

115TH CONGRESS
1ST SESSION

S. 1680

To decrease the incidence of food waste, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2017

Mr. BLUMENTHAL (for himself, Mr. SCHATZ, Mr. WYDEN, Mr. MERKLEY, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To decrease the incidence of food waste, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Food Recovery Act of 2017”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—FARMS

Sec. 101. Use of Rural Energy for America Program to reduce food and crop waste.

- Sec. 102. Farm storage facility loan program.
- Sec. 103. Composting as conservation practice.
- Sec. 104. Study and report on methods to decrease incidence of food waste.

TITLE II—RETAIL AND RESTAURANTS

- Sec. 201. Good Samaritan food donation.
- Sec. 202. Report on food donation by retail food stores.
- Sec. 203. Use of Commodity Credit Corporation funds to cover Emergency Food Assistance Program storage and distribution costs.

TITLE III—SCHOOLS AND OTHER INSTITUTIONS

- Sec. 301. Establishment of Food Recovery Liaison.
- Sec. 302. Amendments to Federal Food Donation Act to require food donations by executive agencies and Congress.
- Sec. 303. Food and agriculture service learning program.
- Sec. 304. Modification of National School Lunch Program procurement requirements to encourage purchase of lower-price, nonstandard-size or -shape produce.
- Sec. 305. Farm to school grant program to improve access to local foods in schools and reduce food waste.

TITLE IV—FOOD DATE LABELING

- Sec. 401. Definitions.
- Sec. 402. Quality dates and safety dates.
- Sec. 403. Misbranding violation for quality dates and safety dates in food labeling.
- Sec. 404. Regulations and guidance.
- Sec. 405. Delayed applicability.
- Sec. 406. Report to Congress.

TITLE V—CONSUMERS AND LOCAL INFRASTRUCTURE

- Sec. 501. Support for national media campaigns to decrease incidence of food waste.
- Sec. 502. Increase in resources for community facilities loans directed at composting and anaerobic digestion food waste-to-energy operations.
- Sec. 503. Expansion of rural utilities service water and waste disposal program to provide loans and grants for rural communities to adapt waste disposal facilities to incorporate anaerobic digestion food waste-to-energy operations.
- Sec. 504. Grants for food waste management infrastructure.
- Sec. 505. Government Accountability Office audit.

1 **SEC. 2. DEFINITION OF SECRETARY.**

- 2 In this Act, the term “Secretary” means the Sec-
3 retary of Agriculture.

TITLE I—FARMS**SEC. 101. USE OF RURAL ENERGY FOR AMERICA PROGRAM
TO REDUCE FOOD AND CROP WASTE.**

(a) REQUIREMENTS RELATING TO INSTALLATION OF ANAEROBIC DIGESTERS.—Section 9007(e) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(e)) is amended by adding at the end the following:

“(5) REQUIREMENTS RELATING TO INSTALLATION OF ANAEROBIC DIGESTERS.—In the case of a loan guarantee or grant provided under this subsection to an agricultural producer or rural small business to support the installation of an anaerobic digester that will use food waste in addition to manure to produce renewable energy, the Secretary shall obtain from the recipient of the loan guarantee or grant—

“(A) a written commitment that the recipient has read and agrees to comply with the Food Recovery Hierarchy of the Environmental Protection Agency, particularly as applied to apparently wholesome food (as defined in section 22(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1791(b))) that may be provided to, or received by, the recipient; and

1 “(B) a written end-product recycling plan
2 that provides for the beneficial use of the mate-
3 rial resulting from the anaerobic digester, in a
4 manner that meets all applicable Federal,
5 State, and local laws safeguarding human
6 health and the environment.”.

7 (b) FUNDING.—Section 9007(g)(1) of the Farm Se-
8 curity and Rural Investment Act of 2002 (7 U.S.C.
9 8107(g)(1)) is amended—

10 (1) in subparagraph (D), by striking “and” at
11 the end;

12 (2) in subparagraph (E), by striking “fiscal
13 year 2014 and each fiscal year thereafter.” and in-
14 serting “each of fiscal years 2014 through 2018;
15 and”; and

16 (3) by adding at the end the following:

17 “(F) \$70,000,000 for fiscal year 2019 and
18 each fiscal year thereafter, of which not less
19 than \$20,000,000 shall be reserved for use for
20 loan guarantees and grants described in sub-
21 section (c)(5).”.

22 **SEC. 102. FARM STORAGE FACILITY LOAN PROGRAM.**

23 Section 1614(a) of the Food, Conservation, and En-
24 ergy Act of 2008 (7 U.S.C. 8789(a)) is amended by strik-
25 ing “to construct or upgrade storage and handling facili-

1 ties” and inserting “to acquire, construct, or upgrade stor-
 2 age, handling, and transportation facilities, which may in-
 3 clude refrigerated vehicles to improve storage and mar-
 4 keting and other means to reduce food waste,”.

