

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0833.01 Kate Meyer

HOUSE BILL 10-1329

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A BILL FOR AN ACT

101 **CONCERNING SOLID WASTE USER FEES, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

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://www.leg.state.co.us/billsummaries.>)

Section 1 of the bill adds a definition of the term "commission", which means the solid and hazardous waste commission (commission) in the department of public health and environment (department), to the definitions section of the laws pertaining to hazardous waste sites.

Section 2:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 3, 2010

SENATE
Amended 2nd Reading
April 30, 2010

HOUSE
3rd Reading Unamended
March 3, 2010

HOUSE
Amended 2nd Reading
March 1, 2010

- ! Requires the commission to establish and impose, by July 1, 2011, a solid waste user fee on persons disposing of solid waste at an attended solid waste disposal site;
- ! Specifies criteria for determination of the fee and the destinations to which portions of the fee shall be sent;
- ! Repeals, on the date that the new fee takes effect or on July 1, 2011, whichever occurs first, current provisions relating to solid waste user fees; and
- ! Extends from July 1, 2010, to July 1, 2017, the future repeal date of the solid waste user fee laws.

Section 3 requires 100% of the state-imposed solid waste user fees that are collected by attended solid waste disposal sites to be credited to those sites if, and to the extent that, the sites are also subject to local government solid waste disposal fees for hazardous substance response activities at sites listed on the national priority list under the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" (federal act).

Section 4 authorizes the state treasurer to make the following one-time transfers from the hazardous substance response fund for the state fiscal year commencing on July 1, 2010:

- ! Up to \$400,000 to the solid waste management fund, for use by the department in connection with its solid waste management activities; and
- ! Up to \$550,000 to the department of law, to be used in connection with the department of law's duties under the federal act.

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

2 **SECTION 1.** 25-16-102, Colorado Revised Statutes, is amended
 3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **25-16-102. Definitions.** As used in this article, unless the context
 5 otherwise requires:

6 (1.5) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE
 7 COMMISSION CREATED IN SECTION 25-15-302.

8 **SECTION 2.** 25-16-104.5 (6), Colorado Revised Statutes, is
 9 amended, and the said 25-16-104.5 is further amended BY THE
 10 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

1 **25-16-104.5. Solid waste user fee - imposed - rate - direction**
2 **- legislative declaration - repeal.** (1.7) (a) ON OR AFTER JULY 1, 2010,
3 THE COMMISSION SHALL PROMULGATE RULES THAT ESTABLISH
4 A SOLID WASTE USER FEE UPON EACH PERSON DISPOSING OF SOLID WASTE
5 AT AN ATTENDED SOLID WASTE DISPOSAL SITE. THE OPERATOR OF THE
6 SITE AT THE TIME OF DISPOSAL SHALL COLLECT THE FEE FROM WASTE
7 PRODUCERS OR OTHER PERSONS DISPOSING OF SOLID WASTE. THE
8 EFFECTIVE DATE AND AMOUNT OF THE FEE SHALL BE SET BY RULE OF THE
9 COMMISSION, AND THE AMOUNT SHALL BE SUFFICIENT TO OFFSET:

10 (I) THE DEPARTMENT'S DIRECT AND INDIRECT COSTS ASSOCIATED
11 WITH IMPLEMENTATION OF THE SOLID WASTE MANAGEMENT PROGRAM
12 UNDER SECTION 30-20-101.5, C.R.S.;

13 (II) THE DEPARTMENT'S DIRECT AND INDIRECT COSTS FOR THE
14 IMPLEMENTATION OF ITS RESPONSIBILITIES UNDER THE FEDERAL ACT, AS
15 DESCRIBED IN THIS PART 1, AND TO PROVIDE MATCHING FUNDS AND COVER
16 FUTURE MAINTENANCE COSTS PURSUANT TO SECTION 25-16-103; AND

17 (III) THE ANTICIPATED PAYMENTS TO THE DEPARTMENT OF LAW,
18 PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION
19 (1.7), FOR THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT OF LAW
20 FOR THE IMPLEMENTATION OF ITS RESPONSIBILITIES UNDER THE FEDERAL
21 ACT, AS DESCRIBED IN THIS PART 1, WHICH COSTS ARE DISTINCT FROM
22 THOSE DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

23 (b) (I) THE PORTION OF THE FEE COLLECTED FOR THE COSTS
24 DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION
25 (1.7) SHALL BE TRANSMITTED TO THE DEPARTMENT FOR DEPOSIT INTO THE
26 SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118, C.R.S.

