

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0867.01 Thomas Morris x4218

SENATE BILL 19-192

SENATE SPONSORSHIP

Winter and Priola,

HOUSE SPONSORSHIP

Jackson,

Senate Committees

Local Government
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM**
102 **THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE**
103 **CONSTITUTION TO ADMINISTER A FEE-BASED WASTE DIVERSION**
104 **GRANT PROGRAM.**

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>.)

Section 1 of the bill creates the front range waste diversion enterprise. The enterprise will collect a user fee on each load of waste disposed of at a landfill in the front range and credit it to the new front

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.

SENATE
Amended 2nd Reading
April 12, 2019

range waste diversion cash fund to finance the front range waste diversion grant program.

Section 2 sets the user fee at 15 cents per cubic yard per load from January 1, 2020, through December 31, 2020. The fee increases 15 cents per year so that on and after January 1, 2023, the fee is 60 cents per cubic yard per load; except that this amount is adjusted annually by inflation after January 1, 2024.

Section 3 increases the fine for littering on public or private property by inflation and credits the increased fine to the fund.

The front range is defined as 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. The following entities that are located or provide services in the front range are eligible to apply for grants: Municipalities, counties, and cities and counties; nonprofit and for-profit businesses involved in waste disposal or diversion; and institutions of higher education and public or private schools.

The enterprise shall administer the grant program and provide technical assistance to eligible entities to achieve the following municipal waste diversion goals within the front range:

- ! 32% diversion by 2021;
- ! 39% diversion by 2026; and
- ! 51% diversion by 2036.

The board of directors of the enterprise shall submit a report by July 1 of each year to the committees of reference of the general assembly with jurisdiction over the environment regarding the grant program. The enterprise, increased user fee, and increased littering fine are repealed, effective September 1, 2029.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-16.5-111** as
3 follows:

4 **25-16.5-111. Front range waste diversion enterprise -**
5 **legislative declaration - fund - goals - grant program - gifts, grants,**
6 **or donations - definitions - repeal. (1) Legislative declaration. THE**
7 GENERAL ASSEMBLY HEREBY:

8 (a) FINDS THAT:

9 (I) COLORADO HAS ONE OF THE LOWEST RATES OF RECYCLING IN

1 THE UNITED STATES, RECYCLING ONLY ABOUT TWELVE PERCENT OF OUR
2 WASTE COMPARED TO THIRTY-FIVE PERCENT NATIONWIDE;

3 (II) COLORADO DISPOSED OF A RECORD AMOUNT OF TRASH IN
4 LANDFILLS IN 2017, OVER NINE MILLION TONS, WHILE THERE WAS
5 ESSENTIALLY NO INCREASE IN THE RECYCLING RATE;

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

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

17 (V) THE FRONT RANGE:

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

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

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

1 CUBIC YARD OF WASTE DISPOSED OF AT ATTENDED LANDFILLS, WHICH FEES
2 ARE USED TO SUPPORT WASTE DIVERSION EFFORTS;

3 (b) DETERMINES THAT:

4 (I) WASTE DIVERSION HAS SUBSTANTIAL ECONOMIC AND
5 ENVIRONMENTAL BENEFITS FOR THE STATE;

6 (II) THE OPPORTUNITY FOR IMPROVEMENT IS GREAT, YET THE
7 FRONT RANGE LACKS:

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

10 (B) COHERENT WASTE DIVERSION POLICY AT THE LOCAL LEVEL;
11 AND

12 (III) IT IS IN THE STATE'S INTEREST TO PROVIDE FINANCIAL AND
13 TECHNICAL ASSISTANCE TO COMMUNITIES TO REACH THEIR WASTE
14 DIVERSION GOALS THROUGH A COMPETITIVE GRANT PROGRAM FINANCED
15 BY AN INCREASE IN USER FEES; AND

16 (c) DECLARES THAT:

