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MEMORANDUM

March 20, 2017

TO: Senator Don Coram

FROM: Erin Reynolds, Senior Fiscal Analyst, 303-866-4146

SUBJECT: Fiscal Assessment of Proposed Amendment SB047_L.001

This memorandum is an assessment of the fiscal impact of the attached proposed Amendment L.001 to Senate Bill 17-047. This fiscal assessment is for the impact of the bill with inclusion of this amendment only. Any other added amendment could influence the fiscal impact.

Summary of Proposed Amendment

Amendment L.001 does the following:

- sets the Waste Tire fee at \$1.50 through FY 2023-24, at which time it drops to \$0.50;
- splits the fee between three funds within the Colorado Department of Health and Environment (CDPHE):
 - ▶ \$0.50 to the Waste Tire Administration, Enforcement, and Cleanup Fund;
 - ▶ \$0.90 to the End User Fund; and
 - ▶ \$0.10 to the Waste Tire Market Development Fund;
- creates the Waste Tire Enterprise, effective Jan 1, 2018, through June 30, 2024, as a Type 1 transfer, and allows the enterprise to use moneys in the End User Fund and the Waste Tire Market Development Fund;
- allows the Waste Tire Enterprise to set the per-tire fee lower than \$1.50;
- specifies that the Waste Tire Enterprise is managed by a five-member board appointed by legislative leadership and the Governor;
- permits board members to receive reimbursement from the General Fund for actual and necessary expenses for their meetings, which must take place at least quarterly;
- directs CDPHE to provide staff services as determined by board; and
- exempts principal state departments from waste tire fee.

Fiscal Impact of Amendment

The primary difference between the introduced version of SB17-047 (see fiscal note dated January 27, 2017) and Amendment L.001 is the creation of the Waste Tire Enterprise, which makes all new state revenue generated under the bill exempt from TABOR, and slightly reduces the revenue subject to TABOR under current law. This revenue change is shown in Table 1.

Fiscal Year	Current Law	SB17-047	Total Increase	Revenue to Enterprise	TABOR Change
FY 2017-18**	\$4,817,500	\$7,050,000	\$2,232,500	\$2,350,000	(\$117,500)
FY 2018-19	\$2,585,000	\$7,050,000	\$4,465,000	\$4,700,000	(\$235,000)
FY 2019-20	\$2,585,000	\$7,050,000	\$4,465,000	\$4,700,000	(\$235,000)
FY 2020-21	\$2,585,000	\$7,050,000	\$4,465,000	\$4,700,000	(\$235,000)
FY 2021-22	\$2,585,000	\$7,050,000	\$4,465,000	\$4,700,000	(\$235,000)
FY 2022-23	\$2,585,000	\$7,050,000	\$4,465,000	\$4,700,000	(\$235,000)
FY 2023-24	\$2,585,000	\$7,050,000	\$4,465,000	\$4,700,000	(\$235,000)
FY 2024-25***	\$2,585,000	\$2,350,000	(\$235,000)	0	(\$235,000)

* The fiscal note assumes that the Waste Tire Enterprise Board will keep the waste tire fee at \$1.50 for the duration, and that the average annual amount of waste tires is 4.7 million.

** FY 2017-18 represents a mid-year change from a \$1.50 to a \$0.55 waste tire fee under current law.

*** FY 2024-25 represents a change from a \$1.50 to \$0.50 waste tire fee under the bill.

The bill also changes the distribution formula of the \$1.50 fee, as shown in Table 2.

Time Period	Fee	Distribution
7/1/2018 to 6/30/24.	\$1.50 or less	\$0.50 to the Waste Tire Administration, Enforcement, and Cleanup Fund \$0.90 per tire to the End Users Fund \$0.10 per tire to the Waste Tire Market Development Fund
from 7/1/24 onward	\$0.50 or less	To the Waste Tire Administration, Enforcement, and Cleanup Fund

Some General Fund expenditures to cover the Waste Tire Enterprise board's meeting costs will be required; these meeting costs have not yet been estimated. CDPHE's costs to provide staff support to the board and to certify the state's exemption from the Waste Tire fee will be accomplished within the existing appropriation of the Waste Tire Administration, Enforcement, and Cleanup Fund.