27 (II) THE PORTIONS OF THE FEE IMPOSED UNDER THIS SUBSECTION

1 (1.7) THAT ARE COLLECTED FOR THE COSTS DESCRIBED IN SUBPARAGRAPHS
2 (II) AND (III) OF PARAGRAPH (a) OF THIS SUBSECTION (1.7) SHALL BE
3 TRANSMITTED TO THE DEPARTMENT FOR DEPOSIT INTO THE HAZARDOUS
4 SUBSTANCE RESPONSE FUND CREATED IN SECTION 25-16-104.6. THE
5 DEPARTMENT MAY EXPEND MONEYS FROM THE PORTION OF THE FEE
6 COLLECTED UNDER SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS
7 SUBSECTION (1.7), TO COMPENSATE THE DEPARTMENT OF LAW FOR ALL OR
8 A PORTION OF THE EXPENSES INCURRED FOR SERVICES RENDERED UNDER
9 THE FEDERAL ACT, AS BILLED TO THE DEPARTMENT BY THE DEPARTMENT
10 OF LAW.

11 (c) THE FEE ESTABLISHED BY THE COMMISSION UNDER THIS
12 SUBSECTION (1.7) SHALL NOT EXCEED FIFTY CENTS PER CUBIC YARD OF
13 SOLID WASTE, OF WHICH NO MORE THAN THREE AND ONE-HALF CENTS
14 SHALL PAY FOR THE COSTS DESCRIBED IN SUBPARAGRAPH (III) OF
15 PARAGRAPH (a) OF THIS SUBSECTION (1.7).

16 (d) THE DEPARTMENT SHALL GIVE THE OPERATORS OF ATTENDED
17 SOLID WASTE DISPOSAL SITES WRITTEN NOTICE OF CHANGES TO THE SOLID
18 WASTE USER FEES NO LATER THAN NINETY DAYS BEFORE THE EFFECTIVE
19 DATE OF THE CHANGES. FAILURE TO PROVIDE THE NOTICE REQUIRED BY
20 THIS PARAGRAPH (d) SHALL INVALIDATE THE RULES THAT CHANGED THE
21 FEES.

22 (6) This section is repealed, effective July 1, ~~2010~~ 2017.

23 (7) SUBSECTIONS (1), (3), AND (3.7) OF THIS SECTION, THIS
24 SUBSECTION (7), AND PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION
25 ARE REPEALED, EFFECTIVE UPON THE DATE THAT THE FEE ADOPTED
26 PURSUANT TO SUBSECTION (1.7) OF THIS SECTION TAKES EFFECT OR ON
27 JULY 1, 2011, WHICHEVER OCCURS FIRST.

1 **SECTION 3.** 25-16-104.5 (2), Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3 **25-16-104.5. Solid waste user fee - imposed - rate - direction**
4 **- legislative declaration - repeal.** (2) (a.5) NOTWITHSTANDING ANY
5 PROVISION OF LAW TO THE CONTRARY, ONE HUNDRED PERCENT OF THE
6 MONEYS COLLECTED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a)
7 OF SUBSECTION (1.7) OF THIS SECTION FROM PERSONS DISPOSING OF SOLID
8 WASTE AT AN ATTENDED SOLID WASTE DISPOSAL SITE WHERE A LOCAL
9 GOVERNMENT SOLID WASTE DISPOSAL FEE IS IMPOSED TO FUND
10 HAZARDOUS SUBSTANCE RESPONSE ACTIVITIES AT SITES DESIGNATED ON
11 THE NATIONAL PRIORITY LIST PURSUANT TO THE FEDERAL ACT SHALL BE
12 TRANSMITTED TO THE OWNER OF THE SOLID WASTE DISPOSAL SITE TO THE
13 EXTENT THAT THE MONEYS ARE USED TO FUND THE RESPONSE ACTIVITIES
14 AT THE SITES ON THE NATIONAL PRIORITY LIST. THE BALANCE OF ANY
15 MONEYS DESCRIBED UNDER THIS PARAGRAPH (a.5) THAT ARE NOT USED TO
16 FUND SUCH RESPONSE ACTIVITIES SHALL BE CREDITED TO THE HAZARDOUS
17 SUBSTANCE RESPONSE FUND CREATED IN SECTION 25-16-104.6.