17 (I) PROVIDING A WASTE DIVERSION GRANT PROGRAM CONSTITUTES
18 A VALUABLE SERVICE AND BENEFIT, AND THE FRONT RANGE WASTE
19 DIVERSION ENTERPRISE PROVIDES USEFUL BUSINESS SERVICES TO WASTE
20 GENERATORS, WHEN, IN EXCHANGE FOR PAYMENT OF INCREASED USER
21 FEES, IT ISSUES GRANTS FINANCED BY THE FEES TO ENTITIES THAT
22 PROMOTE WASTE DIVERSION;

23 (II) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
24 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS
25 SERVICES SPECIFIED IN SUBSECTIONS (1)(b)(III) AND (1)(c)(I) OF THIS
26 SECTION, THE ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE
27 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES

1 AS A BUSINESS;

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

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

23 (V) THIS SECTION IS NECESSARY TO PROVIDE INCENTIVES TO
24 LOCAL GOVERNMENTS, FOR-PROFIT WASTE MANAGEMENT AND WASTE
25 DIVERSION COMPANIES, INSTITUTIONS OF HIGHER EDUCATION, AND
26 NONPROFIT WASTE DIVERSION ORGANIZATIONS.

27 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

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

4 (b) "DIVERSION" MEANS WASTE REDUCTION AND THE ACTIVITIES
5 SPECIFIED IN SECTION 25-16.5-106.7 (4).

6 (c) "ELIGIBLE ENTITY" MEANS THE FOLLOWING ENTITIES LOCATED
7 OR PROVIDING SERVICES IN THE FRONT RANGE:

8 (I) MUNICIPALITIES, COUNTIES, AND CITIES AND COUNTIES;

9 (II) NONPROFIT AND FOR-PROFIT BUSINESSES INVOLVED IN WASTE
10 DISPOSAL OR DIVERSION; AND

11 (III) INSTITUTIONS OF HIGHER EDUCATION AND PUBLIC OR PRIVATE
12 SCHOOLS.

13 (d) "ENTERPRISE" MEANS THE FRONT RANGE WASTE DIVERSION
14 ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

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

17 (f) "FRONT RANGE" MEANS THE COUNTIES OF ADAMS, ARAPAHOE,
18 BOULDER, DOUGLAS, ELBERT, EL PASO, JEFFERSON, LARIMER, PUEBLO,
19 TELLER, AND WELD AND THE CITIES AND COUNTIES OF BROOMFIELD AND
20 DENVER.

21 (g) "FUND" MEANS THE FRONT RANGE WASTE DIVERSION CASH
22 FUND CREATED IN SUBSECTION (4) OF THIS SECTION.

23 (h) "GRANT PROGRAM" MEANS THE FRONT RANGE WASTE
24 DIVERSION GRANT PROGRAM CREATED IN SUBSECTION (6) OF THIS
25 SECTION.

26 (3) **Enterprise.** (a) THERE IS HEREBY CREATED IN THE
27 DEPARTMENT THE FRONT RANGE WASTE DIVERSION ENTERPRISE. THE

1 ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS
2 WITHIN THE DEPARTMENT FOR THE PURPOSE OF COLLECTING THE FEE
3 CHARGED TO WASTE GENERATORS AND USING THE FEE TO PROVIDE
4 GRANTS AND TECHNICAL ASSISTANCE TO PROMOTE WASTE DIVERSION. THE
5 ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
6 FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED TO THE
7 DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN THE
8 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24.

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

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

18 (I) COLLECT THE FEE;

19 (II) PROMOTE WASTE DIVERSION BY PROVIDING TECHNICAL
20 ASSISTANCE AND ISSUING GRANTS AS SPECIFIED IN SUBSECTION (6) OF THIS
21 SECTION;

22 (III) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE
23 ENTERPRISE TO PROMOTE THE WASTE DIVERSION PURPOSES SPECIFIED IN
24 THIS SECTION;

25 (IV) PUBLISH EACH YEAR, ON THE DEPARTMENT'S WEBSITE AND AS
26 OTHERWISE DEEMED APPROPRIATE BY THE BOARD, THE WASTE DIVERSION
27 STRATEGIES THAT THE BOARD HAS PRIORITIZED FOR FUNDING THROUGH

1 THE GRANT PROGRAM;

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

6 (VI) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,
7 AND LEGAL COUNSEL, INCLUDING THE DEPARTMENT AND THE ATTORNEY
8 GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND
9 ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF
10 THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE
11 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE BOARD
12 SHALL ENCOURAGE DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL
13 GENERALLY AVOID USING SINGLE-SOURCE BIDS. THE DEPARTMENT SHALL
14 PROVIDE OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE
15 PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION
16 (3)(c)(VI).