5 **SEC. 103. COMPOSTING AS CONSERVATION PRACTICE.**

6 (a) DEFINITIONS.—Section 1201(a) of the Food Se-
 7 curity Act of 1985 (16 U.S.C. 3801(a)) is amended—

8 (1) by redesignating paragraphs (3) through
 9 (27) as paragraphs (4) through (28), respectively;
 10 and

11 (2) by inserting after paragraph (2) the fol-
 12 lowing:

13 “(3) COMPOSTING PRACTICE.—The term
 14 ‘composting practice’ means—

15 “(A) an activity (including an activity that
 16 does not require the use of a composting facil-
 17 ity) to produce compost from organic waste
 18 that is—

19 “(i) generated on a farm; or

20 “(ii) brought to a farm from the near-
 21 by community; and

22 “(B) the use of compost on a farm to im-
 23 prove water retention and soil health, subject to
 24 the condition that such a use shall be in compli-

1 ance with applicable Federal, State, and local
2 laws.”.

3 (b) CONSERVATION STEWARDSHIP PROGRAM.—Sec-
4 tion 1238D(2)(B)(i) of the Food Security Act of 1985 (16
5 U.S.C. 3838d(2)(B)(i)) is amended by inserting “and
6 composting practices” after “agriculture drainage man-
7 agement systems”.

8 (c) ENVIRONMENTAL QUALITY INCENTIVES PRO-
9 GRAM.—Section 1240A(4)(A)(ii) of the Food Security Act
10 of 1985 (16 U.S.C. 3839aa–1(4)(A)(ii)) is amended by in-
11 serting “, including composting practices” before the semi-
12 colon at the end.

13 (d) DELIVERY OF TECHNICAL ASSISTANCE.—Section
14 1242(h) of the Food Security Act of 1985 (16 U.S.C.
15 3842(h)) is amended by adding at the end the following:

16 “(4) DEVELOPMENT OF COMPOSTING PRACTICE
17 STANDARD.—In addition to conducting a review of
18 any composting facilities practice standard under
19 this subsection, the Secretary shall develop and im-
20 plement a composting practice standard.”.

21 **SEC. 104. STUDY AND REPORT ON METHODS TO DECREASE**
22 **INCIDENCE OF FOOD WASTE.**

23 (a) DEFINITION OF AGRICULTURAL PRODUCT.—In
24 this section, the term “agricultural product” has the
25 meaning given the term “agricultural products” in section

1 207 of the Agricultural Marketing Act of 1946 (7 U.S.C.
2 1626).

3 (b) STUDY.—The Secretary shall conduct a study re-
4 garding—

5 (1) new technologies to increase the period dur-
6 ing which an agricultural product may be stored be-
7 fore the agricultural product is considered adulter-
8 ated under State or Federal law; and

9 (2) a method to measure the quantity of agri-
10 cultural product that is not harvested or sent to
11 market each year by the farms that produce the ag-
12 ricultural product.

13 (c) REPORT.—Not later than 1 year after the date
14 of enactment of this Act, the Secretary shall submit to
15 Congress a report that includes—

16 (1) the results of the study conducted under
17 subsection (b); and

18 (2) the recommendations of the Secretary with
19 respect to methods of decreasing the incidence of
20 food waste.

21 **TITLE II—RETAIL AND** 22 **RESTAURANTS**

23 **SEC. 201. GOOD SAMARITAN FOOD DONATION.**

24 (a) IN GENERAL.—The Bill Emerson Good Samari-
25 tan Food Donation Act (42 U.S.C. 1791) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) by striking “quality and labeling”
4 and inserting “safety and safety-related la-
5 beling”; and

6 (ii) by inserting “passage of a date on
7 a date label,” after “surplus,”;

8 (B) in paragraph (2)—

9 (i) by striking “quality and labeling”
10 and inserting “safety and safety-related la-
11 beling”; and

12 (ii) by inserting “passage of a date on
13 a date label,” after “surplus,”;

14 (C) in paragraph (3), by striking “not re-
15 quired to give anything of monetary value” and
16 inserting “not required to give anything of
17 monetary value or charged a good Samaritan
18 reduced price”;

19 (D) by redesignating paragraphs (6), (7),
20 (8), (9), and (10) as paragraphs (7), (8), (9),
21 (10), and (11), respectively; and

22 (E) by inserting after paragraph (5) the
23 following:

24 “(6) GOOD SAMARITAN REDUCED PRICE.—The
25 term ‘good Samaritan reduced price’ means the

1 price of an apparently wholesome food or an appar-
2 ently fit grocery product that is an amount not
3 greater than the cost of handling, administering, and
4 distributing the apparently wholesome food or ap-
5 parently fit grocery product.”; and

6 (2) in subsection (c)—

7 (A) in paragraph (1), by inserting “or sells
8 at a good Samaritan reduced price” after “do-
9 nates in good faith”;

10 (B) in paragraph (2), by inserting “or
11 from a sale at a good Samaritan reduced price”
12 after “donation in good faith”;

13 (C) by redesignating paragraph (3) as
14 paragraph (4);

15 (D) by inserting after paragraph (2) the
16 following:

17 “(3) DIRECT DONATIONS TO NEEDY INDIVID-
18 UALS.—

19 “(A) IN GENERAL.—A qualified direct
20 donor described in subparagraph (B) shall not
21 be subject to civil or criminal liability arising
22 from the nature, age, packaging, or condition of
23 apparently wholesome food or an apparently fit
24 grocery product that the qualified direct donor

1 donates in good faith or sells at a good Samari-
2 tan reduced price to a needy individual.

