

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

ENGROSSED

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

LLS NO. 23-0839.01 Josh Schultz x5486

SENATE BILL 23-191

SENATE SPONSORSHIP

Cutter,

HOUSE SPONSORSHIP

Joseph and Kipp,

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A STUDY REGARDING DIVERSION OF ORGANIC MATERIALS**
102 **FROM LANDFILLS.**

Bill Summary

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

The bill requires the department of public health and environment (department) to study the impacts, benefits, and feasibility of requiring diversion of organic materials from landfills. The organics diversion study (study) must:

- Incorporate and utilize data contained in the statewide organics management plan and other existing Colorado

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

SENATE
Amended 2nd Reading
April 11, 2023

- studies and research from other states;
- Explore how to leverage existing organics diversion pilot projects in Colorado to inform implementation of broader organics diversion projects across the state;
- Evaluate the environmental benefits of diversion of organic materials from landfills;
- Review and identify the infrastructure needed to enable diversion of organic materials from landfills and create a plan for infrastructure development;
- Create actionable parameters for local governments to use to determine if, where, and what types of organics processing infrastructure is needed and basic toolkits to help local governments build the infrastructure;
- Create a timeline to effectively and equitably phase in required diversion of organic materials from landfills by region using the 4 regions of the state as identified in the state organics management plan;
- Outline and recommend policies and regulations that would enable diversion of organic materials from landfills;
- Assess informational resources necessary to enable diversion of organic materials from landfills; and
- Identify opportunities for end-market development of organic materials diverted from landfills.

On or before August 1, 2024, the department is required to submit a report of the study's research and findings to specified committees of reference in the senate and the house of representatives.

The bill authorizes the use of money in the front range waste diversion cash fund and the recycling resources economic opportunity fund to pay for costs associated with conducting the study.

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

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

4 (a) Thirty-seven percent of the material that is landfilled in
5 Colorado is organic material, including yard trimmings and food scraps,
6 that could have been diverted from landfills through food donation,
7 composting, or mulching. These diversion practices reduce greenhouse
8 gas emissions, support resilient local economies, create green jobs, and,

1 in the case of compost, build healthy soils, conserve water, and create
2 more productive agricultural lands.

3 ==
4 (b) The statewide organics management plan (plan) commissioned
5 by the department of public health and environment (department) found
6 that the "untapped demand for finished compost is potentially five times
7 greater than the amount of compost being produced today." The plan also
8 found that "[E]conomics, awareness, and lack of existing infrastructure
9 are the greatest barriers to increased organics recovery in Colorado."
10 Additionally, the plan stated that "[T]he [department] should work to gain
11 interagency cooperation to implement strategies that lead to development
12 of organics infrastructure and end-market use of compost." These
13 findings underscore the timely need and opportunity to increase
14 investment to divert more organic materials out of landfills and back into
15 the circular economy. The plan highlighted the need for the construction
16 and operation of more compost processing facilities to realize the
17 potential cost savings, job creation, and agricultural and environmental
18 benefits of diverting organic materials.

19 == ===== ==

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

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

24 ==

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

1 state;

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

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

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

10 **SECTION 2.** In Colorado Revised Statutes, **add** part 8 to article
11 17 of title 25 as follows:

12 PART 8

13 ORGANICS DIVERSION

14 **25-17-801. Definitions.** AS USED IN THIS PART 8, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

26 (5) "ORGANIC MATERIALS" OR "ORGANICS" MEANS ANY SOLID
27 WASTE THAT IS A BIOLOGICAL SUBSTANCE OF PLANT OR ANIMAL ORIGIN,

1 INCLUDING FOOD SCRAPS AND YARD TRIMMINGS, THAT CAN BE BROKEN
2 DOWN THROUGH BIOLOGICAL PROCESSES.

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

5 (7) "STUDY" MEANS THE ORGANICS DIVERSION STUDY REQUIRED
6 BY SECTION 25-17-802.

