NEEDED, UPDATES TO GOALS IDENTIFIED IN THE COMMISSION'S INTEGRATED SOLID WASTE AND MATERIALS MANAGEMENT PLAN; AND

(III) REVIEW AND IDENTIFY HOW OTHER STATES MONITOR AND ENFORCE DIVERSION POLICIES AT LOCAL AND STATE LEVELS;

(g) REGARDING EDUCATION AND LOCAL SUPPORT TO ENABLE DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS:

(I) DETERMINE THE INFORMATIONAL RESOURCES THE DEPARTMENT AND OTHER STATE AGENCIES SHOULD DEVELOP FOR LOCAL GOVERNMENTS TO USE TO FACILITATE DEVELOPMENT OF ORGANICS PROCESSING FACILITIES NEEDED FOR DIVERTING YARD TRIMMINGS AND OTHER ORGANIC MATERIALS. INFORMATIONAL RESOURCES MAY INCLUDE MODEL ORDINANCES, SAMPLE SITING GUIDELINES, RESOURCES FOR FUNDING, EDUCATIONAL MATERIALS, RESOURCES ON FOOD DONATIONS, AND AN ACCESSIBLE MAP OF WHERE ORGANICS PROCESSING FACILITIES ARE LOCATED IN COLORADO.

(II) DETERMINE THE EDUCATION NEEDED TO ENSURE RESIDENTS AND BUSINESSES UNDERSTAND THE VALUE AND OPERATIONS OF ORGANICS DIVERSION PROGRAMS; AND

(III) REVIEW AND IDENTIFY HOW OTHER STATES HAVE EDUCATED MUNICIPALITIES, BUSINESSES, AND RESIDENTS ABOUT ORGANICS DIVERSION;

(h) REGARDING END-MARKET DEVELOPMENT OF ORGANIC MATERIALS DIVERTED FROM LANDFILLS:

(I) EVALUATE HOW TO COMBINE THE GOAL OF DIVERTING ORGANIC MATERIALS FROM LANDFILLS WITH CREATING RESOURCES FOR END-MARKET DEVELOPMENT, INCLUDING FOR PRODUCTION OF COMPOST, MULCH, AND BIOCHAR;

(II) REVIEW AND IDENTIFY INTERDEPARTMENTAL OPPORTUNITIES FOR PARTNERSHIPS IN DEVELOPING USAGE REQUIREMENTS FOR STATE AGENCIES FOR DIVERTED ORGANIC MATERIAL END PRODUCTS, INCLUDING PUBLIC WORKS PROJECTS, EROSION CONTROL, WILDFIRE MITIGATION AND POST-FIRE REHABILITATION, AGRICULTURAL APPLICATION OF COMPOST, AND MINE OR OTHER RECLAMATION PROJECTS;

(III) REVIEW AND IDENTIFY HOW OTHER STATES HAVE DEVELOPED END MARKETS FOR ORGANIC MATERIAL USAGE AND INCENTIVIZED END USAGE;

(IV) REVIEW AND IDENTIFY THE BENEFITS OF DIVERTING MATERIALS FROM LANDFILLS, INCLUDING USING ORGANIC RESIDUALS TO MAKE COMPOST AND OTHER PRODUCTS IN ORDER TO BUILD SOIL THAT PROVIDES THE ECOSYSTEM SERVICES OF SEQUESTERING CARBON, REDUCING WATER NEEDS, AND PROVIDING RESILIENCE; AND

(V) DETERMINE WHETHER THERE IS A SIGNIFICANT VOLUME OF COMPOST, BIOCHAR, AND MULCH SOLD IN COLORADO THAT IS PRODUCED OUT OF STATE;

(i) REGARDING THE IMPACTS SPECIFIC TO COLORADO OF DIVERTING MATERIALS FROM LANDFILLS:

(I) REVIEW AND IDENTIFY BEST PRACTICES IN COMPOSTING LARGE QUANTITIES OF WOODY MATERIALS IN AN ARID CLIMATE AND AT HIGH ALTITUDES, INCLUDING RESEARCHING TECHNIQUES SUCH AS BIOCHAR PRODUCTION AND UTILIZATION, MYCELIUM INOCULATION, AND OTHER ACCELERATED COMPOSTING METHODS THAT CAN HELP BREAK DOWN ORGANIC MATERIALS OUTSIDE THE CONFINES OF INDUSTRIAL COMPOST FACILITIES AS OFTEN OCCURS IN RURAL AREAS;

(II) REVIEW AND IDENTIFY HOW TO ADDRESS THE POTENTIAL OVERSTOCK OF ORGANIC MATERIALS AWAITING PROCESSING; AND

(III) REVIEW AND IDENTIFY BEST PRACTICES FOR DIVERTING ORGANIC MATERIALS IN COMMUNITIES WITH TOURISM-BASED ECONOMIES THAT EXPERIENCE LARGE INFLUXES OF VISITOR-GENERATED FOOD SCRAPS DURING SPECIFIC PERIODS THROUGHOUT THE YEAR; AND

(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 CASH FUND CREATED IN SECTION 25-16.5-111 (4), THE RECYCLING RESOURCES ECONOMIC OPPORTUNITY FUND CREATED IN SECTION 25-16.5-106.5, 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.

(II) REVIEW AND IDENTIFY POTENTIAL FUNDING SOURCES OR FEES THAT CAN BE INCREASED OR IMPROVED TO ENCOURAGE OR ENABLE DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS AND PROVIDE INCREASED RESOURCES NEEDED FOR INFRASTRUCTURE AND PROGRAM DEVELOPMENT IN ALL COLORADO REGIONS, INCLUDING IN RURAL AND UNDERSERVED COMMUNITIES; AND

(III) REVIEW AND IDENTIFY PROGRAMS IN OTHER STATE AGENCIES THAT OVERLAP WITH DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS, INCLUDING PUBLIC WORKS PROJECTS, EROSION CONTROL, WILDFIRE MITIGATION AND POST-FIRE REHABILITATION, AGRICULTURAL APPLICATION OF COMPOST, AND MINE OR OTHER RECLAMATION PROJECTS.

(4) ON OR BEFORE AUGUST 1, 2024, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE AND THE AGRICULTURE, WATER, AND NATURAL RESOURCES COMMITTEE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE THE STUDY'S RESEARCH, FINDINGS, AND RECOMMENDATIONS, IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

(5)(a) THE DEPARTMENT MAY CONTRACT A THIRD PARTY TO CONDUCT PART OR ALL OF THE STUDY.

(b) THE DEPARTMENT MAY COMBINE FUNDING WITH OTHER STATE AGENCIES TO HIRE A THIRD PARTY TO CONDUCT THE STUDY.

25-17-903. Repeal of part. THIS PART 9 IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 3. In Colorado Revised Statutes, 25-16.5-106.5, **amend** (2)(b) as follows:

25-16.5-106.5. Recycling resources economic opportunity fund - creation - repeal. (2) The money generated pursuant to subsection (1) of this section is annually appropriated to the department:

(b) To fund studies pursuant to sections 25-16.5-105 (1)(i), 25-16.5-112 (2), ~~and~~ 25-16.5-113, **AND 25-17-902**, and to make reimbursements pursuant to section 25-16.5-106.7 (6.5); and

SECTION 4. In Colorado Revised Statutes, 25-16.5-111, **amend** (3)(a); and **add** (3)(c)(VIII) and (4)(b)(VI) as follows:

25-16.5-111. Front range waste diversion enterprise - legislative declaration - fund - goals - grant program - personal property tax reimbursements - gifts, grants, or donations - definitions - repeal. (3) **Enterprise.** (a) There is hereby created in the department the front range waste diversion enterprise. The enterprise is and operates as a government-owned business within the department for the purpose of collecting the fee charged to waste generators and using the fee to provide grants and technical assistance **AND PAY FOR STUDIES** to promote waste diversion. 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.

(c) The enterprise's primary powers and duties are to:

(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.**

(4) **Fund.** (b) Money in the fund is continuously appropriated to the enterprise to:

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

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

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 17, 2023