Finally, state agencies, which are exempted from the waste tire fee under the bill, will see cost savings. The primary agencies affected are the Department of Personnel and Administration (DPA) and the Department of Transportation (CDOT). DPA purchases an average of 14,000 tires per year, and will save \$15,375 in FY 2017-18, and \$7,700 in FY 2018-19. CDOT purchases an average of 1,250 tires per year, and will save \$1,281 in FY 2017-18, and \$688 in FY 2018-19. DPA's savings will occur in its Fleet Management Fund, which includes a contingency to accommodate fluctuations in volume and costs for both fuel and vehicle maintenance, and CDOT's State Highway Fund is continuously appropriated; therefore, no change in appropriations is required for these agencies.

Bill's Revised Fiscal Impact with Amendment

Table 3 shows the fiscal impact summary of Amendment L.001. The CDPHE will require a reduction in cash fund appropriations from the Waste Tire Administration, Enforcement, and Cleanup Fund of \$117,500. This represents the difference between the \$0.55 fee to be collected under current law and the \$0.50 fund allocation under Amendment L.001.

Table 3. Fiscal Impact Summary of SB17-047_L.001		
	FY 2017-2018	FY 2018-2019
State Revenue	<u>up to \$2,232,500</u>	<u>up to \$4,465,000</u>
Cash Funds	up to 2,232,500	up to 4,465,000
State Expenditures	<u>up to \$2,232,500</u>	<u>up to \$4,465,000</u>
Cash Funds	up to 2,232,500	up to 4,465,000
TABOR Impact	up to (\$117,500)	up to (\$235,000)
Appropriation Required: See State Appropriations section.		
Future Year Impacts: Ongoing revenue and expenditure increase through FY 2023-24.		

SB047_L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture, Natural Resources, & Energy.

SB17-047 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 30-20-1402, amend
4 (4)(b); and add (4.5) as follows:

5 **30-20-1402. Definitions - repeal.** As used in this part 14, unless
6 the context otherwise requires:

7 (4) "End user" means a person who:

8 (b) Uses a whole waste tire:

9 (I) To generate energy or fuel; or

10 (II) WHEN BALED WITH OTHER WHOLE WASTE TIRES FOR AN
11 AGRICULTURAL PURPOSE OR OTHER MARKET APPLICATION; OR

12 (4.5) (a) "ENTERPRISE" MEANS THE WASTE TIRE ENTERPRISE
13 CREATED IN SECTION 30-20-1418.

14 (b) THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE JANUARY 1,
15 2025.

16 SECTION 2. In Colorado Revised Statutes, 30-20-1403, amend
17 (1)(a) and (2) as follows:

18 **30-20-1403. Waste tire fee - distribution - rules - repeal.**

19 (1) (a) (I) (A) EXCEPT AS SPECIFIED IN SUBSECTION (1)(a)(I)(B) OF THIS
20 SECTION, retailers of new motor vehicle tires and new trailer tires shall
21 collect a waste tire fee ON THE SALE OF EACH NEW TIRE in an amount to be
22 set by the commission, by rule, not to exceed one dollar and fifty cents on
23 the sale of each new tire, except that, effective on and after January 1,
24 2018, the waste tire fee is fifty-five cents on the sale of each new tire
25 ESTABLISHED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION. The
26 receipt from the retailer to the customer for every new tire must contain
27 the following statement in the largest bold-faced type capable based on
28 point-of-sale software and on existing invoice printers, not to exceed
29 fifteen points: "Section 30-20-1403, Colorado Revised Statutes, requires
30 retailers to collect a waste tire fee set by the solid and hazardous waste
31 commission on the sale of each new motor vehicle tire and each new
32 trailer tire."

33 (B) A RETAILER SHALL NOT COLLECT THE FEE ON THE SALE OF A
34 NEW MOTOR VEHICLE TIRE TO A PRINCIPAL DEPARTMENT LISTED IN
35 SECTION 24-1-110.

36 (II) (A) TO AND INCLUDING JUNE 30, 2024, THE FEE IS ONE DOLLAR
37 AND FIFTY CENTS; EXCEPT THAT THE COMMISSION, BY RULE, MAY REDUCE



1 ITS PORTION OF THE FEE ESTABLISHED PURSUANT TO SUBSECTION
2 (2)(a)(I)(A) OF THIS SECTION. THIS SUBSECTION (1)(a)(II)(A) IS REPEALED,
3 EFFECTIVE JANUARY 1, 2025.