17 (d) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE
18 BOARD CONSISTS OF THE FOLLOWING THIRTEEN MEMBERS:

19 (I) ONE MEMBER REPRESENTING THE COLORADO OFFICE OF
20 ECONOMIC DEVELOPMENT, APPOINTED BY THE GOVERNOR;

21 (II) THE FOLLOWING MEMBERS APPOINTED BY THE EXECUTIVE
22 DIRECTOR OF THE DEPARTMENT:

23 (A) TWO MEMBERS REPRESENTING THE DEPARTMENT, ONE WITH
24 EXPERTISE IN SUSTAINABILITY AND ONE WITH EXPERTISE IN COMPLIANCE;

25 (B) TWO MEMBERS REPRESENTING FRONT RANGE MUNICIPALITIES;

26 (C) TWO MEMBERS REPRESENTING FRONT RANGE COUNTIES; AND

27 (III) SIX MEMBERS APPOINTED BY THE GOVERNOR, BALANCED

1 EQUALLY, TO THE EXTENT PRACTICABLE, AMONG REPRESENTATIVES OF
2 FRONT RANGE NONPROFIT AND FOR-PROFIT ENTITIES ENGAGED IN
3 RECYCLING, REUSE, OR COMPOSTING ACTIVITIES, INCLUDING A LARGE
4 WASTE HAULER OR LANDFILL OPERATOR, A SMALL WASTE HAULER OR
5 LANDFILL OPERATOR, A PUBLICLY OWNED LANDFILL OPERATOR, A
6 COMPOSTER, A CONSTRUCTION AND DEMOLITION RECYCLER, A MATERIALS
7 RECOVERY FACILITY OPERATOR, AND ANY OTHER ENTITY THAT HAS
8 KNOWLEDGE IN PROMOTING REUSE, RECYCLING, OR COMPOSTING.

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

19 (f) THE TERM OF OFFICE OF BOARD MEMBERS IS THREE YEARS;
20 EXCEPT THAT THE INITIAL TERMS OF MEMBERS APPOINTED PURSUANT TO
21 SUBSECTION (3)(d)(III) OF THIS SECTION ARE TWO YEARS.

22 (4) **Fund.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY
23 THE FRONT RANGE WASTE DIVERSION CASH FUND. THE FUND CONSISTS OF
24 MONEY CREDITED TO THE FUND PURSUANT TO SECTIONS 25-16-104.5
25 (3.9)(c) AND 18-4-511 (4)(b) AND ANY OTHER MONEY THAT THE GENERAL
26 ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE
27 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE

1 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

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

4 (I) ADMINISTER THE GRANT PROGRAM;

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

6 (III) PROVIDE TECHNICAL ASSISTANCE TO ELIGIBLE ENTITIES TO
7 PROMOTE DIVERSION, INCLUDING THROUGH THE DEVELOPMENT AND
8 IMPLEMENTATION OF POLICY.

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

12 (5) **Waste diversion goals.** THE ENTERPRISE SHALL ADMINISTER
13 THE GRANT PROGRAM AND PROVIDE TECHNICAL ASSISTANCE TO ACHIEVE
14 THE FOLLOWING MUNICIPAL WASTE DIVERSION GOALS WITHIN THE FRONT
15 RANGE:

16 (a) THIRTY-TWO PERCENT DIVERSION BY 2021;

17 (b) THIRTY-NINE PERCENT DIVERSION BY 2026; AND

18 (c) FIFTY-ONE PERCENT DIVERSION BY 2036.