7 **25-17-802. Organics diversion study - report - funding.**

8 (1) THE DEPARTMENT SHALL CONDUCT OR CAUSE TO BE CONDUCTED A
9 STUDY THAT EXPLORES WHAT LOCAL GOVERNMENTS, OTHER STATE
10 AGENCIES, AND OTHER STATES ARE DOING TO FACILITATE THE DIVERSION
11 OF ORGANIC MATERIALS FROM LANDFILLS AND CREATES POLICY AND
12 LEGISLATIVE RECOMMENDATIONS, INCLUDING THE FEASIBILITY OF
13 REQUIRING DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS IN
14 COLORADO.

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

19 == ==

20 (3) THE STUDY MUST, AT A MINIMUM:

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

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

27 (c) CONSIDER THE COSTS, FEASIBILITY, AND BENEFITS OF

1 DIVERSION POLICIES FOR BOTH YARD TRIMMINGS AND FOOD SCRAPS. THE
2 REPORT MAY EVALUATE THE FEASIBILITY AND BENEFITS OF POLICIES
3 AIMED AT INCREASING DIVERSION OF YARD TRIMMINGS INDIVIDUALLY AND
4 FOOD SCRAPS INDIVIDUALLY OR EVALUATE BOTH COMBINED.

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

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

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

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

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

15 (I) CREATE ACTIONABLE PARAMETERS TO CONSIDER IF AND WHAT
16 TYPE OF FACILITIES ARE NEEDED TO PROCESS ORGANIC MATERIALS AND
17 WHERE THE FACILITIES SHOULD BE LOCATED. PARAMETERS MAY INCLUDE
18 POPULATION DENSITY, MATERIAL TYPE AND VOLUME GENERATION,
19 DISTANCE TO EXISTING INFRASTRUCTURE, ACCESS TO TRANSPORTATION
20 INFRASTRUCTURE, AND POTENTIAL FOR COLOCATING WITH ANOTHER
21 FACILITY, INCLUDING A LANDFILL, TRANSFER STATION, OR RECYCLING
22 FACILITY.

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

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

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

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

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

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

18
19 (VII) DETERMINE HOW TO BEST SERVE AREAS WITH LOW
20 POPULATION DENSITY AND THOSE AT HIGH ALTITUDES. THE STUDY
21 SHOULD EXAMINE DIFFERENT TYPES OF COMPOSTING INFRASTRUCTURE,
22 INCLUDING IN-VESSEL COMPOSTING AND ANAEROBIC DIGESTION.

23
24 (f) REGARDING POLICIES AND REGULATIONS TO ENABLE DIVERSION
25 OF ORGANIC MATERIALS FROM LANDFILLS:

26 (I) WHERE APPROPRIATE TO SUPPORT DIVERSION OF ORGANIC
27 MATERIALS FROM LANDFILLS, RECOMMEND UPDATES OR AMENDMENTS TO

1 EXISTING STATE REGULATIONS TO BEST ACCOMMODATE, IMPLEMENT,
2 MONITOR, AND ENFORCE ANY PROPOSED ORGANICS DIVERSION POLICIES;

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

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

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

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

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

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

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

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

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

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

14 ==

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

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

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

25 (I) REVIEW AND IDENTIFY BEST PRACTICES IN COMPOSTING LARGE
26 QUANTITIES OF WOODY MATERIALS IN AN ARID CLIMATE AND AT HIGH
27 ALTITUDES, INCLUDING RESEARCHING TECHNIQUES SUCH AS BIOCHAR

1 PRODUCTION AND UTILIZATION, MYCELIUM INOCULATION, AND OTHER
2 ACCELERATED COMPOSTING METHODS THAT CAN HELP BREAK DOWN
3 ORGANIC MATERIALS OUTSIDE THE CONFINES OF INDUSTRIAL COMPOST
4 FACILITIES AS OFTEN OCCURS IN RURAL AREAS;

