

114TH CONGRESS
2D SESSION

S. 3108

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

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2016

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 2016”.

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 the 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 the Office of Food Recovery.
- 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. Farm to school grant program to improve access to local foods in schools and reduce food waste.
- Sec. 305. Modification of National School Lunch Program procurement requirements to encourage purchase of lower-price, nonstandard size or shape produce.

TITLE IV—FOOD DATE LABELING

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Definitions.
- Sec. 404. Quality dates and safety dates.
- Sec. 405. Misbranding violation for quality dates and safety dates in food labeling.
- Sec. 406. Report to Congress.

TITLE V—CONSUMERS AND LOCAL INFRASTRUCTURE

- Sec. 501. Support for national media campaigns to decrease the 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 composting and anaerobic digestion food waste-to-energy projects.
- 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 RELATED TO INSTALLATION OF ANAEROBIC DIGESTERS.—

“(A) DEFINITION OF HUNGER-SERVING ORGANIZATION.—In this paragraph, the term ‘hunger-serving organization’ means a food bank, food pantry, or soup kitchen (as those terms are defined in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501)).

“(B) REQUIREMENTS.—In the case of a loan guarantee or grant under this subsection to an agricultural producer or rural small business to support the installation of an anaerobic digester that will not use solely manure to produce renewable energy, the Secretary shall obtain from the recipient of the loan guarantee or grant—

1 “(i) a written agreement entered into
2 between the recipient and a hunger-serving
3 organization providing that the recipient
4 and the hunger-serving organization will
5 work together to ensure that apparently
6 wholesome food (as defined in section
7 22(b) of the Bill Emerson Good Samaritan
8 Food Donation Act (42 U.S.C. 1791(b))
9 generated by or provided to the recipient
10 for use in the anaerobic digester is redis-
11 tributed to the organization for provision
12 to people in need of food; and

13 “(ii) a written end-product recycling
14 plan that—

15 “(I) provides for the use of the
16 material resulting from the anaerobic
17 digester, in accordance with guidelines
18 that the Administrator shall establish;
19 and

20 “(II) ensures that the use of the
21 material resulting from the anaerobic
22 digester does not create an environ-
23 mental hazard.”.

1 (b) INCREASED FUNDING.—Section 9007(g)(1) of
2 the Farm Security and Rural Investment Act of 2002 (7
3 U.S.C. 8107(g)(1)) is amended—

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

6 (2) in subparagraph (E), by striking “fiscal
7 year 2014 and each fiscal year thereafter.” and in-
8 serting “each of fiscal years 2014 and 2015; and”;
9 and

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

11 “(F) \$70,000,000 for fiscal year 2016 and
12 each fiscal year thereafter.”.

13 (c) SET-ASIDE FOR ANAEROBIC DIGESTERS.—Sec-
14 tion 9007(g) of the Farm Security and Rural Investment
15 Act of 2002 (7 U.S.C. 8107(g)) is amended by adding at
16 the end the following:

17 “(4) SET-ASIDE FOR ANAEROBIC DIGESTERS.—

18 “(A) IN GENERAL.—Of the funds made
19 available for each fiscal year under this sub-
20 section, not less than \$20,000,000 shall be
21 available to support the installation of anaer-
22 obic digesters that do not use solely manure to
23 produce renewable energy.

24 “(B) PREFERENCE.—The Secretary shall
25 give preference to the use of amounts made

1 available under subparagraph (A) to support
2 the installation of anaerobic digesters that use
3 primarily nonedible food, crop waste, or non-
4 edible food and crop waste as undigested bio-
5 mass.

6 “(C) AVAILABILITY.—Funds made avail-
7 able under subparagraph (A) shall remain avail-
8 able until expended.”.

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

10 (a) INCLUSION OF REFRIGERATED VEHICLE AS ELI-
11 GIBLE FACILITY.—Section 1614(a) of the Food, Con-
12 servation, and Energy Act of 2008 (7 U.S.C. 8789(a)) is
13 amended by striking “to construct or upgrade storage and
14 handling facilities” and inserting “to acquire, construct,
15 or upgrade storage, handling, and transportation facilities,
16 which may include refrigerated vehicles to improve storage
17 and marketing.”.