19 (6) **Grant program.** (a) THE ENTERPRISE SHALL ADMINISTER THE
20 FRONT RANGE WASTE DIVERSION GRANT PROGRAM AND, SUBJECT TO
21 AVAILABLE APPROPRIATIONS AND REVENUES, SHALL AWARD GRANTS
22 FROM THE FUND AS PROVIDED IN THIS SUBSECTION (6).

23 (b) THE PURPOSE OF THE GRANT PROGRAM IS TO ACHIEVE THE
24 GOALS SPECIFIED IN SUBSECTION (5) OF THIS SECTION BY PROVIDING
25 ECONOMIC AND TECHNICAL ASSISTANCE TO ELIGIBLE ENTITIES IN THEIR
26 EFFORTS TO REDUCE WASTE, RECOVER VALUABLE RESOURCES, AND
27 INCREASE THE DIVERSION OF MUNICIPAL AND NONMUNICIPAL SOLID WASTE

1 MATERIALS, INCLUDING MATTRESSES, CONSTRUCTION AND DEMOLITION
2 WASTE, ELECTRONICS, APPLIANCES, AND ORGANIC WASTE. THE BOARD
3 SHALL ESTABLISH CRITERIA USED TO EVALUATE AND PRIORITIZE
4 APPLICATIONS FOR GRANTS, BASED ON THE CURRENT MOST EFFECTIVE AND
5 RELEVANT WASTE DIVERSION STRATEGIES OR POLICIES, INCLUDING:

6 (I) IMPLEMENTING PAY-AS-YOU-THROW RATE STRUCTURES FOR
7 RESIDENTIAL SINGLE-FAMILY RECYCLING;

8 (II) INCREASED RECYCLING SERVICE FOR COMMERCIAL-SECTOR
9 BUSINESSES;

10 (III) CURBSIDE RECYCLING FOR RESIDENTS, WITH THE RECYCLING
11 FEE EMBEDDED IN THE RESIDENTS' BILLS;

12 (IV) COLLECTION OF ORGANICS SUCH AS YARD WASTE AND FOOD
13 WASTE FROM RESIDENTS AND FOOD-SERVICE BUSINESSES;

14 (V) POLICIES AND PROGRAMS TO EXPAND CONSTRUCTION AND
15 DEMOLITION RECYCLING;

16 (VI) THE STANDARDIZATION OF DIVERSION POLICIES AND
17 PRACTICES, TO THE EXTENT PRACTICABLE, INCLUDING THROUGH THE USE
18 OF SIMILAR SIGNAGE, COLORS, AND BINS AND HOLDING PERIODIC
19 DIVERSION EVENTS AT PREDICTABLE TIMES AND PLACES;

20 (VII) THE REMEDIATION OF ILLEGAL WASTE DISPOSAL SITES; AND

21 (VIII) SYSTEMS TO TRACK DIVERSION RATES, BASED ON BEST
22 PRACTICES DEVELOPED BY THE BOARD AND THE DEPARTMENT, AND
23 STRATEGIC MATERIALS MANAGEMENT PLANS ON THE LOCAL AND
24 REGIONAL LEVELS.

25 (c) (I) AN ELIGIBLE ENTITY MAY SUBMIT AN APPLICATION TO THE
26 ENTERPRISE FOR A GRANT PURSUANT TO THE POLICIES AND PROCEDURES
27 SPECIFIED BY THE BOARD. AN ELIGIBLE ENTITY MAY APPLY EVEN IF THE

1 ENTITY HAS ALREADY REACHED THE DIVERSION GOALS SET OUT BY THE
2 INTEGRATED SOLID WASTE AND MATERIALS MANAGEMENT PLAN, AS
3 AMENDED, ADOPTED BY THE SOLID AND HAZARDOUS WASTE COMMISSION
4 CREATED IN SECTION 25-15-302 IF APPROVING THE APPLICATION WILL
5 FURTHER REDUCE WASTE, RECOVER VALUABLE RESOURCES, AND INCREASE
6 DIVERSION. AT A MINIMUM, AN APPLICATION MUST INCLUDE THE
7 FOLLOWING INFORMATION:

8 (A) AN APPLICATION NARRATIVE THAT DESCRIBES THE PROJECT TO
9 BE FINANCED BY THE GRANT, INCLUDING A DEMONSTRATION OF HOW THE
10 PROJECT PROMOTES ACHIEVEMENT OF THE DIVERSION GOALS SPECIFIED IN
11 SUBSECTION (5) OF THIS SECTION AND THE CRITERIA ESTABLISHED BY THE
12 BOARD;

13 (B) THE AMOUNT OF IN-KIND CONTRIBUTIONS OR MATCHING
14 FUNDS, IF ANY, TO THE PROJECT BUDGET FROM THE APPLICANT OR OTHER
15 SOURCES OUTSIDE OF THE GRANT; AND

16 (C) WHETHER THERE IS LOCAL COMMUNITY SUPPORT FOR THE
17 GRANT APPLICATION.

18 (II) THE POLICES AND PROCEDURES SPECIFIED BY THE BOARD MUST
19 INCLUDE THE FOLLOWING LIMITATIONS FOR GRANT APPLICANTS THAT ARE
20 EITHER A WASTE HAULER OR A LANDFILL OWNER OR OPERATOR, WHICH
21 THE BOARD SHALL APPLY ONLY TO THE PORTIONS OF AN APPLICATION
22 THAT RELATE TO INFRASTRUCTURE OR EQUIPMENT:

23 (A) ONLY FIFTY PERCENT OF INFRASTRUCTURE OR EQUIPMENT CAN
24 BE FUNDED THROUGH THE GRANT PROGRAM;

25 (B) IF THE BOARD AWARDS A GRANT TO A WASTE HAULER OR
26 LANDFILL OWNER OR OPERATOR FOR INFRASTRUCTURE OR EQUIPMENT,
27 THE GRANTEE IS INELIGIBLE TO RECEIVE A GRANT FOR THE FOLLOWING

1 FIVE YEARS.

2 (d) GRANT RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH
3 THE GRANT PROGRAM FOR STAFFING, SUPPLIES, EQUIPMENT, MARKETING
4 AND COMMUNICATIONS, POLICY RESEARCH AND DEVELOPMENT,
5 COMMUNITY ENGAGEMENT, AND PROGRAMMING AND SERVICES RELATED
6 TO THE CRITERIA ESTABLISHED BY THE BOARD.

7 (e) THE BOARD SHALL:

8 (I) USE ITS BEST EFFORTS TO AWARD GRANTS WITHIN NINETY DAYS
9 AFTER RECEIPT OF APPLICATIONS;

10 (II) NOT ALLOCATE MORE THAN TWENTY PERCENT OF THE ANNUAL
11 FUND REVENUE IN ANY SINGLE GRANT AWARD;

12 (III) INCLUDE A SCOPE OF WORK, INCLUDING MILEPOSTS AND
13 DEADLINES FOR ACHIEVEMENT OF SPECIFIED GOALS, IN GRANT AWARD
14 AGREEMENTS; AND

15 (IV) DETERMINE THE CRITERIA FOR MEASURING PROGRESS, WHICH
16 MAY INCLUDE DIVERSION RATES, PARTICIPATION RATES, AND OTHER
17 QUALITATIVE AND QUANTITATIVE METHODS. THE BOARD SHALL CONSIDER
18 A GRANTEE'S PROGRESS IN ISSUING FURTHER GRANTS TO THE GRANTEE.

19 (f) (I) A GRANTEE SHALL REPORT ANNUALLY TO THE BOARD ON
20 THE PROGRESS OF THE PROJECT FINANCED BY THE GRANT PURSUANT TO
21 TERMS SPECIFIED IN THE GRANT AWARD AGREEMENT.

22 (II) THE BOARD SHALL DEVELOP A POLICY REGARDING A
23 GRANTEE'S NONCOMPLIANCE WITH THE GRANT AGREEMENT ENTERED INTO
24 BY THE GRANTEE AND THE BOARD, WHICH POLICY MAY INCLUDE A
25 MECHANISM FOR THE BOARD TO CONVERT THE GRANTEE'S GRANT TO A
26 LOAN WITH INTEREST.