4 (B) ON AND AFTER JULY 1, 2024, THE FEE IS FIFTY CENTS; EXCEPT
5 THAT THE COMMISSION, BY RULE, MAY REDUCE THE FEE.

6 (2) (a) (I) Until ~~December 31, 2017~~ JULY 1, 2024, the state
7 treasurer shall distribute the revenue from the fee assessed in subsection
8 (I) of this section as follows:

9 (I) (A) ~~Thirty percent~~ FIFTY CENTS to the waste tire
10 administration, enforcement, and cleanup fund created in section
11 30-20-1404;

12 (II) (B) ~~Sixty-five percent~~ NINETY CENTS PER TIRE to the end users
13 fund created in section 30-20-1405; and

14 (III) (C) ~~Five percent~~ TEN CENTS PER TIRE to the waste tire market
15 development fund created in section 30-20-1406.

16 (II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE JULY 1, 2024.

17 (b) Effective ~~January 1, 2018~~ JULY 1, 2024, the state treasurer
18 shall distribute all of the revenue from the fee assessed in subsection (1)
19 of this section to the waste tire administration, enforcement, and cleanup
20 fund created in section 30-20-1404.

21 **SECTION 3.** In Colorado Revised Statutes, 30-20-1403, amend
22 (1)(b) as follows:

23 **30-20-1403. Waste tire fee - distribution - rules - repeal.**

24 (1) (b) (I) (A) TO AND INCLUDING JUNE 30, 2024, the retailer shall submit
25 to the ~~department~~ ENTERPRISE by the twentieth day of each month all fees
26 collected pursuant to this section in the preceding month together with
27 any report required by the ~~department~~ ENTERPRISE. The ~~department~~
28 ENTERPRISE shall transmit the fees to the state treasurer, who shall credit
29 them in accordance with subsection (2) of this section. ~~or as specified in~~
30 ~~rules promulgated by the commission.~~

31 (B) THIS SUBSECTION (1)(b)(I) IS REPEALED, EFFECTIVE JANUARY
32 1, 2025.

33 (II) EFFECTIVE JULY 1, 2024, THE RETAILER SHALL SUBMIT TO THE
34 DEPARTMENT BY THE TWENTIETH DAY OF EACH MONTH ALL FEES
35 COLLECTED PURSUANT TO THIS SECTION IN THE PRECEDING MONTH
36 TOGETHER WITH ANY REPORT REQUIRED BY THE DEPARTMENT. THE
37 DEPARTMENT SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO
38 SHALL CREDIT THEM IN ACCORDANCE WITH SUBSECTION (2) OF THIS
39 SECTION OR AS SPECIFIED IN RULES PROMULGATED BY THE COMMISSION.

40 **SECTION 4.** In Colorado Revised Statutes, 30-20-1404, amend
41 (1) as follows:



1 **30-20-1404. Waste tire administration, enforcement, and**
2 **cleanup fund - creation - rules.** (1) There is hereby created in the state
3 treasury the waste tire administration, enforcement, and cleanup fund,
4 referred to in this section as the "fund", consisting of the fee revenue
5 credited pursuant to section 30-20-1403 ~~(2)(a)(I) or (2)(b)~~ (2) and any
6 other moneys MONEY appropriated to it. The general assembly shall
7 annually appropriate the moneys MONEY in the fund to the department for
8 its direct and indirect administrative and enforcement costs in
9 administering and enforcing this part 14. The state treasurer shall credit
10 all interest earned on the investment of moneys MONEY in the fund to the
11 fund. Any unexpended and unencumbered moneys MONEY in the fund at
12 the end of any fiscal year remain REMAINS in the fund and ~~do~~ DOES not
13 revert to the general fund or any other fund.

14 **SECTION 5.** In Colorado Revised Statutes, 30-20-1405, **amend**
15 (1) and (5) as follows:

16 **30-20-1405. End users fund - creation - monthly rebates - rules**
17 **- repeal.** (1) There is hereby created in the state treasury the end users
18 fund, referred to in this section as the "fund", consisting of the fee
19 revenue credited pursuant to section 30-20-1403 ~~(2)(a)(II) or (2)(b)~~ (2).
20 The state treasurer shall credit all interest and any other return on the
21 investment of moneys MONEY in the fund to the fund. Any unexpended
22 and unencumbered moneys MONEY remaining in the fund at the end of
23 any fiscal year remain REMAINS in the fund and ~~do~~ DOES not revert to the
24 general fund or any other fund. The fund is subject to annual
25 appropriation by the general assembly to the department for the purposes
26 specified in this section.