18 (b) SET-ASIDE TO IMPROVE PRODUCER AND EMER-
19 GENCY FEEDING ORGANIZATION COOPERATION.—Section
20 1614 of the Food, Conservation, and Energy Act of 2008
21 (7 U.S.C. 8789) is amended by adding at the end the fol-
22 lowing:

23 “(g) SET-ASIDE TO IMPROVE COOPERATION BE-
24 TWEEN PRODUCERS AND EMERGENCY FEEDING ORGANI-
25 ZATIONS.—

1 “(1) DEFINITION OF EMERGENCY FEEDING OR-
2 GANIZATION.—In this subsection, the term ‘emer-
3 gency feeding organization’ has the meaning given
4 the term in section 201A of the Emergency Food
5 Assistance Act of 1983 (7 U.S.C. 7501).

6 “(2) SET-ASIDE.—Of the funds made available
7 for a fiscal year for storage facility loans under this
8 section, the Secretary shall reserve not less than 5
9 percent for eligible producers described in subsection
10 (b) that, in cooperation with emergency feeding or-
11 ganizations, agree to use the storage facility loans to
12 acquire, construct, or upgrade storage, handling, and
13 transportation facilities to improve—

14 “(A) the ability of the eligible producers to
15 provide commodities to emergency feeding orga-
16 nizations; and

17 “(B) the ability of the emergency feeding
18 organizations to provide commodities to eligible
19 recipients of the commodities.”.

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

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

23 (1) by redesignating paragraphs (3) through
24 (27) as paragraphs (4) through (28), respectively;
25 and

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

3 (b) STUDY.—The Secretary shall conduct a study
4 on—

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 The Bill Emerson Good Samaritan Food Donation
25 Act (42 U.S.C. 1791) is amended—

1 (1) in subsection (b)—

2 (A) in paragraphs (1) and (2), by striking
3 “Federal, State, and local” each place it ap-
4 pears and inserting “Federal and State”;

5 (B) in paragraph (3), by striking “user is”
6 and inserting the following: “user—

7 “(A) in the case of food, is charged a re-
8 duced rate for the food; or

9 “(B) is”; and

10 (C) by adding at the end the following:

11 “(11) ULTIMATE DISTRIBUTION.—The term
12 ‘ultimate distribution’ means any method by which
13 an individual receives a product from an entity, in-
14 cluding by donation or at a reduced cost.”;

15 (2) in subsection (c)(1)—

16 (A) by inserting “(including a food or ap-
17 parently fit grocery product the quality date (as
18 defined in section 403 of the Food Recovery
19 Act of 2016) of which is expired)” before “that
20 the person”; and

21 (B) by striking “good faith to” and insert-
22 ing the following: “good faith—

23 “(A) directly to a needy individual; or

24 “(B) to”;

25 (3) in subsection (e)—

1 (A) in the matter preceding paragraph (1),
2 by striking “Federal, State, and local” and in-
3 serting “Federal and State”; and

4 (B) in paragraph (2), by striking “dis-
5 tribution” and inserting “ultimate distribution
6 to needy individuals”;

7 (4) in subsection (f), by striking “or local”;

8 (5) by redesignating subsection (f) as sub-
9 section (g); and

10 (6) by inserting after subsection (e) the fol-
11 lowing:

12 “(f) ADMINISTRATION.—The Secretary of Agri-
13 culture shall carry out this section, including through the
14 issuance of regulations.”.

15 **SEC. 202. REPORT ON FOOD DONATION BY RETAIL FOOD**
16 **STORES.**

17 Not later than 1 year after the date of enactment
18 of this Act, the Secretary shall submit to Congress a re-
19 port describing the recommendations of the Secretary with
20 respect to methods of increasing food donation by retail
21 food stores, as defined by the Secretary.