18 **SECTION 4.** 25-16-104.6 (1) (a), Colorado Revised Statutes, is
19 amended, and the said 25-16-104.6 (1) is further amended BY THE
20 ADDITION OF A NEW PARAGRAPH, to read:

21 **25-16-104.6. Fund established - administration - revenue**
22 **sources - use.** (1) (a) There is hereby established in the state treasury the
23 hazardous substance response fund. The fund shall be composed of any
24 moneys that the general assembly may choose to appropriate from the
25 general fund and any moneys derived from the fee imposed pursuant to
26 section 25-16-104.5 and any interest derived therefrom; any moneys
27 recovered from responsible parties pursuant to the federal act that are not

1 generated by the state litigating as trustee for natural resources pursuant
2 to section 25-16-104.7; any moneys recovered through litigation by the
3 state pursuant to the federal act that are designated for future response
4 cost; and any other moneys derived from public or private sources that
5 may be credited to the fund. Moneys in the fund shall be annually
6 appropriated by the general assembly, subject to the provisions of section
7 25-16-104, shall remain available for the purposes of this article, and
8 shall not revert or be transferred to the general fund of the state at the end
9 of any fiscal year. IF THE FUND BALANCE EXCEEDS TEN MILLION DOLLARS
10 IN ANY STATE FISCAL YEAR AND THE FUND BALANCE IS NOT PROJECTED TO
11 FALL BELOW TEN MILLION DOLLARS WITHIN TWENTY-FOUR MONTHS, THE
12 DEPARTMENT SHALL EVALUATE THE NEED TO REDUCE FEES TO BRING THE
13 BALANCE OF THE FUND BELOW TEN MILLION DOLLARS, AND SHALL
14 PRESENT THE EVALUATION TO THE COMMISSION.

15 (f) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
16 SUBSECTION (1) TO THE CONTRARY, FOR THE STATE FISCAL YEAR
17 COMMENCING JULY 1, 2010, THE STATE TREASURER SHALL MAKE A
18 ONE-TIME TRANSFER _____ FROM THE HAZARDOUS SUBSTANCE RESPONSE
19 FUND TO THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION
20 30-20-118, C.R.S., OF UP TO FOUR HUNDRED THOUSAND DOLLARS, TO BE
21 USED IN CONNECTION WITH THE DEPARTMENT'S SOLID WASTE
22 MANAGEMENT ACTIVITIES.

23 **SECTION 5.** 30-20-115, Colorado Revised Statutes, is amended
24 to read:

25 **30-20-115. Solid wastes disposal site and facility fund - tax -**
26 **fees.** (1) Any governing body having jurisdiction is authorized to
27 establish a solid wastes disposal site and facility fund. The governing

1 body having jurisdiction may levy a solid wastes disposal site and facility
2 tax, in addition to any other tax authorized by law, on the taxable property
3 within such A county or municipality, the proceeds of which shall be
4 deposited to the credit of said fund and appropriated to pay the cost of
5 land, labor, equipment, and services needed in the operation of solid
6 wastes disposal sites and facilities and for any other solid wastes
7 management purpose in or on behalf of that county or municipality. Any
8 governing body having jurisdiction is also authorized, after a public
9 hearing, to fix, modify, and collect service charges from users of solid
10 wastes disposal sites and facilities or transfer stations for the purpose of
11 financing solid wastes management in that county or municipality. In the
12 event that a countywide solid waste disposal site and facility tax has been
13 imposed with the consent of a majority of the voters in the county, that
14 tax may continue to be collected countywide and may accrue to the
15 county's solid waste disposal site and facility fund, notwithstanding any
16 subsequent taxes as may be levied by any municipalities within the county
17 under this section.