27 (5) This section is repealed, effective ~~January 1, 2018~~ JULY 1,
28 2024.

29 **SECTION 6.** In Colorado Revised Statutes, **amend** 30-20-1405,
30 as (1) and (5) are amended in section 5 of this act, as follows:

31 **30-20-1405. End users fund - creation - monthly rebates - rules**
32 **- repeal.** (1) There is hereby created in the state treasury the end users
33 fund, referred to in this section as the "fund", consisting of the fee
34 revenue credited pursuant to section 30-20-1403 (2). The state treasurer
35 shall credit all interest and any other return on the investment of money
36 in the fund to the fund. Any unexpended and unencumbered money
37 remaining in the fund at the end of any fiscal year remains in the fund and
38 does not revert to the general fund or any other fund. The fund is subject
39 to ~~annual appropriation by the general assembly to the department~~
40 CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE for the purposes
41 specified in this section.



1 (2) The department ENTERPRISE:
2 (a) Shall use moneys MONEY in the fund to provide monthly
3 rebates to in-state:
4 (a) (I) End users;
5 (b) (II) Retailers who sell tire-derived product; and
6 (c) (III) Processors of Colorado waste tires who sell their
7 tire-derived product to out-of-state end users; AND
8 (b) MAY USE MONEY IN AN ACCOUNT IN THE FUND TO PAY THE
9 ENTERPRISE'S REVENUE BOND OBLIGATIONS AND AS OTHERWISE
10 AUTHORIZED PURSUANT TO SECTION 30-20-1418.
11 (3) The rebate is subject to the following rules:
12 (a) The department ENTERPRISE shall pay the rebate amount on a
13 per-ton basis;
14 (b) Once the department ENTERPRISE has paid a rebate on a
15 particular quantity of tire-derived product, every part of that particular
16 quantity of tire-derived product is no longer eligible for payment of the
17 rebate;
18 (c) The commission ENTERPRISE shall annually set the amount of
19 the monthly rebate, not to exceed eighty dollars per ton, in an amount that
20 is:
21 (I) The same each month for each successive twelve-month
22 period;
23 (II) Calculated considering, among other factors, the monthly
24 rolling weighted average weight of waste tires submitted for a rebate
25 during the previous thirty-six-month period pursuant to which the average
26 weight from the last twelve months affects the rolling average more than
27 the average weight from the first twelve months; and
28 (III) Calculated to equalize, but not exceed, the amount of rebates
29 paid with the anticipated income to the end users fund during each
30 succeeding twelve-month period;
31 (d) ~~The commission shall promulgate rules~~ ENTERPRISE SHALL
32 ADOPT GUIDELINES governing administration of the rebate, which rules
33 GUIDELINES must include the following:
34 (I) If the weight of waste tires submitted for a rebate in any one
35 month multiplied by the amount of the rebate exceeds the balance of the
36 end users fund, the department ENTERPRISE shall reduce the per-ton
37 amount of the rebate that month pro rata; and
38 (II) The department ENTERPRISE shall quarterly notify end users
39 who have submitted an application for a rebate during the preceding year
40 of the date on which the balance of the end users fund is anticipated to be
41 insufficient to pay all of the rebates applied for;



1 (e) The ~~department~~ ENTERPRISE shall pay the rebate only for waste
2 tires that are generated and processed in Colorado;

3 (f) The ~~department~~ ENTERPRISE shall pay the rebate to an end user
4 only if the end user end uses tire-derived product in Colorado or if the end
5 user uses whole waste tires to generate energy or fuel in Colorado; and

6 (g) The ~~department~~ ENTERPRISE may deny the rebate to any person
7 who is out of compliance with any state or federal environmental laws,
8 rules, or regulations OR THE GUIDELINES ESTABLISHED PURSUANT TO
9 SUBSECTION (3)(d) OF THIS SECTION.

10 (4) Until the ~~commission promulgates rules~~ ENTERPRISE ADOPTS
11 GUIDELINES pursuant to subsection (3) of this section, the rebate amount
12 is forty dollars per ton of waste tires, subject to modification as follows:

13 (a) The ~~department~~ ENTERPRISE shall increase or decrease the
14 amount of the rebate after consideration of all of the requirements and
15 limitations specified in subsection (3) of this section; and

16 (b) The maximum amount of the rebate is eighty dollars per ton
17 of waste tires.