3 “(B) QUALIFIED DIRECT DONOR DE-
4 SCRIBED.—A qualified direct donor referred to
5 in subparagraph (A) is a retail grocer, whole-
6 saler, agricultural producer, restaurant, caterer,
7 school food authority, or institution of higher
8 education (as defined in section 102 of the
9 Higher Education Act of 1965 (20 U.S.C.
10 1002)).”; and

11 (E) in paragraph (4) (as redesignated by
12 subparagraph (C)), by striking “Paragraphs (1)
13 and (2)” and inserting “Paragraphs (1), (2),
14 and (3)”.

15 (b) REGULATIONS; GUIDANCE.—Not later than 180
16 days after the date of enactment of this Act, the Secretary
17 shall—

18 (1) in consultation with the Secretary of Health
19 and Human Services, issue regulations with respect
20 to the safety and safety-related labeling standards of
21 an apparently wholesome food and an apparently fit
22 grocery product under the Bill Emerson Good Sa-
23 maritan Food Donation Act (42 U.S.C. 1791) (as
24 amended by subsection (a));

1 (2) promote awareness of food donation under
2 that Act (as amended by subsection (a)); and

3 (3) issue guidance with respect to the amend-
4 ments made by subsection (a).

5 **SEC. 202. REPORT ON FOOD DONATION BY RETAIL FOOD**
6 **STORES.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Secretary shall submit to Congress a re-
9 port describing the recommendations of the Secretary with
10 respect to methods of increasing food donation by retail
11 food stores, as defined by the Secretary.

12 **SEC. 203. USE OF COMMODITY CREDIT CORPORATION**
13 **FUNDS TO COVER EMERGENCY FOOD ASSIST-**
14 **ANCE PROGRAM STORAGE AND DISTRIBU-**
15 **TION COSTS.**

16 Section 204 of the Emergency Food Assistance Act
17 of 1983 (7 U.S.C. 7508) is amended—

18 (1) by striking the section designation and
19 heading and all that follows through “available to
20 the States” in the first sentence of subsection (a)(1)
21 and inserting the following:

22 **“SEC. 204. FUNDS FOR STATE STORAGE AND DISTRIBUTION**
23 **COSTS.**

24 “(a) AUTHORIZATION.—

1 “(1) PROCESSING, STORAGE, TRANSPORT, AND
2 DISTRIBUTION.—

3 “(A) IN GENERAL.—Using funds of the
4 Commodity Credit Corporation, the Secretary
5 shall make available to the States \$100,000,000
6 for fiscal year 2018 and each fiscal year there-
7 after”;

8 (2) in subsection (a)(1)—

9 (A) in the second sentence, by striking
10 “Funds appropriated” and inserting the fol-
11 lowing:

12 “(B) METHOD OF ALLOCATION.—Funds
13 made available”; and

14 (B) in the third sentence, by striking “If
15 a State” and inserting the following:

16 “(C) UNUSED FUNDS.—If a State”; and

17 (3) in subsection (b)—

18 (A) by striking “(b) The value” and insert-
19 ing the following:

20 “(b) TREATMENT.—The value”; and

21 (B) by striking “appropriations made or
22 authorized under this section” and inserting
23 “amounts made available under subsection
24 (a)(1)”.

1 **TITLE III—SCHOOLS AND OTHER**
2 **INSTITUTIONS**

3 **SEC. 301. ESTABLISHMENT OF FOOD RECOVERY LIAISON.**

4 Subtitle A of the Department of Agriculture Reorga-
5 nization Act of 1994 (7 U.S.C. 6901 et seq.) is amended
6 by adding at the end the following:

7 **“SEC. 221. FOOD RECOVERY LIAISON.**

8 “(a) ESTABLISHMENT.—The Secretary shall estab-
9 lish within the Office of the Secretary a Food Recovery
10 Liaison to coordinate Federal programs to measure and
11 reduce the incidence of food waste in accordance with this
12 section.

13 “(b) DUTIES.—The Food Recovery Liaison shall—

14 “(1) coordinate food waste reduction efforts
15 with other Federal agencies, including—

16 “(A) the Environmental Protection Agen-
17 cy; and

18 “(B) the Food and Drug Administration;

19 “(2) support and promote Federal programs to
20 measure and reduce the incidence of food waste;

21 “(3) provide information to, and serve as a re-
22 source for, entities engaged in food recovery con-
23 cerning the availability of, and eligibility require-
24 ments for, participation in Federal programs;

1 “(4) raise awareness of food recovery issues in
2 interactions with employees of the Department; and

3 “(5) make recommendations with respect to re-
4 ducing the incidence of food waste.”.