1 **SEC. 203. USE OF COMMODITY CREDIT CORPORATION**
2 **FUNDS TO COVER EMERGENCY FOOD ASSIST-**
3 **ANCE PROGRAM STORAGE AND DISTRIBUTION**
4 **COSTS.**

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

7 (1) by striking the section heading and insert-
8 ing “FUNDS FOR STATE STORAGE AND DISTRIBUTION
9 COSTS”;

10 (2) in subsection (a)(1)—

11 (A) in the first sentence, by striking
12 “There are authorized to be appropriated
13 \$100,000,000 for fiscal year 2008 and each fis-
14 cal year thereafter, for the Secretary to make
15 available to the States” and inserting “Using
16 funds of the Commodity Credit Corporation, the
17 Secretary shall make available to the States
18 \$100,000,000 for fiscal year 2016 and each fis-
19 cal year thereafter”; and

20 (B) in the second sentence, by striking
21 “Funds appropriated” and inserting “Funds
22 made available”; and

23 (3) in subsection (b), by striking “appropria-
24 tions made or authorized under this section” and in-
25 serting “amounts made available under subsection
26 (a)(1)”.

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

3 **SEC. 301. ESTABLISHMENT OF THE OFFICE OF FOOD RE-**
4 **COVERY.**

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

8 **“SEC. 221. OFFICE OF FOOD RECOVERY.**

9 “(a) ESTABLISHMENT.—The Secretary shall estab-
10 lish within the Department an office, to be known as the
11 ‘Office of Food Recovery’, to coordinate Federal programs
12 to measure and reduce the incidence of food waste.

13 “(b) DIRECTOR.—

14 “(1) IN GENERAL.—The Office of Food Recov-
15 ery shall be headed by a Director, to be appointed
16 by the Secretary.

17 “(2) DUTIES.—The Director of the Office of
18 Food Recovery shall—

19 “(A) support and promote Federal pro-
20 grams to reduce the incidence of food waste;
21 and

22 “(B) make recommendations with respect
23 to reducing the incidence of food waste.”.

1 **SEC. 302. AMENDMENTS TO FEDERAL FOOD DONATION ACT**
2 **TO REQUIRE FOOD DONATIONS BY EXECU-**
3 **TIVE AGENCIES AND CONGRESS.**

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

8 (b) **DEFINITIONS.**—Section 3 of the Federal Food
9 Donation Act of 2008 (Public Law 110–247; 42 U.S.C.
10 1792 note) is amended—

11 (1) by redesignating paragraphs (3) and (4) as
12 paragraphs (4) and (5), respectively; and

13 (2) by inserting after paragraph (2) the fol-
14 lowing:

15 “(3) **EXECUTIVE AGENCY.**—The term ‘executive
16 agency’ has the meaning given the term in section
17 133 of title 41, United States Code.”.

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

21 (1) in subsection (a)—

22 (A) by redesignating paragraphs (1) and
23 (2) as subparagraphs (A) and (B), respectively,
24 and indenting appropriately;

25 (B) in the matter preceding subparagraph

26 (A) (as redesignated) by striking “Not later

1 than” and all that follows through “\$25,000”
2 and inserting the following:

3 “(1) REQUIREMENT.—Not later than 180 days
4 after the date of enactment of the Food Recovery
5 Act of 2016, the Federal Acquisition Regulation
6 issued in accordance with section 1121 of title 41,
7 United States Code, shall be revised to provide that,
8 except as provided in paragraph (2), all contracts of
9 more than \$10,000”;

10 (C) in subparagraph (A) (as redesignated),
11 by striking “encourages” and inserting “re-
12 quires”; and

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

14 “(2) EXCEPTION.—Paragraph (1) shall not
15 apply to a contract with an executive agency that
16 has issued a regulation in effect on the date of en-
17 actment of the Food Recovery Act of 2016 that pro-
18 hibits a donation described in paragraph (1)(A).”;
19 and

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

21 “(c) APPLICATION TO CONGRESS.—

22 “(1) CONTRACTS.—This Act shall apply to the
23 House of Representatives and to contracts entered
24 into by the House of Representatives, and to the
25 Senate and to contracts entered into by the Senate,

1 in the same manner and to the same extent as this
2 Act applies to an executive agency and to contracts
3 entered into by an executive agency.

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

6 “(A) the Chief Administrative Officer of
7 the House of Representatives shall be consid-
8 ered the head of the House of Representatives;
9 and

10 “(B) the Secretary of the Senate shall be
11 considered the head of the Senate.

12 “(d) DATA; REPORTS.—

13 “(1) DATA.—The head of each executive agency
14 shall collect data on the amount of apparently whole-
15 some food donated in accordance with this Act.