18 (2) (a) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE
19 CONSTRUED TO AUTHORIZE ANY GOVERNING BODY HAVING JURISDICTION
20 TO COLLECT SERVICE CHARGES FROM USERS OF ANY PRIVATELY OWNED OR
21 OPERATED SITE AND FACILITY THAT IS FOR THE PRIMARY PURPOSE OF
22 PROCESSING, RECLAIMING, OR RECYCLING:

23 (I) RECYCLABLE MATERIALS;

24 (II) EXCLUDED SCRAP METAL;

25 (III) AUTO PARTS; OR

26 (IV) SCRAP THAT IS COMPOSED OF WORN OUT METAL OR A METAL
27 PRODUCT THAT HAS OUTLIVED ITS ORIGINAL USE, COMMONLY REFERRED

1 TO AS OBSOLETE SCRAP.

2 (b) NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO
3 PROHIBIT ANY GOVERNING BODY HAVING JURISDICTION FROM LEVYING OR
4 COLLECTING SERVICE CHARGES FROM USERS OF A SOLID WASTES DISPOSAL
5 SITE AND FACILITY AT WHICH RECYCLING OCCURS.

6 **SECTION 6. Appropriation - adjustments in long bill.** (1) For
7 the implementation of this act, appropriations made in the annual general
8 appropriation act, for the fiscal year beginning July 1, 2010, to the
9 department of law, shall be adjusted as follows:

10 (a) Appropriations to the administration division are decreased by
11 thirty-seven thousand six hundred ninety-one dollars (\$37,691) general
12 fund and are increased by thirty-seven thousand six hundred ninety-one
13 dollars (\$37,691) reappropriated funds received from the department of
14 public health and environment out of the appropriation made in
15 subsection (3) of this section.

16 (b) The appropriation to the criminal justice and appellate
17 division, appellate unit, is decreased by forty-one thousand three hundred
18 eighty-four dollars (\$41,384) general fund and is increased by forty-one
19 thousand three hundred eighty-four dollars (\$41,384) reappropriated
20 funds from indirect cost recoveries.

21 (c) The appropriation to the water and natural resources division,
22 comprehensive environmental response, compensation and liability act,
23 is decreased by three hundred fifty-seven thousand eighty-four dollars
24 (\$357,084) general fund and is increased by three hundred fifty-seven
25 thousand eighty-four dollars (\$357,084) reappropriated funds received
26 from the department of public health and environment out of the
27 appropriation made in subsection (3) of this section.

1 (d) The appropriation to the water and natural resources division,
2 comprehensive environmental response, compensation and liability act
3 contracts, is decreased by seventy-five thousand dollars (\$75,000)
4 general fund and is increased by seventy-five thousand dollars (\$75,000)
5 reappropriated funds received from the department of public health and
6 environment out of the appropriation made in subsection (3) of this
7 section.

8 (2) In addition to any other appropriation, there is hereby
9 appropriated, to the department of law, water and natural resources
10 division, for indirect cost assessment, for the fiscal year beginning July
11 1, 2010, the sum of forty-one thousand three hundred eighty-four dollars
12 (\$41,384) reappropriated funds. Said sum shall be from reappropriated
13 funds received from the department of public health and environment out
14 of the appropriation made in subsection (3) of this section.

15 (3) In addition to any other appropriation, there is hereby
16 appropriated, to the department of public health and environment,
17 hazardous materials and waste management division, contaminated site
18 cleanups, for payments to the department of law for CERCLA-related
19 services pursuant to section 25-16-104.5 (1.7) (b) (II), Colorado Revised
20 Statutes, from the hazardous substance response fund created in section
21 25-16-104.6 (1) (a), Colorado Revised Statutes, for the fiscal year
22 beginning July 1, 2010, the sum of five hundred eleven thousand one
23 hundred fifty-nine dollars (\$511,159) cash funds, or so much as may be
24 necessary for the implementation of this act.

25 **SECTION 7. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.