18 (5) This section is repealed, effective July 1, 2024.

19 **SECTION 7.** In Colorado Revised Statutes, 30-20-1406, **amend**
20 (1) and (5) as follows:

21 **30-20-1406. Waste tire market development fund - creation -**
22 **incentive programs - legislative declaration - repeal.** (1) There is
23 hereby created in the state treasury the waste tire market development
24 fund, referred to in this section as the "fund", consisting of revenues
25 credited pursuant to section 30-20-1403 ~~(2)(a)(III) or (2)(b)~~ (2). The state
26 treasurer shall credit all interest and any other return on the investment of
27 ~~moneys~~ MONEY in the fund to the fund. Any unexpended and
28 unencumbered ~~moneys~~ MONEY in the fund at the end of any fiscal year
29 ~~remain~~ REMAINS in the fund and ~~do~~ DOES not revert to the general fund or
30 any other fund. The fund is subject to annual appropriation by the general
31 assembly to the department for the purposes specified in this section.

32 (5) This section is repealed, effective ~~January 1, 2018~~ JULY 1,
33 2024.

34 **SECTION 8.** In Colorado Revised Statutes, 30-20-1406, **amend**
35 (1) as amended in section 7 of this act, (2) introductory portion, (2)(a),
36 (2)(d), (2)(f)(I), (2)(g), and (4); and **add** (2.5) as follows:

37 **30-20-1406. Waste tire market development fund - creation -**
38 **incentive programs - legislative declaration - repeal.** (1) There is
39 hereby created in the state treasury the waste tire market development
40 fund, referred to in this section as the "fund", consisting of revenues
41 credited pursuant to section 30-20-1403 (2). The state treasurer shall

1 credit all interest and any other return on the investment of money in the
2 fund to the fund. Any unexpended and unencumbered money in the fund
3 at the end of any fiscal year remains in the fund and does not revert to the
4 general fund or any other fund. The fund is ~~subject to annual~~
5 ~~appropriation by the general assembly to the department~~ CONTINUOUSLY
6 APPROPRIATED TO THE ENTERPRISE for the purposes specified in this
7 section.

8 (2) The ~~department~~ ENTERPRISE shall use the fund:

9 (a) To encourage waste tire market development. The ~~department~~
10 ~~shall~~ ENTERPRISE MAY hire a contractor to assist with the implementation
11 of a waste tire marketing plan, development and implementation of future
12 market development plans, and development of the program. The
13 ~~department and contractor shall base the marketing plan on the Colorado~~
14 ~~waste tire market development plan published on behalf of the department~~
15 ~~on May 19, 2013.~~

16 (d) To assist the ~~department~~ ENTERPRISE, the department of
17 transportation, and other state agencies in the development and
18 implementation of a public education campaign that promotes the benefits
19 of the use of tire-derived products;

20 (f) (I) To fund recycling incentive programs for public projects
21 that contain or make use of tire-derived products. The ~~department~~
22 ENTERPRISE shall determine how to distribute tire reuse or recycling
23 incentive moneys among approved projects. Any state agency is
24 authorized to expend moneys distributed pursuant to this section.

25 (g) To establish a waste tire innovative technology business
26 development grant, loan, LOAN-TO-GRANT, and incentive funding program
27 that will assist in the creation of waste tire business opportunities and
28 market development activities and the creation of waste tire recycling
29 jobs. THE ENTERPRISE SHALL ESTABLISH A MINIMUM PERCENTAGE OF THE
30 MONEY CREDITED TO THE FUND THAT MUST BE ALLOCATED TO THE
31 PROGRAM. IF THE RECIPIENT OF A LOAN COMPLIES WITH ALL APPLICABLE
32 REQUIREMENTS OF THE LOAN DURING A PRELIMINARY PERIOD
33 ESTABLISHED BY THE ENTERPRISE AFTER RECEIPT OF THE LOAN PROCEEDS,
34 THE LOAN IS CONVERTED TO A GRANT. THE ENTERPRISE SHALL DESIGN THE
35 LOAN-TO-GRANT PROGRAM TO ASSIST EXISTING PROCESSORS THAT HAVE
36 OPERATED WITHIN COLORADO FOR AT LEAST THREE YEARS TO PURCHASE
37 ASSETS THAT OPTIMIZE THE PROCESSOR'S PRODUCTION CAPACITY OR COST
38 OF PRODUCTION.