5 **SEC. 302. AMENDMENTS TO FEDERAL FOOD DONATION ACT**
6 **TO REQUIRE FOOD DONATIONS BY EXECU-**
7 **TIVE AGENCIES AND CONGRESS.**

8 (a) **PURPOSE.**—Section 2 of the Federal Food Dona-
9 tion Act of 2008 (Public Law 110–247; 42 U.S.C. 1792
10 note) is amended by striking “encourage” and inserting
11 “require”.

12 (b) **DEFINITIONS.**—Section 3 of the Federal Food
13 Donation Act of 2008 (Public Law 110–247; 42 U.S.C.
14 1792 note) is amended—

15 (1) by redesignating paragraphs (3) and (4) as
16 paragraphs (4) and (5), respectively; and

17 (2) by inserting after paragraph (2) the fol-
18 lowing:

19 “(3) **EXECUTIVE AGENCY.**—The term ‘executive
20 agency’ has the meaning given the term in section
21 133 of title 41, United States Code.”.

22 (c) **PROMOTING FEDERAL FOOD DONATION.**—Sec-
23 tion 4 of the Federal Food Donation Act of 2008 (42
24 U.S.C. 1792) is amended—

25 (1) in subsection (a)—

1 (A) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively,
3 and indenting the subparagraphs appropriately;

4 (B) in the matter preceding subparagraph
5 (A) (as so redesignated), by striking “Not later
6 than” and all that follows through “\$25,000”
7 and inserting the following:

8 “(1) REQUIREMENT.—Not later than 180 days
9 after the date of enactment of the Food Recovery
10 Act of 2017, the Federal Acquisition Regulation
11 issued in accordance with section 1121 of title 41,
12 United States Code, shall be revised to provide that,
13 except as provided in paragraph (2), all contracts of
14 more than \$10,000”;

15 (C) in subparagraph (A) (as so redesign-
16 ated), by striking “encourages” and inserting
17 “requires”; and

18 (D) by adding at the end the following:

19 “(2) EXCEPTION.—Paragraph (1) shall not
20 apply to a contract with an executive agency that
21 has issued a regulation in effect on the date of en-
22 actment of the Food Recovery Act of 2017 that pro-
23 hibits a donation described in paragraph (1)(A).”;
24 and

25 (2) by adding at the end the following:

1 “(c) APPLICATION TO CONGRESS.—

2 “(1) CONTRACTS.—This Act shall apply to the
3 House of Representatives and to contracts entered
4 into by the House of Representatives, and to the
5 Senate and to contracts entered into by the Senate,
6 in the same manner and to the same extent as this
7 Act applies to an executive agency and to contracts
8 entered into by an executive agency.

9 “(2) ADMINISTRATION.—For purposes of car-
10 rying out paragraph (1)—

11 “(A) the Chief Administrative Officer of
12 the House of Representatives shall be consid-
13 ered to be the head of the House of Representa-
14 tives; and

15 “(B) the Secretary of the Senate shall be
16 considered to be the head of the Senate.

17 “(d) DATA; REPORTS.—

18 “(1) DATA.—The head of each executive agency
19 shall collect data on the quantity of apparently
20 wholesome food donated in accordance with this Act.

21 “(2) REPORTS.—Not less frequently than once
22 every 2 years, the head of each executive agency
23 shall submit to Congress a report describing the
24 data collected under paragraph (1).”.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—The
2 Federal Food Donation Act of 2008 (42 U.S.C. 1792) is
3 amended by adding at the end the following:

4 **“SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

5 “There is authorized to be appropriated to the Sec-
6 retary of Agriculture to carry out this Act \$10,000,000
7 for each fiscal year.”.

8 **SEC. 303. FOOD AND AGRICULTURE SERVICE LEARNING**
9 **PROGRAM.**

10 Section 413 of the Agricultural Research, Extension,
11 and Education Reform Act of 1998 (7 U.S.C. 7633) is
12 amended—

13 (1) in subsection (b)(4), by inserting “to pro-
14 mote agricultural education, to raise awareness re-
15 garding the consequences of wasted food, and to en-
16 courage the implementation of food recovery initia-
17 tives to reduce the quantity of wasted food” before
18 the semicolon;

19 (2) in subsection (c)—

20 (A) in paragraph (2)—

21 (i) in subparagraph (C), by striking
22 “and where food comes from; and” and in-
23 serting “, where food comes from, the con-
24 sequences of food waste, and food recovery
25 initiatives;”;

1 (ii) in subparagraph (D), by striking
2 the period at the end and inserting “;
3 and”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(E) have the capacity to carry out na-
7 tional or regional projects that include 2 or
8 more States.”; and

9 (B) by adding at the end the following:

10 “(3) RESERVATION.—The majority of the funds
11 made available to carry out this subsection shall be
12 reserved for projects that—

13 “(A) are larger in scale as compared to
14 other proposed projects;

15 “(B) are national or regional in scope; and

16 “(C) include 2 or more States.”; and

17 (3) in subsection (e)(1), by striking
18 “\$25,000,000, to remain available until expended”
19 and inserting “\$5,000,000 for each of fiscal years
20 2018 through 2022”.