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

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

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

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

5 **SEC. 303. FOOD AND AGRICULTURE SERVICE LEARNING**
6 **PROGRAM.**

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

10 (1) in subsection (a)—

11 (A) by striking “Subject to the availability
12 of appropriations under subsection (e), the Sec-
13 retary” and inserting “The Secretary”; and

14 (B) by striking “and improve the nutri-
15 tional health of children” and inserting “, im-
16 prove the nutritional health and food security of
17 children, and raise public awareness about
18 wasted food and the use of food recovery efforts
19 to reduce the quantity of wasted food”;

20 (2) in subsection (b)—

21 (A) by redesignating paragraphs (4) and
22 (5) as paragraphs (5) and (6), respectively; and

23 (B) by inserting after paragraph (3) the
24 following:

25 “(4) to raise public awareness about the con-
26 sequences of wasted food and to encourage the im-

1 plementation of food recovery initiatives to reduce
2 the quantity of wasted food;”;

3 (3) in subsection (c)(2)(C), by striking “and
4 where food comes from” and inserting “, where food
5 comes from, the consequences of food waste, and
6 food recovery initiatives”; and

7 (4) in subsection (e), by striking paragraph (1)
8 and inserting the following:

9 “(1) SOURCE OF FUNDS.—

10 “(A) IN GENERAL.—Using funds of the
11 Commodity Credit Corporation, the Secretary
12 shall make available to carry out the Program
13 \$5,000,000 for fiscal year 2016 and for each
14 fiscal year thereafter.

15 “(B) AVAILABILITY.—Amounts made
16 available under subparagraph (A) shall remain
17 available until expended.”.

18 **SEC. 304. FARM TO SCHOOL GRANT PROGRAM TO IMPROVE**
19 **ACCESS TO LOCAL FOODS IN SCHOOLS AND**
20 **REDUCE FOOD WASTE.**

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

23 (1) in paragraph (3)—

24 (A) in subparagraph (A)(v), by inserting
25 “and reducing food waste at both the school

1 and farm level” before the semicolon at the end;
2 and

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

4 “(D) SET-ASIDE FOR FOOD WASTE REDUC-
5 TION GRANTS.—Of the funds made available for
6 a fiscal year for grants under this subsection,
7 the Secretary shall reserve not less than
8 \$1,000,000 for grants to implement farm to
9 school programs designed to facilitate—

10 “(i) the use of a school of food that
11 would otherwise go to waste from farms;

12 “(ii) projects that provide farms with
13 compostable materials from schools, includ-
14 ing—

15 “(I) food scraps; and

16 “(II) lunch trays and utensils;
17 and

18 “(iii) the installation of gardens on
19 school grounds (also known as ‘edible
20 schoolyards’)—

21 “(I) to introduce students to
22 growing, preparing, and eating fresh
23 produce;

24 “(II) to make available fresh
25 produce on the menu of the school;

1 “(III) to use in the gardens com-
2 post made from food scraps; and

3 “(IV) to be integrated into the
4 curriculum of the school.”; and

5 (2) in paragraph (8)(A)—

6 (A) by striking “On October 1, 2012, and
7 each October 1 thereafter, out” and inserting
8 the following:

9 “(i) TRANSFERS.—Out”;

10 (B) in clause (i) (as so designated), by
11 striking “subsection \$5,000,000, to remain
12 available until expended.” and inserting the fol-
13 lowing: “subsection—

14 “(I) \$5,000,000 on October 1,
15 2012, and each October 1 thereafter
16 through October 1, 2015; and

17 “(II) \$6,000,000 on October 1,
18 2016, and each October 1 there-
19 after.”; and

20 (C) by adding at the end the following:

21 “(ii) AVAILABILITY.—Amounts made
22 available under clause (i) shall remain
23 available until expended.”.

1 **SEC. 305. 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 by clause (i), encourage
11 State departments of agriculture and edu-
12 cation, school food authorities, local edu-
13 cational agencies, and local processing enti-
14 ties to purchase lower-price, nonstandard
15 size or shape produce to be used in school
16 nutrition programs under this Act and the
17 Child Nutrition Act of 1966 (42 U.S.C.
18 1771 et seq.); and”.