39 (2.5) THE ENTERPRISE MAY USE MONEY IN AN ACCOUNT IN THE
40 FUND TO PAY THE ENTERPRISE'S REVENUE BOND OBLIGATIONS AND AS
41 OTHERWISE AUTHORIZED PURSUANT TO SECTION 30-20-1418.



1 (4) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), the
2 department ENTERPRISE shall submit a report to the committees of
3 reference in each house of the general assembly with jurisdiction over
4 transportation and public health annually beginning ~~July 1, 2015~~
5 JANUARY 1, 2019, including a description of the status of the program, a
6 summary of the grants awarded to end users, the number and type of
7 markets developed or targeted for development, and recommendations for
8 continued use of the fund.

9 SECTION 9. In Colorado Revised Statutes, add 30-20-1418 as
10 follows:

11 30-20-1418. Waste tire enterprise - creation - bonding
12 authority - repeal. (1) (a) THERE IS HEREBY CREATED IN THE
13 DEPARTMENT THE WASTE TIRE ENTERPRISE. THE ENTERPRISE SHALL
14 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER
15 THE DEPARTMENT AS IF THE ENTERPRISE WERE TRANSFERRED TO THE
16 DEPARTMENT BY A TYPE 1 TRANSFER AS DEFINED IN SECTION 24-1-105.

17 (b) THE BUSINESS PURPOSES OF THE ENTERPRISE ARE TO:

18 (I) CREATE VIABLE AND COMMERCIALY SUSTAINABLE MARKETS
19 FOR WASTE TIRES THAT ARE CAPABLE OF:

20 (A) USING ALL OF THE WASTE TIRES NEWLY GENERATED IN
21 COLORADO ANNUALLY; AND

22 (B) ELIMINATING ALL OF THE EXISTING WASTE TIRES HELD IN
23 STORAGE WITHIN THE STATE'S THREE WASTE TIRE MONOFILLS BY JULY 1,
24 2024;

25 (II) COLLECT THE FEE ESTABLISHED PURSUANT TO SECTION
26 30-20-1403 AND USE ITS PORTION OF THE FEE TO:

27 (A) REIMBURSE END USERS, RETAILERS WHO SELL TIRE-DERIVED
28 PRODUCTS, AND PROCESSORS OF WASTE TIRES;

29 (B) FACILITATE THE DEVELOPMENT OF MARKETS FOR WASTE TIRE
30 PRODUCTS; AND

31 (C) ISSUE REVENUE BONDS, IN ITS DISCRETION, WHEN IT DEEMS
32 THAT DOING SO IS HELPFUL FOR THE ACCOMPLISHMENT OF THESE
33 PURPOSES.

34 (c) THE CREATION OF THE ENTERPRISE IS IN THE PUBLIC INTEREST
35 AND THE BUSINESS ACTIVITIES OF THE ENTERPRISE PROVIDE A PUBLIC
36 BENEFIT BECAUSE THE ACTIVITIES WILL PROMOTE THE HEALTH, SAFETY,
37 AND WELFARE OF ALL COLORADANS AND VISITORS TO THE STATE BY
38 MAXIMIZING THE DIVERSION OF WASTE TIRES FROM LANDFILLS,
39 FACILITATING THE DEVELOPMENT OF MARKETS FOR PRODUCTS THAT USE
40 WASTE TIRES, AND STIMULATING THE ECONOMY.

41 (2) (a) THE WASTE TIRE ENTERPRISE CONSTITUTES AN ENTERPRISE



1 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
2 AS LONG AS THE ENTERPRISE RETAINS AUTHORITY TO ISSUE REVENUE
3 BONDS AND THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS
4 TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102
5 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.
6 FOR AS LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS
7 SECTION, THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF
8 THE STATE CONSTITUTION.

9 (b) THE ENTERPRISE HAS ALL THE POWERS AND DUTIES THAT THIS
10 PART 14 ASSIGNS TO THE ENTERPRISE. ON AND AFTER JANUARY 1, 2018,
11 THE END USERS FUND CREATED IN SECTION 30-20-1405 AND THE WASTE
12 TIRE MARKET DEVELOPMENT FUND CREATED IN SECTION 30-20-1406
13 CONSTITUTE PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO
14 SUBSECTION (1) OF THIS SECTION.