27 (7) **Reporting.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I),

1 THE BOARD SHALL SUBMIT A REPORT BY JULY 1 OF EACH YEAR TO THE
2 COMMITTEES OF REFERENCE OF THE GENERAL ASSEMBLY WITH
3 JURISDICTION OVER THE ENVIRONMENT REGARDING:

4 (a) THE UNOBLIGATED BALANCE OF THE FUND, THE NUMBER OF
5 GRANT APPLICATIONS, AND THE NUMBER OF GRANTS AWARDED;

6 (b) THE ELIGIBLE ENTITIES THAT HAVE APPLIED FOR A GRANT, THE
7 ACTIONS TAKEN BY EACH GRANTEE, THEIR DIVERSION RATES AND OTHER
8 MEASUREMENTS OF SUCCESS, AND THE AMOUNT OF GRANT MONEY
9 DISTRIBUTED TO EACH GRANTEE;

10 (c) THE PROGRESS TOWARD ACHIEVEMENT OF THE DIVERSION
11 GOALS SPECIFIED IN SUBSECTION (5) OF THIS SECTION AND THE PRIMARY
12 FACTORS FACILITATING AND INHIBITING THAT PROGRESS; AND

13 (d) ANY SUGGESTED LEGISLATION OR POLICY CHANGES.

14 (8) (a) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER
15 1, 2029.

16 (b) THE STATE TREASURER SHALL TRANSFER ANY MONEY
17 REMAINING IN THE FUND ON SEPTEMBER 1, 2029, TO THE GENERAL FUND.

18 **SECTION 2.** In Colorado Revised Statutes, 25-16-104.5, **add**
19 (3.9)(c) as follows:

20 **25-16-104.5. Solid waste user fee - imposed - rate - legislative**
21 **declaration - repeal.** (3.9) (c) (I) SUBJECT TO SUBSECTION (1.5) OF THIS
22 SECTION, IN ADDITION TO ANY OTHER USER FEE IMPOSED BY THIS SECTION,
23 ON OR AFTER SEPTEMBER 1, 2019, THERE IS HEREBY IMPOSED A USER FEE
24 TO FINANCE THE FRONT RANGE WASTE DIVERSION GRANT PROGRAM
25 CREATED IN SECTION 25-16.5-111. AT THE TIME OF DISPOSAL, THE
26 OPERATOR OF AN ATTENDED SOLID WASTE DISPOSAL SITE LOCATED IN THE
27 FRONT RANGE, AS THAT TERM IS DEFINED IN SECTION 25-16.5-111 (2)(F),

1 SHALL COLLECT THE FEE, WHICH MAY BE PASSED THROUGH TO WASTE
2 PRODUCERS AND OTHER PERSONS DISPOSING OF WASTE, IN AN AMOUNT PER
3 CUBIC YARD PER LOAD TRANSPORTED BY ANY COMMERCIAL VEHICLE, OR
4 BY OTHER VEHICLE NOT INCLUDED IN THE VEHICLES DESCRIBED IN
5 SUBSECTION (3.9)(a)(I) OR (3.9)(a)(II) OF THIS SECTION, AS SET FORTH IN
6 THE FOLLOWING SCHEDULE EXCEPT AS MODIFIED BY SUBSECTION
7 (3.9)(c)(II) OF THIS SECTION:

8 (A) FROM JANUARY 1, 2020, THROUGH DECEMBER 31, 2020,
9 FIFTEEN CENTS PER CUBIC YARD PER LOAD;

10 (B) FROM JANUARY 1, 2021, THROUGH DECEMBER 31, 2021,
11 THIRTY CENTS PER CUBIC YARD PER LOAD;

12 (C) FROM JANUARY 1, 2022, THROUGH DECEMBER 31, 2022,
13 FORTY-FIVE CENTS PER CUBIC YARD PER LOAD; AND

14 (D) ON AND AFTER JANUARY 1, 2023, SIXTY CENTS PER CUBIC
15 YARD PER LOAD.