19 **TITLE IV—FOOD DATE**
20 **LABELING**

21 **SEC. 401. SHORT TITLE.**

22 This title may be cited as the “Food Date Labeling
23 Act of 2016”.

24 **SEC. 402. FINDINGS.**

25 Congress finds the following:

1 (1) As of the date of enactment of this Act,
2 date labeling practices on food packaging cause con-
3 fusion with “sell-by”, “best-by”, “use-by”, and “best
4 before” dates, leading up to 90 percent of individ-
5 uals in the United States to occasionally throw out
6 still-fresh food.

7 (2) Confusion over the meaning of date labels
8 is estimated to account for 20 percent of consumer
9 waste of safe, edible food, leading to approximately
10 \$29,000,000,000 of wasted consumer spending each
11 year.

12 (3) Consumer education and standardized date
13 labeling are the top 2 most cost-effective strategies
14 for reducing food waste, by economic value per ton
15 diverted.

16 (4) Wasted food costs consumers and industry
17 money, squanders important natural resources that
18 are used to grow, process, distribute, and store the
19 food supply of the United States, and represents a
20 missed opportunity to feed the millions of food inse-
21 cure households in the United States that are strug-
22 gling to access healthy, affordable food.

23 **SEC. 403. DEFINITIONS.**

24 In this title:

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

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

5 (B) with respect to products described in
6 paragraph (4)(B), the Secretary of Health and
7 Human Services.

8 (2) FOOD LABELER.—The term “food labeler”
9 means the producer, manufacturer, distributor, or
10 retailer that places a date label on food packaging
11 of a product.

12 (3) QUALITY DATE.—The term “quality date”
13 means a date voluntarily printed on food packaging
14 that is intended to communicate to consumers the
15 date after which the quality of the product may
16 begin to deteriorate, but may still be acceptable for
17 consumption.

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

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

22 (i) is in a form that is edible without
23 additional preparation to achieve food safe-
24 ty and may receive additional preparation

1 for palatability or aesthetic, epicurean,
2 gastronomic, or culinary purposes; and

3 (ii) is—

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

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

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

13 (B) with respect to a food (as defined in
14 section 201 of the Federal Food, Drug, and
15 Cosmetic Act (21 U.S.C. 321)) under the juris-
16 diction of the Secretary of Health and Human
17 Services—

18 (i) a food that is normally eaten in its
19 raw state; or

20 (ii) any other food, including a proc-
21 essed food, for which it is reasonably fore-
22 seeable that the food will be eaten without
23 further processing that would significantly
24 minimize biological hazards.

1 (5) SAFETY DATE.—The term “safety date”
2 means a date printed on food packaging of a ready-
3 to-eat product, which signifies the end of the esti-
4 mated period of shelf life under any stated storage
5 conditions, after which the product may pose a
6 health safety risk.

7 **SEC. 404. QUALITY DATES AND SAFETY DATES.**

8 (a) QUALITY DATES.—

9 (1) IN GENERAL.—If a food labeler includes a
10 quality date on food packaging, the label shall use
11 the uniform quality date label phrase under para-
12 graph (2).

13 (2) UNIFORM PHRASE.—The uniform quality
14 date label phrase under this paragraph shall be
15 “best if used by”, unless and until the administering
16 Secretaries, acting jointly, specify through rule-
17 making another uniform phrase to be used for pur-
18 poses of complying with paragraph (1).

19 (3) OPTION OF THE LABELER.—The decision to
20 include a quality date on food packaging shall be at
21 the discretion of the food labeler.

22 (b) SAFETY DATES.—

23 (1) IN GENERAL.—The label of a ready-to-eat
24 product shall include a safety date that is imme-
25 diately preceded by the uniform safety date label

1 phrase under paragraph (2) if the ready-to-eat prod-
2 uct—

3 (A) meets the criteria described in para-
4 graph (3)(A) and is not exempt under para-
5 graph (3)(B)(ii); or

6 (B) is listed in accordance with paragraph
7 (3)(B)(i).

8 (2) UNIFORM PHRASE.—The uniform safety
9 date label phrase under this paragraph shall be ‘ex-
10 pires on’, unless and until the administering Secre-
11 taries jointly specify through rulemaking another
12 uniform phrase to be used for purposes of complying
13 with paragraph (1).