1 **SEC. 304. MODIFICATION OF NATIONAL SCHOOL LUNCH**
 2 **PROGRAM PROCUREMENT REQUIREMENTS**
 3 **TO ENCOURAGE PURCHASE OF LOWER-**
 4 **PRICE, NONSTANDARD-SIZE OR -SHAPE**
 5 **PRODUCE.**

6 Section 9(a)(4)(C) of the Richard B. Russell National
 7 School Lunch Act (42 U.S.C. 1758(a)(4)(C)) is amended
 8 by striking clause (ii) and inserting the following:

9 “(ii) in the product specifications and
 10 practices required under clause (i), encour-
 11 age State departments of agriculture and
 12 education, school food authorities, local
 13 educational agencies, and local processing
 14 entities to purchase lower-price, non-
 15 standard-size or -shape produce to be used
 16 in school nutrition programs under this
 17 Act and the Child Nutrition Act of 1966
 18 (42 U.S.C. 1771 et seq.); and”.

19 **SEC. 305. FARM TO SCHOOL GRANT PROGRAM TO IMPROVE**
 20 **ACCESS TO LOCAL FOODS IN SCHOOLS AND**
 21 **REDUCE FOOD WASTE.**

22 Section 18(g)(3) of the Richard B. Russell National
 23 School Lunch Act (42 U.S.C. 1769(g)(3)) is amended—

24 (1) in subparagraph (A)(v), by inserting “and
 25 reducing food waste at both the school and farm lev-
 26 els” before the semicolon at the end; and

1 (2) by adding at the end the following:

2 “(D) PRIORITY FOR PROJECTS WITH FOOD
3 WASTE PLANS.—In making awards under this
4 subsection, the Secretary shall give priority to
5 eligible schools that have in effect a plan to re-
6 duce or recover food waste.”.

7 **TITLE IV—FOOD DATE**
8 **LABELING**

9 **SEC. 401. DEFINITIONS.**

10 In this title:

11 (1) ADMINISTERING SECRETARIES.—The term
12 “administering Secretaries” means—

13 (A) with respect to products described in
14 paragraph (4)(A), the Secretary; and

15 (B) with respect to products described in
16 paragraph (4)(B), the Secretary of Health and
17 Human Services.

18 (2) FOOD LABELER.—The term “food labeler”
19 means the producer, manufacturer, distributor, or
20 retailer that places a date label on food packaging
21 of a product.

22 (3) QUALITY DATE.—The term “quality date”
23 means a date voluntarily printed on food packaging
24 that is intended to communicate to consumers the
25 date after which the quality of the product may

1 begin to deteriorate, but the product remains appar-
2 ently wholesome food (as defined in section 22(b) of
3 the Child Nutrition Act of 1966 (42 U.S.C.
4 1791(b))).

5 (4) READY-TO-EAT PRODUCT.—The term
6 “ready-to-eat product” means—

7 (A) with respect to a product under the ju-
8 risdiction of the Secretary, a product that—

9 (i) is in a form that is edible without
10 additional preparation to achieve food safe-
11 ty and may receive additional preparation
12 for palatability or aesthetic, epicurean,
13 gastronomic, or culinary purposes; and

14 (ii) is—

15 (I) a poultry product (as defined
16 in section 4 of the Poultry Products
17 Inspection Act (21 U.S.C. 453));

18 (II) a meat food product (as de-
19 fined in section 1 of the Federal Meat
20 Inspection Act (21 U.S.C. 601)); or

21 (III) an egg product (as defined
22 in section 4 of the Egg Products In-
23 spection Act (21 U.S.C. 1033)); and

24 (B) with respect to a food (as defined in
25 section 201 of the Federal Food, Drug, and

1 Cosmetic Act (21 U.S.C. 321)) under the juris-
2 diction of the Secretary of Health and Human
3 Services—

4 (i) a food that is normally eaten in its
5 raw state; or

6 (ii) any other food, including a proc-
7 essed food, for which it is reasonably fore-
8 seeable that the food will be eaten without
9 further processing that would significantly
10 minimize biological hazards.

11 (5) SAFETY DATE.—The term “safety date”
12 means a date printed on food packaging of a high-
13 risk ready-to-eat product, which signifies the end of
14 the estimated period of shelf life under any stated
15 storage conditions, after which the product may pose
16 a health safety risk.

17 **SEC. 402. QUALITY DATES AND SAFETY DATES.**

18 (a) QUALITY DATES.—

19 (1) IN GENERAL.—If a food labeler includes a
20 quality date on food packaging, the label shall use
21 the uniform quality date label phrase under para-
22 graph (2).

23 (2) UNIFORM PHRASE.—The uniform quality
24 date label phrase under this paragraph shall be
25 “BEST If Used By”, unless and until the admin-

1 istering Secretaries, acting jointly, specify through
2 rulemaking another uniform phrase to be used for
3 purposes of complying with paragraph (1).