16 (II) EFFECTIVE JANUARY 1, 2024, AND ON EACH SUCCEEDING
17 JANUARY 1, THE AMOUNT OF THE FEE SPECIFIED IN SUBSECTION
18 (3.9)(c)(I)(D) OF THIS SECTION IS ADJUSTED BY THE ANNUAL PERCENTAGE
19 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF
20 LABOR STATISTICS CONSUMER PRICE INDEX FOR
21 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN
22 CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.

23 (III) SUBSECTIONS (3.9)(c)(I)(A), (3.9)(c)(I)(B), AND
24 (3.9)(c)(I)(C) OF THIS SECTION AND THIS SUBSECTION (3.9)(c)(III) ARE
25 REPEALED, EFFECTIVE SEPTEMBER 1, 2023.

26 (IV) SOLID WASTE DISPOSAL SITES OR FACILITIES LOCATED IN THE
27 COUNTY OF CUSTER, FREMONT, MORGAN, OR OTERO SHALL COLLECT THE

1 FEE SPECIFIED IN THIS SUBSECTION (3.9)(c) ON LOADS THAT ORIGINATE
2 FROM THE FRONT RANGE, AS THAT TERM IS DEFINED IN SECTION
3 25-16.5-111 (2)(f).

4 (V) AN OPERATOR OF A SOLID WASTE DISPOSAL SITE OR FACILITY
5 SUBJECT TO THIS SUBSECTION (3.9) SHALL TRANSMIT THE USER FEE
6 COLLECTED PURSUANT TO THIS SUBSECTION (3.9)(c) BY THE LAST DAY OF
7 THE MONTH FOLLOWING THE END OF EACH CALENDAR QUARTER TO THE
8 STATE TREASURER, WHO SHALL CREDIT IT TO THE FRONT RANGE WASTE
9 DIVERSION CASH FUND CREATED IN SECTION 25-16.5-111 (4) TO FINANCE
10 THE FRONT RANGE WASTE DIVERSION GRANT PROGRAM PURSUANT TO
11 SECTION 25-16.5-111 (6).

12 (VI) THIS SUBSECTION (3.9)(c) IS REPEALED, EFFECTIVE
13 SEPTEMBER 1, 2029.

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

16 **18-4-511. Littering of public or private property - repeal.**

17 (4) (a) Except as otherwise provided in SUBSECTION (4)(b)(I) OF THIS
18 SECTION AND sections 33-15-108 (2) and 42-4-1406, ~~C.R.S.~~, littering is
19 a class 2 petty offense punishable, upon conviction, by a mandatory fine
20 of not less than twenty dollars nor more than five hundred dollars upon
21 a first conviction, by a mandatory fine of not less than fifty dollars nor
22 more than one thousand dollars upon a second conviction, and by a
23 mandatory fine of not less than one hundred dollars nor more than one
24 thousand dollars upon a third or subsequent conviction.

25 (b) (I) ON AND AFTER JANUARY 1, 2020, THE MANDATORY FINES
26 SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION ARE ADJUSTED
27 ANNUALLY BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES

1 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE
2 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL
3 URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.
4 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE CLERK OF THE
5 COURT SHALL TRANSMIT THE AMOUNT OF THE FINE ATTRIBUTABLE TO THE
6 ADJUSTMENT SPECIFIED IN THIS SUBSECTION (4)(b)(I) TO THE STATE
7 TREASURER, WHO SHALL CREDIT IT TO THE FRONT RANGE WASTE
8 DIVERSION CASH FUND CREATED IN SECTION 25-16.5-111 (4).

9 (II) THIS SUBSECTION (4)(b) IS REPEALED, EFFECTIVE SEPTEMBER
10 1, 2029.

11 **SECTION 4. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly (August 2, 2019, if adjournment sine die is on May 3,
15 2019); except that, if a referendum petition is filed pursuant to section 1
16 (3) of article V of the state constitution against this act or an item, section,
17 or part of this act within such period, then the act, item, section, or part
18 will not take effect unless approved by the people at the general election
19 to be held in November 2020 and, in such case, will take effect on the
20 date of the official declaration of the vote thereon by the governor.

21 (2) This act applies to conduct occurring on or after the applicable
22 effective date of this act.