14 (3) HIGH RISK READY-TO-EAT PRODUCTS.—

15 (A) IN GENERAL.—The administering Sec-
16 retaries, acting jointly, shall describe criteria
17 that determine what ready-to-eat products may
18 have a high level of risk associated with con-
19 sumption after a certain date, including those
20 that may be high or very high risk for *Listeria*
21 *monocytogenes* or other contaminants or patho-
22 gens causing foodborne illness.

23 (B) ADDITIONAL FOODS; EXEMPT
24 FOODS.—The administering Secretaries may,
25 with respect to the products under the jurisdic-

1 tion of the administering Secretaries, respec-
2 tively—

3 (i) list additional ready-to-eat prod-
4 ucts that are high risk, but do not meet
5 the criteria described in subparagraph (A);
6 or

7 (ii) exempt specific ready-to-eat prod-
8 ucts that meet the criteria described in
9 subparagraph (A), but do not actually pose
10 a high level of risk associated with con-
11 sumption after a certain date.

12 (C) REVIEW AND UPDATES.—Not less fre-
13 quently than once every 4 years, the admin-
14 istering Secretaries, acting jointly, shall review
15 and, as the administering Secretaries determine
16 appropriate, shall update—

17 (i) the criteria described in subpara-
18 graph (A); and

19 (ii) the list and exemptions described
20 in subparagraph (B).

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

22 (1) IN GENERAL.—The quality date and safety
23 date, as applicable, and immediately adjacent uni-
24 form quality date label phrase or safety date label
25 phrase shall be—

1 (A) in single easy-to-read type style using
2 upper and lower case letters in the standard
3 form;

4 (B) in a type size no smaller than 8 point;
5 and

6 (C) located in a conspicuous place on the
7 package of the food.

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

11 (d) GUIDANCE.—The Commissioner of Food and
12 Drugs and the Secretary shall establish guidance for food
13 labelers on how to determine quality dates and safety
14 dates for food products.

15 (e) SALE OR DONATION AFTER QUALITY DATE.—No
16 one shall prohibit the sale, donation, or use of any product
17 after the quality date for the product has passed.

18 (f) EDUCATION.—Not later than 1 year after the date
19 of enactment of this Act, the administering Secretaries,
20 acting jointly, shall provide consumer education and out-
21 reach on the meaning of quality date and safety date food
22 labels.

23 (g) RULE OF CONSTRUCTION; PREEMPTION.—

24 (1) RULE OF CONSTRUCTION.—Nothing in this
25 section shall be construed to prohibit any State or

1 political subdivision of a State from establishing or
2 continuing in effect any requirement that prohibits
3 the sale or donation of foods based on passage of the
4 safety date.

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

8 (A) relates to the inclusion in food labeling
9 of a quality date or a safety date that is dif-
10 ferent from or in addition to, or that is other-
11 wise not identical with, the requirements under
12 this section; or

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

15 (3) ENFORCEMENT.—The administering Secre-
16 taries, acting jointly and in coordination with the
17 Federal Trade Commission, shall ensure that the
18 uniform quality date label phrase and uniform safety
19 date label phrase are standardized across all food
20 products.

21 (4) SAVINGS.—Nothing in this title, any
22 amendment made by this title, or any standard or
23 requirement imposed pursuant to this title shall be
24 construed to preempt, displace, or supplant any
25 State or Federal common law rights or any State or

1 Federal statute creating a remedy for civil relief, in-
2 cluding those for civil damage, or a penalty for
3 criminal conduct.

4 (h) TIME TEMPERATURE INDICATOR LABELS.—
5 Nothing in this section shall be construed to prohibit or
6 restrict the use of time-temperature indicator labels or
7 similar technology that is consistent with the requirements
8 of this title.

9 (i) DELAYED APPLICABILITY.—This section shall
10 apply only with respect to food products that are labeled
11 on or after a date that is 2 years after the date of enact-
12 ment of this Act.