4 (3) OPTION OF LABELER.—The decision to in-
5 clude a quality date on food packaging shall be at
6 the discretion of the food labeler.

7 (b) SAFETY DATES.—

8 (1) IN GENERAL.—The label of a ready-to-eat
9 product that meets the criteria established under
10 paragraph (3)(A) shall include a safety date deter-
11 mined under paragraph (3)(B) that is immediately
12 preceded by the uniform safety date label phrase
13 under paragraph (2).

14 (2) UNIFORM PHRASE.—The uniform safety
15 date label phrase under this paragraph shall be
16 “USE By”, unless and until the administering Sec-
17 retaries jointly specify through rulemaking another
18 uniform phrase to be used for purposes of complying
19 with paragraph (1).

20 (3) HIGH-RISK READY-TO-EAT PRODUCTS.—The
21 administering Secretaries, acting jointly, shall issue
22 guidance—

23 (A) establishing criteria for determining
24 the conditions under which ready-to-eat prod-

1 ucts may have a high level of risk associated
2 with consumption after a certain date; and

3 (B) for determining safety dates for high-
4 risk ready-to-eat products described in subpara-
5 graph (A).

6 (c) QUALITY DATE AND SAFETY DATE LABELING.—

7 (1) IN GENERAL.—The quality date and safety
8 date, as applicable, and immediately adjacent uni-
9 form quality date label phrase or safety date label
10 phrase shall be—

11 (A) in single easy-to-read type style; and

12 (B) located in a conspicuous place on the
13 package of the food.

14 (2) DATE FORMAT.—Each quality date and
15 safety date shall be stated in terms of day and
16 month and, as appropriate, year.

17 (3) ABBREVIATIONS.—A food labeler may use a
18 standard abbreviation of “BB” and “UB” for the
19 quality date and safety date, respectively, only if the
20 food packaging is too small to include the uniform
21 phrase described in subsection (a)(2) or (b)(2), as
22 applicable.

23 (4) FREEZE BY.—A food labeler may add “or
24 Freeze By” following a quality date or safety date

1 uniform phrase described in subsection (a)(2) or
2 (b)(2), as applicable.

3 (d) SALE OR DONATION AFTER QUALITY DATE.—

4 The sale, donation, or use of any product shall not be pro-
5 hibited based on passage of the quality date of the prod-
6 uct.

7 (e) EDUCATION.—Not later than 1 year after the
8 date of enactment of this Act, the administering Secre-
9 taries, acting jointly, shall provide consumer education
10 and outreach on the meaning of quality date and safety
11 date food labels.

12 (f) RULE OF CONSTRUCTION; PREEMPTION.—

13 (1) RULE OF CONSTRUCTION.—Nothing in this
14 section prohibits any State or political subdivision of
15 a State from establishing or continuing in effect any
16 requirement that prohibits the sale or donation of
17 foods based on passage of the safety date.

18 (2) PREEMPTION.—No State or political sub-
19 division of a State may establish or continue in ef-
20 fect any requirement that—

21 (A) relates to the inclusion in food labeling
22 of a quality date or a safety date that is dif-
23 ferent from or in addition to, or that is other-
24 wise not identical with, the requirements under
25 this section; or

1 (B) prohibits the sale or donation of foods
2 based on passage of the quality date.

3 (3) ENFORCEMENT.—The administering Secre-
4 taries, acting jointly and in coordination with the
5 Federal Trade Commission, shall ensure that the
6 uniform quality date label phrase and uniform safety
7 date label phrase are standardized across all food
8 products.

9 (4) SAVINGS.—Nothing in this Act, any amend-
10 ment made by this Act, or any standard or require-
11 ment imposed pursuant to this Act preempts, dis-
12 places, or supplants any State or Federal common
13 law rights or any State or Federal statute creating
14 a remedy for civil relief, including those for civil
15 damage, or a penalty for criminal conduct.

16 (g) TIME TEMPERATURE INDICATOR LABELS.—
17 Nothing in this section prohibits or restricts the use of
18 time-temperature indicator labels or similar technology
19 that is consistent with the requirements of this Act.

20 **SEC. 403. MISBRANDING VIOLATION FOR QUALITY DATES**
21 **AND SAFETY DATES IN FOOD LABELING.**

22 (a) FDA VIOLATIONS.—Section 403 of the Federal
23 Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amend-
24 ed by adding at the end the following:

1 “(z) if its labeling is in violation of section 402 of
2 the Food Recovery Act of 2017 (relating to quality dates
3 and safety dates).”.

4 (b) POULTRY PRODUCTS.—Section 4(h) of the Poul-
5 try Products Inspection Act (21 U.S.C. 453(h)) is amend-
6 ed—

7 (1) in paragraph (11), by striking “or” at the
8 end;

9 (2) in paragraph (12), by striking the period at
10 the end and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(13) if it does not bear a label in accordance
13 with section 402 of the Food Recovery Act of
14 2017.”.