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

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

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12 (i) REGARDING FUNDING SOURCES TO ENABLE DIVERSION OF
13 ORGANIC MATERIALS FROM LANDFILLS:

14 (I) REVIEW AND IDENTIFY POTENTIAL FUNDING SOURCES TO
15 SUPPORT DEVELOPMENT OF COLLECTION, CONTAMINATION REDUCTION,
16 AND PROCESSING INFRASTRUCTURE. POTENTIAL FUNDING SOURCES MAY
17 INCLUDE EXISTING STATE FUNDS, INCLUDING THE FRONT RANGE WASTE
18 DIVERSION CASH FUND CREATED IN SECTION 25-16.5-111 (4), THE
19 RECYCLING RESOURCES ECONOMIC OPPORTUNITY FUND CREATED IN
20 SECTION 25-16.5-106.5, AND THE COLORADO ECONOMIC DEVELOPMENT
21 FUND CREATED IN SECTION 24-46-105; GRANTS FROM OTHER STATE
22 AGENCIES, INCLUDING THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN
23 SECTION 24-1-125; FEDERAL FUNDS; AND GENERATOR- OR
24 PRODUCER-FUNDED PROGRAMS.

25 (II) REVIEW AND IDENTIFY POTENTIAL FUNDING SOURCES OR FEES
26 THAT CAN BE INCREASED OR IMPROVED TO ENCOURAGE OR ENABLE
27 DIVERSION OF ORGANIC MATERIALS FROM LANDFILLS AND PROVIDE

1 INCREASED RESOURCES NEEDED FOR INFRASTRUCTURE AND PROGRAM
2 DEVELOPMENT IN ALL COLORADO REGIONS, INCLUDING IN RURAL AND
3 UNDERSERVED COMMUNITIES; AND

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

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

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

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

22 **25-17-803. Repeal of part.** THIS PART 8 IS REPEALED, EFFECTIVE
23 JULY 1, 2025.

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

26 **25-16.5-106.5. Recycling resources economic opportunity fund**
27 **- creation - repeal.** (2) The money generated pursuant to subsection (1)

1 of this section is annually appropriated to the department:

2 (b) To fund studies pursuant to sections 25-16.5-105 (1)(i),
3 25-16.5-112 (2), ~~and~~ 25-16.5-113, AND **25-17-802**, and to make
4 reimbursements pursuant to section 25-16.5-106.7 (6.5); and

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

7 **25-16.5-111. Front range waste diversion enterprise -**
8 **legislative declaration - fund - goals - grant program - personal**
9 **property tax reimbursements - gifts, grants, or donations - definitions**
10 **- repeal.** (3) **Enterprise.** (a) There is hereby created in the department
11 the front range waste diversion enterprise. The enterprise is and operates
12 as a government-owned business within the department for the purpose
13 of collecting the fee charged to waste generators and using the fee to
14 provide grants and technical assistance AND PAY FOR STUDIES to promote
15 waste diversion. The enterprise is a **type 1** entity, as defined in section
16 24-1-105, and exercises its powers and performs its duties and functions
17 under the department.

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

19 (VIII) (A) IN COORDINATION WITH THE DEPARTMENT, PAY THE
20 COSTS ASSOCIATED WITH CONDUCTING THE ORGANICS DIVERSION STUDY
21 REQUIRED BY SECTION 25-17-802.

22 (B) THIS SUBSECTION (3)(c)(VIII) IS REPEALED, EFFECTIVE JULY
23 1, 2025.

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

26 (VI) (A) PAY THE COSTS ASSOCIATED WITH CONDUCTING THE
27 ORGANICS DIVERSION STUDY REQUIRED BY SECTION 25-17-802.

1 (B) THIS SUBSECTION (4)(b)(VI) IS REPEALED, EFFECTIVE JULY 1,
2 2025.

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