13 **SEC. 405. MISBRANDING VIOLATION FOR QUALITY DATES**
14 **AND SAFETY DATES IN FOOD LABELING.**

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

18 “(z) if its labeling is in violation of section 404 of
19 the Food Date Labeling Act of 2016 (relating to quality
20 dates and safety dates).”.

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

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

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

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

4 “(13) if it does not bear a label in accordance
5 with section 404 of the Food Date Labeling Act of
6 2016.”.

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

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

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

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

14 “(13) if it does not bear a label in accordance
15 with section 404 of the Food Date Labeling Act of
16 2016.”.

17 (d) EGG PRODUCTS.—Section 7(b) of the Egg Prod-
18 ucts Inspection Act (21 U.S.C. 1036(b)) is amended in
19 the first sentence by adding before the period at the end
20 “or if it does not bear a label in accordance with section
21 404 of the Food Date Labeling Act of 2016”.

22 **SEC. 406. REPORT TO CONGRESS.**

23 Not later than 5 years after the date of enactment
24 of this Act, the administering Secretaries, acting jointly,
25 shall report to the appropriate committees of Congress on

1 the progress in the reduction of food waste that can be
 2 attributed to the standardization of food date labeling and
 3 consumer education required by this title and the amend-
 4 ments made by this title.

5 **TITLE V—CONSUMERS AND**
 6 **LOCAL INFRASTRUCTURE**

7 **SEC. 501. SUPPORT FOR NATIONAL MEDIA CAMPAIGNS TO**
 8 **DECREASE THE INCIDENCE OF FOOD WASTE.**

9 (a) IN GENERAL.—The Secretary shall support na-
 10 tional media campaigns to decrease the incidence of food
 11 waste.

12 (b) MANDATORY FUNDING.—

13 (1) IN GENERAL.—The Secretary shall use
 14 \$8,000,000 of funds of the Commodity Credit Cor-
 15 poration to carry out this section for fiscal year
 16 2017.

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

19 **SEC. 502. INCREASE IN RESOURCES FOR COMMUNITY FA-**
 20 **CILITIES LOANS DIRECTED AT COMPOSTING**
 21 **AND ANAEROBIC DIGESTION FOOD WASTE-**
 22 **TO-ENERGY OPERATIONS.**

23 Section 306(a)(1) of the Consolidated Farm and
 24 Rural Development Act (7 U.S.C. 1926(a)(1)) is amended
 25 by inserting after the first sentence the following: “5 per-

1 cent of the amounts made available for each fiscal year
2 for loans for essential community facilities under the pre-
3 ceding sentence shall be reserved for loans, in accordance
4 with subsection (c)(2), for municipal or county compost-
5 ing, anaerobic digestion food waste-to-energy projects, and
6 the conversion of animal waste products into industrial
7 products or into raw materials that can be converted into
8 finished products other than by anaerobic digestion or the
9 production of bioethanol through fermentation. The Sec-
10 retary shall not make or insure a loan under the preceding
11 sentence to an entity that will use the amounts under the
12 loan for an anaerobic digester that uses solely manure as
13 undigested biomass, and shall give preference to loans
14 under the preceding sentence for anaerobic digesters that
15 use primarily nonedible food, crop waste, or nonedible food
16 and crop waste as undigested biomass.”.

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 2016, 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) DEFINITION OF HUNGER-SERVING
7 ORGANIZATION.—In this paragraph, the term
8 ‘hunger-serving organization’ means a food
9 bank, food pantry, or soup kitchen (as those
10 terms are defined in section 201A of the Emer-
11 gency Food Assistance Act of 1983 (7 U.S.C.
12 7501)).

13 “(B) REQUIREMENTS.—A loan or grant is
14 made in accordance with this paragraph if, be-
15 fore making the loan or grant, the Secretary
16 has obtained from the recipient of the loan or
17 grant—

18 “(i) a written agreement entered into
19 between the recipient and a hunger-serving
20 organization providing that the recipient
21 and the hunger-serving organization will
22 work together to ensure that apparently
23 wholesome food (as defined in section
24 22(b) of the Bill Emerson Good Samaritan
25 Food Donation Act (42 U.S.C. 1791(b)))

1 provided to the recipient is redistributed to
2 the hunger-serving organization for provi-
3 sion to people in need of food; and

4 “(ii) a written end-product recycling
5 plan that—

6 “(I) provides for the use of the
7 material resulting from any anaerobic
8 digestion food waste-to-energy oper-
9 ation with respect to which the loan
10 or grant is made, in accordance with
11 guidelines that the Administrator of
12 the Environmental Protection Agency
13 shall establish; and

14 “(II) ensures that the use of the
15 material described in subclause (I)
16 does not create an environmental haz-
17 ard.