15 (c) MEAT PRODUCTS.—Section 1(n) of the Federal
16 Meat Inspection Act (21 U.S.C. 601(n)) is amended—

17 (1) in paragraph (11), by striking “or” at the
18 end;

19 (2) in paragraph (12), by striking the period at
20 the end and inserting “; or”; and

21 (3) by adding at the end the following:

22 “(13) if it does not bear a label in accordance
23 with section 402 of the Food Recovery Act of
24 2017.”.

1 (d) EGG PRODUCTS.—Section 7(b) of the Egg Prod-
2 ucts Inspection Act (21 U.S.C. 1036(b)) is amended in
3 the first sentence by adding before the period at the end
4 “or if it does not bear a label in accordance with section
5 402 of the Food Recovery Act of 2017”.

6 **SEC. 404. REGULATIONS AND GUIDANCE.**

7 (a) IN GENERAL.—Not later than 2 years after the
8 date of enactment of this Act, the administering Secre-
9 taries, acting jointly, shall—

10 (1) promulgate final regulations for carrying
11 out this title and the amendments made by this title
12 (other than section 402(b)(3)); and

13 (2) issue the guidance required by section
14 402(b)(3).

15 (b) UPDATES TO GUIDANCE.—Not less frequently
16 than once every 4 years, the administering Secretaries,
17 acting jointly, shall review and, as the administering Sec-
18 retaries determine to be appropriate, update the guidance
19 required by section 402(b)(3).

20 **SEC. 405. DELAYED APPLICABILITY.**

21 This title and the amendments made by this title
22 shall apply only with respect to food products that are la-
23 beled on or after the date that is 2 years after the date
24 on which final regulations are promulgated under section
25 404(a)(1).

1 **SEC. 406. REPORT TO CONGRESS.**

2 Not later than 5 years after the date of enactment
3 of this Act, the administering Secretaries, acting jointly,
4 shall report to the appropriate committees of Congress on
5 rates of compliance of food labelers with the food date la-
6 beling requirements under this title and the amendments
7 made by this title.

8 **TITLE V—CONSUMERS AND**
9 **LOCAL INFRASTRUCTURE**

10 **SEC. 501. SUPPORT FOR NATIONAL MEDIA CAMPAIGNS TO**
11 **DECREASE INCIDENCE OF FOOD WASTE.**

12 (a) IN GENERAL.—The Secretary shall support na-
13 tional media campaigns to decrease the incidence of food
14 waste.

15 (b) MANDATORY FUNDING.—

16 (1) IN GENERAL.—The Secretary shall use
17 \$8,000,000 of funds of the Commodity Credit Cor-
18 poration to carry out this section for fiscal year
19 2018.

20 (2) AVAILABILITY.—Funds described in para-
21 graph (1) shall remain available until expended.

1 **SEC. 502. INCREASE IN RESOURCES FOR COMMUNITY FA-**
2 **CILITIES LOANS DIRECTED AT COMPOSTING**
3 **AND ANAEROBIC DIGESTION FOOD WASTE-**
4 **TO-ENERGY OPERATIONS.**

5 Section 306(a)(1) of the Consolidated Farm and
6 Rural Development Act (7 U.S.C. 1926(a)(1)) is amended
7 by inserting after the first sentence the following: “5 per-
8 cent of the amounts made available for each fiscal year
9 for loans for essential community facilities under the pre-
10 ceding sentence shall be reserved for loans, in accordance
11 with subsection (c)(2), for municipal or county
12 composting, anaerobic digestion food waste-to-energy
13 projects, and the conversion of animal waste products into
14 industrial products or into raw materials that can be con-
15 verted into finished products other than by anaerobic di-
16 gestion or the production of bioethanol through fermenta-
17 tion. The Secretary shall not make or insure a loan under
18 the preceding sentence to an entity that will use the
19 amounts under the loan for an anaerobic digester that
20 uses solely manure as undigested biomass, and shall give
21 preference to loans under the preceding sentence for an-
22 aerobic digesters that use primarily nonedible food, crop
23 waste, or nonedible food and crop waste as undigested bio-
24 mass.”.

1 **SEC. 503. EXPANSION OF RURAL UTILITIES SERVICE**
2 **WATER AND WASTE DISPOSAL PROGRAM TO**
3 **PROVIDE LOANS AND GRANTS FOR RURAL**
4 **COMMUNITIES TO ADAPT WASTE DISPOSAL**
5 **FACILITIES TO INCORPORATE ANAEROBIC**
6 **DIGESTION FOOD WASTE-TO-ENERGY OPER-**
7 **ATIONS.**

8 Section 306 of the Consolidated Farm and Rural De-
9 velopment Act (7 U.S.C. 1926) is amended by inserting
10 after subsection (b) the following:

11 “(c) WATER OR WASTE DISPOSAL LOANS AND
12 GRANTS FOR PROJECTS TO INCORPORATE ANAEROBIC
13 DIGESTION FOOD WASTE-TO-ENERGY OPERATIONS IN
14 WASTE DISPOSAL FACILITIES.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law, beginning in fiscal year 2017, in
17 addition to any other amounts available for water or
18 waste disposal loans and grants under paragraphs
19 (1) and (2) of subsection (a), \$50,000,000 of the
20 funds of the Commodity Credit Corporation for each
21 fiscal year shall be available for those loans and
22 grants, of which the Secretary shall use—

23 “(A) \$25,000,000 for loans, in accordance
24 with paragraph (2), for the adaptation of waste
25 disposal facilities to incorporate anaerobic di-
26 gestion food waste-to-energy operations; and

1 “(B) \$25,000,000 for grants, in accord-
2 ance with paragraph (2), for the adaptation of
3 waste disposal facilities to incorporate anaerobic
4 digestion food waste-to-energy operations.