15 (c) NOTHING IN THIS SUBSECTION (2) LIMITS OR RESTRICTS THE
16 AUTHORITY OF THE ENTERPRISE TO EXPEND ITS REVENUES CONSISTENT
17 WITH THIS PART 14.

18 (3) (a) (I) THE ENTERPRISE IS GOVERNED BY A BOARD OF
19 DIRECTORS CONSISTING OF FIVE DIRECTORS APPOINTED AS FOLLOWS:

20 (A) THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
21 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE
22 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH
23 APPOINT ONE DIRECTOR; AND

24 (B) THE GOVERNOR SHALL APPOINT ONE DIRECTOR.

25 (II) A DIRECTOR:

26 (A) MUST HAVE EXPERIENCE IN MARKET DEVELOPMENT OR
27 RECYCLING; AND

28 (B) MUST NOT BE A RECIPIENT OF ANY MONEY DISTRIBUTED BY
29 THE ENTERPRISE.

30 (b) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL
31 APPOINTMENTS TO THE BOARD NO LATER THAN AUGUST 1, 2017.

32 (c) THE TERM OF APPOINTMENT OF A DIRECTOR IS FOUR YEARS;
33 EXCEPT THAT THE TERM OF THE DIRECTORS INITIALLY APPOINTED BY THE
34 MINORITY LEADERS OF THE SENATE AND HOUSE OF REPRESENTATIVES IS
35 THREE YEARS. AN APPOINTING OFFICIAL MAY REMOVE A DIRECTOR WHOM
36 THE OFFICIAL APPOINTED WITH OR WITHOUT CAUSE AT ANY TIME. BOARD
37 VACANCIES ARE FILLED FOR THE REMAINDER OF THE UNEXPIRED TERM IN
38 THE SAME MANNER AS APPOINTMENTS.

39 (d) EACH DIRECTOR SERVES WITHOUT COMPENSATION BUT IS
40 ENTITLED TO RECEIVE REIMBURSEMENT FROM MONEY IN THE GENERAL
41 FUND FOR ACTUAL AND NECESSARY EXPENSES THAT THE DIRECTOR INCURS



1 IN THE PERFORMANCE OF HIS OR HER DUTIES AS A DIRECTOR.
2 (e) (I) THE DIRECTOR APPOINTED BY THE GOVERNOR SHALL
3 ORGANIZE AND CALL THE FIRST MEETING OF THE BOARD, WHICH MUST
4 HOLD ITS INITIAL MEETING NO LATER THAN OCTOBER 15, 2017.
5 (II) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS
6 TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS, AS DETERMINED BY
7 THE BOARD.
8 (III) THE BOARD SHALL MEET AT LEAST QUARTERLY. THE CHAIR
9 MAY CALL SUCH ADDITIONAL MEETINGS AS ARE NECESSARY FOR THE
10 BOARD TO COMPLETE ITS DUTIES.
11 (f) THE DEPARTMENT SHALL PROVIDE STAFF SERVICES AS MAY BE
12 NECESSARY FOR THE BOARD TO IMPLEMENT ITS DUTIES PURSUANT TO THIS
13 PART 14, AS DETERMINED BY THE BOARD IN CONSULTATION WITH THE
14 DEPARTMENT.
15 (4) (a) SUBJECT TO ANY APPLICABLE REQUIREMENTS OF SECTION
16 24-36-121, THE ENTERPRISE IS HEREBY AUTHORIZED TO ISSUE REVENUE
17 BONDS FOR THE EXPENSES OF THE ENTERPRISE, WHICH BONDS MAY BE
18 SECURED BY ANY REVENUES OF THE ENTERPRISE.
19 (b) THE BOARD MAY ESTABLISH SEPARATE ACCOUNTS WITHIN THE
20 END USERS FUND OR THE WASTE TIRE MARKET DEVELOPMENT FUND AS
21 NEEDED IN CONNECTION WITH THE ISSUANCE OF REVENUE BONDS.
22 (c) THE ENTERPRISE MAY EXPEND MONEY IN A SEPARATE ACCOUNT
23 CREATED PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION IN THE END
24 USERS FUND OR THE WASTE TIRE MARKET DEVELOPMENT FUND TO PAY ITS
25 REVENUE BOND OBLIGATIONS. THE ENTERPRISE MAY ALSO EXPEND MONEY
26 IN THE END USERS FUND OR THE WASTE TIRE MARKET DEVELOPMENT FUND
27 TO PAY ITS OPERATING COSTS AND EXPENSES. THE BOARD HAS EXCLUSIVE
28 AUTHORITY TO BUDGET AND APPROVE THE EXPENDITURE OF MONEY IN THE
29 END USERS FUND AND THE WASTE TIRE MARKET DEVELOPMENT FUND.
30 (5) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN
31 THIS SECTION, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:
32 (a) TO ADOPT BYLAWS FOR THE REGULATION OF THE ENTERPRISE'S
33 AFFAIRS AND THE CONDUCT OF ITS BUSINESS;
34 (b) TO SET AND ADOPT, ON AN ANNUAL BASIS, A BUDGET FOR THE
35 ENTERPRISE;
36 (c) TO CONTRACT FOR THE SERVICES OF EXPERTS AS ARE
37 NECESSARY IN ITS JUDGMENT TO CARRY OUT ITS POWERS AND DUTIES;
38 (d) TO MAKE AND TO ENTER INTO ALL OTHER CONTRACTS OR
39 AGREEMENTS THAT ARE NECESSARY OR INCIDENTAL TO THE EXERCISE OF
40 ITS POWERS AND PERFORMANCE OF ITS DUTIES;
41 (e) TO ENTER INTO INTEREST RATE EXCHANGE AGREEMENTS FOR