18 “(C) LIMITATION.—A loan or grant under
19 paragraph (1) may not be used for an anaerobic
20 digester that uses solely manure as undigested
21 biomass.

22 “(D) PREFERENCE.—The Secretary shall
23 give preference to loans and grants under para-
24 graph (1) for anaerobic digesters that use pri-

1 marily nonedible food, crop waste, or nonedible
2 food and crop waste as undigested biomass.

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

6 **SEC. 504. GRANTS FOR COMPOSTING AND ANAEROBIC DI-**
7 **GESTION FOOD WASTE-TO-ENERGY**
8 **PROJECTS.**

9 (a) IN GENERAL.—Subtitle G of the Solid Waste Dis-
10 posal Act (42 U.S.C. 6971 et seq.) is amended by adding
11 at the end the following:

12 **“SEC. 7011. GRANTS FOR COMPOSTING AND ANAEROBIC DI-**
13 **GESTION FOOD WASTE-TO-ENERGY**
14 **PROJECTS.**

15 “(a) GRANTS.—The Administrator shall establish a
16 grant program to award grants to States eligible to receive
17 the grants under subsection (b)(2) to construct large-scale
18 composting or anaerobic digestion food waste-to-energy
19 projects.

20 “(b) ELIGIBLE STATES.—

21 “(1) DEFINITION OF HUNGER-SERVING ORGANI-
22 ZATION.—In this subsection, the term ‘hunger-serv-
23 ing organization’ means a food bank, food pantry, or
24 soup kitchen (as those terms are defined in section

1 201A of the Emergency Food Assistance Act of
2 1983 (7 U.S.C. 7501)).

3 “(2) ELIGIBILITY.—In order to be eligible to
4 receive a grant under this section, a State shall—

5 “(A) limit the amount of food waste that
6 may be disposed of in landfills in the State;

7 “(B) enter into a written agreement with
8 a hunger-serving organization providing that
9 the State and the hunger-serving organization
10 will work together to ensure that apparently
11 wholesome food (as defined in section 22(b) of
12 the Bill Emerson Good Samaritan Food Dona-
13 tion Act (42 U.S.C. 1791(b)) provided to the
14 State for the project is redistributed to the hun-
15 ger-serving organization for provision to people
16 in need of food; and

17 “(C) have in place a written end-product
18 recycling plan that—

19 “(i) provides for the use of the mate-
20 rial resulting from the project, in accord-
21 ance with guidelines that the Adminis-
22 trator shall establish; and

23 “(ii) ensures that the use of the mate-
24 rial resulting from the project does not cre-
25 ate an environmental hazard.

1 “(3) LIMITATION.—A grant under subsection
2 (a) may not be used for an anaerobic digester that
3 uses solely manure as undigested biomass.

4 “(4) PREFERENCE.—The Secretary shall give
5 preference to grants under subsection (a) for anaerobic
6 digesters that use primarily nonedible food, crop
7 waste, or nonedible food and crop waste as
8 undigested biomass.

9 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
10 is authorized to be appropriated to carry out this section
11 \$100,000,000 for each fiscal year.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 for the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)
14 is amended by inserting after the item relating to section
15 7010 the following:

“Sec. 7011. Grants for composting and anaerobic digestion food waste-to-energy projects.”.

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

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

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

3 (1) shall—

4 (A) assess the extent to which the esti-
5 mates described in that subsection provide a
6 valid benchmark for the amount and value of
7 postharvest food loss and waste in the United
8 States;

9 (B) evaluate the reliability of the data, and
10 the validity and accuracy of the assumptions
11 and models, underlying the estimates; and

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

14 (2) if the Comptroller General determines that
15 the estimates described in that subsection are invalid
16 under paragraph (1)(A), may conduct an estimate of
17 postharvest food loss and waste in the United
18 States.

○