5 “(2) REQUIREMENTS.—

6 “(A) IN GENERAL.—A loan or grant is
7 made in accordance with this paragraph if, be-
8 fore making the loan or grant, the Secretary
9 has obtained from the recipient of the loan or
10 grant—

11 “(i) a written commitment that the
12 recipient has read and agrees to comply
13 with the Food Recovery Hierarchy of the
14 Environmental Protection Agency, particu-
15 larly as applied to apparently wholesome
16 food (as defined in section 22(b) of the
17 Child Nutrition Act of 1966 (42 U.S.C.
18 1791(b))) that may be provided to or re-
19 ceived by the recipient; and

20 “(ii) a written end-product recycling
21 plan that provides for the beneficial use of
22 the material resulting from any anaerobic
23 digestion food waste-to-energy operation
24 with respect to which the loan or grant is
25 made, in a manner that meets all applica-

1 ble Federal, State, and local laws that pro-
2 tect human health and the environment.

3 “(B) LIMITATION.—A loan or grant under
4 paragraph (1) may not be used for an anaerobic
5 digester that uses solely manure as undigested
6 biomass.

7 “(C) PREFERENCE.—The Secretary shall
8 give preference to loans and grants under para-
9 graph (1) for anaerobic digesters that use pri-
10 marily nonedible food, crop waste, or nonedible
11 food and crop waste as undigested biomass.

12 “(3) AVAILABILITY.—Funds made available
13 under paragraph (1) shall remain available until ex-
14 pended.”.

15 **SEC. 504. GRANTS FOR FOOD WASTE MANAGEMENT INFRA-**
16 **STRUCTURE.**

17 (a) GRANTS.—

18 (1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Administrator of the Environmental
20 Protection Agency, shall establish a program under
21 which the Secretary shall provide grants to reduce
22 food waste in accordance with the Food Recovery
23 Hierarchy of the Environmental Protection Agency
24 (or a successor document), including for—

1 (A) the development and implementation of
2 a State organic waste reduction plan;

3 (B) food waste prevention and food rescue
4 infrastructure facilities, including storage, han-
5 dling, and transportation facilities; or

6 (C) subject to paragraph (3), large-scale
7 composting or anaerobic digestion food waste-
8 to-energy projects, excluding landfills.

9 (2) PREFERENCES.—In providing grants under
10 paragraph (1), the Secretary shall give preference to
11 projects—

12 (A)(i) for the purpose described in para-
13 graph (1)(A); or

14 (ii) that are consistent with a State or-
15 ganic waste reduction plan; and

16 (B) in the case of a project for the purpose
17 described in paragraph (1)(C), that use food
18 scraps as undigested biomass.

19 (3) REQUIREMENT FOR FOOD WASTE-TO-EN-
20 ERGY PROJECTS.—To receive a grant under para-
21 graph (1)(C), a large-scale composting or anaerobic
22 digestion food waste-to-energy project shall have in
23 effect a written end-product recycling plan that—

24 (A) provides for the use of the material re-
25 sulting from the project, in accordance with

1 guidelines that the Administrator of the Envi-
2 ronmental Protection Agency shall establish;
3 and

4 (B) ensures that the use of the material
5 resulting from the project does not create an
6 environmental hazard.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$100,000,000 for each fiscal year.

10 **SEC. 505. GOVERNMENT ACCOUNTABILITY OFFICE AUDIT.**

11 (a) IN GENERAL.—Not later than 2 years after the
12 date of enactment of this Act, the Comptroller General
13 of the United States (referred to in this section as the
14 “Comptroller General”) shall conduct an audit to assess
15 estimates of postharvest food loss and waste in the United
16 States, including estimates by the Department of Agri-
17 culture and other government, academic, and industry
18 stakeholders.

19 (b) REQUIREMENTS.—The Comptroller General, as
20 part of the audit conducted under subsection (a)—

21 (1) shall—

22 (A) assess the extent to which the esti-
23 mates described in that subsection provide a
24 valid benchmark for the amount and value of

1 postharvest food loss and waste in the United
2 States;

3 (B) evaluate the reliability of the data, and
4 the validity and accuracy of the assumptions
5 and models, underlying the estimates; and

6 (C) if appropriate, include recommenda-
7 tions to improve the estimates; and

8 (2) if the Comptroller General determines that
9 the estimates described in that subsection are invalid
10 under paragraph (1)(A), may conduct an estimate of
11 postharvest food loss and waste in the United
12 States.

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