1 BONDS THAT HAVE BEEN ISSUED IN ACCORDANCE WITH ARTICLE 59.3 OF
2 TITLE 11; AND

3 (f) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY
4 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES
5 GRANTED IN THIS SECTION.

6 (6) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE
7 ENTERPRISE IS NOT SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101
8 TO 112 OF TITLE 24.

9 (b) THE ENTERPRISE IS SUBJECT TO:

10 (I) THE OPEN MEETINGS PROVISIONS OF THE COLORADO SUNSHINE
11 LAW CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24; AND

12 (II) THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72
13 OF TITLE 24. FOR PURPOSES OF THAT PART 2, THE RECORDS OF THE
14 ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6),
15 REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN
16 PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS DEFINED IN
17 SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL
18 GOVERNMENTS COMBINED.

19 (c) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF THE
20 "SUPPLEMENTAL PUBLIC SECURITIES ACT", PART 2 OF ARTICLE 57 OF
21 TITLE 11.

22 (d) LABOR STANDARDS SPECIFIED IN LAW THAT APPLY TO THE
23 DEPARTMENT APPLY WITH EQUAL FORCE TO THE ENTERPRISE..

24 (7) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

25 (b) ON JULY 1, 2024, THE STATE TREASURER SHALL TRANSFER THE
26 UNOBLIGATED BALANCE OF THE END USERS FUND CREATED IN SECTION
27 30-20-1405 AND THE WASTE TIRE MARKET DEVELOPMENT FUND CREATED
28 IN SECTION 30-20-1406 TO THE WASTE TIRE ADMINISTRATION,
29 ENFORCEMENT, AND CLEANUP FUND CREATED IN SECTION 30-20-1404.

30 **SECTION 10.** In Colorado Revised Statutes, 24-1-119, add (13)
31 as follows:

32 **24-1-119. Department of public health and environment -**
33 **creation - repeal.** (13) (a) THE WASTE TIRE ENTERPRISE, CREATED BY
34 SECTION 30-20-1418, SHALL EXERCISE ITS POWERS AND PERFORM ITS
35 DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF THE ENTERPRISE
36 WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE I** TRANSFER.

37 (b) THIS SUBSECTION (13) IS REPEALED, EFFECTIVE JULY 1, 2024.

38 **SECTION 11. Effective date - applicability.** This act takes
39 effect upon passage; except that sections 6 and 8 of this act take effect
40 January 1, 2018, and section 3 of this act takes effect July 1, 2018. This
41 act applies to conduct occurring on or after the applicable effective dates.



1 **SECTION 12. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety."

4 Page 1, line 102, strike "TIRES." and substitute "TIRES, AND, IN
5 CONNECTION THEREWITH, CREATING THE WASTE TIRE ENTERPRISE."

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