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ACHIEVING ZERO FOOD WASTE

A State Policy Toolkit: Building and Broadening Organic Waste Bans and Beyond

MAY 2023

ZERO FOOD WASTE COALITION

This is a product of the Zero Food Waste Coalition. ZFWC brings consumers, businesses, and government together to build momentum and alignment on food waste policy.

AUTHORS The authors of this report are Emily M. Broad Leib, Molly Cohen, Tori Oto, Henry Cordova, Sophie DeBode, Rebecca Dixon, Elena Klonoski, Noelle Musolino, and Jasmine Norris of the Harvard Law School Food Law and Policy Clinic (FLPC), along with Yvette Cabrera, Andrea Collins, Darby Hoover, Madeline Keating, and Nina Sevilla of NRDC (Natural Resources Defense Council), Dana Gunders of ReFED, and Renee Albrecht, Stephanie Cappa, Alex Nichols-Vinueza, and Pete Pearson of the World Wildlife Fund (WWF). FLPC, NRDC, ReFED, and WWF are all founding members of the Zero Food Waste Coalition.

ACKNOWLEDGEMENTS This report would not have been possible without the advice and support of the many individuals and organizations with whom we discussed the ideas provided herein or who provided input and feedback on our drafts, including Linda Breggin (Environmental Law Institute), Frank Franciosi (U.S. Composting Council), Nora Goldstein (BioCycle), Sophia Jones (Institute for Local Self-Reliance), Eddie Oliver (Federation of Virginia Food Banks), Brenda Platt (Institute for Local Self-Reliance), Coryanne Mansell (Center for EcoTechnology (CET)), Lorenzo Macaluso (CET), Holly Yanai (Divert), Josh Kelly (State of Vermont), Kyle Pogue (CalRecycle), Timothy Hall (CalRecycle), Danielle Osborne (CalRecycle), Justin Kamine (Do Good Foods), Thomas MacQuillan (Do Good Foods), Tyler Jameson (Mill), Scott Smithline (Mill), Lou Pieh (Mill), Melissa Prescott (Case Western Reserve University), Kaitlyn Harper (Johns Hopkins Bloomberg School of Public Health), Kyle Endres (We Don't Waste), Allison Hoffman (We Don't Waste), Cassie Bartholomew (StopWaste), and Becky Silva (California Association of Food Banks).

About the Harvard Law School Food Law and Policy Clinic FLPC serves partner organizations and communities in the United States and around the world by providing guidance on cutting-edge food system issues, while engaging law students in the practice of food law and policy. FLPC is committed to advancing a cross-sector, multi-disciplinary and inclusive approach to its work, building partnerships with academic institutions, government agencies, non-profit organizations, private sector actors, and civil society with expertise in public health, the environment, and the economy. FLPC's work focuses on increasing access to healthy foods, supporting sustainable and equitable food production, reducing waste of healthy, wholesome food, and promoting community-led food system change. For more information, visit www.chlpi.org/FLPC.

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About ReFED ReFED is a national nonprofit working to end food loss and waste across the food system by advancing data-driven solutions to the problem. We leverage data and insights to highlight supply chain inefficiencies and economic opportunities; mobilize and connect supporters to take targeted action; and catalyze capital to spur innovation and scale high-impact initiatives. Our goal is a sustainable, resilient, and inclusive food system that optimizes environmental resources, minimizes climate impacts, and makes the best use of the food we grow. To learn more about solutions to reduce food waste, please visit www.refed.org.

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This report is one of six sections from *Achieving Zero Food Waste: A State Policy Toolkit*. The full version of the report is available at https://zerofoodwastecoalition.org/state-toolkit/. The chart below includes the full list of the policies in the master report, with the policies contained within this report highlighted.

Policy	Model State
Building and Broadening Organic Waste Bans and Beyond	
Organic Waste Bans	Vermont
Food Donation Requirements	California, New York
Mandatory Reporting	NRDC model legislation
Disposal Surcharge Fees	ILSR model legislation
Opportunities to Promote Food Donation	
Liability Protection	New Jersey
Tax Incentives	California
Food Safety	Texas
Supporting Organic Waste Processing Infrastructure	
Permitting and Zoning Composting Facilities	Maryland, Ohio
Animal Feed	—
Developing End Markets for Compost	
Compost Procurement	Washington
Compost Application	California
Preventing Food Waste Upstream	
Date Labeling	—
Other Governmental Action to Address Food Waste	
K-12 Schools	Rhode Island, Maryland
Climate and Solid Waste Plans	New Jersey
Other Government Support	—

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INTRODUCTION

Approximately 38% of food in the United States goes unsold or uneaten.[1] The mountain of wasted food totals 91 million tons annually,[2] which is equivalent to the weight of approximately 219 Empire State Buildings.[3] Most of this wasted food goes to landfills, incinerators, or sewers or is left on farm fields to rot.[4] Households, food producers, and other businesses in the United States spend $444 billion each year to grow, process, transport, and dispose of food that ultimately is never eaten.[5]

Food is wasted at all levels of the food system—in farms, grocery stores, restaurants, and homes—and this waste has serious environmental and societal consequences. Producing food that ends up uneaten consumes 22% of all freshwater, 19% of all fertilizer, and 16% of all cropland in the United States.[6] Food waste generates about 270 million metric tons of CO_2 equivalent greenhouse gas emissions each year, roughly equivalent to the annual emissions from 58 million passenger vehicles.[7] But the negative consequences of wasting food extend beyond the environmental impacts and loss of resources that could have been otherwise allocated. More than 1 in 10 Americans suffer from food insecurity despite the abundance produced by our farms and factories.[8]

With the Nation's goal of cutting food waste by 50% by the year 2030,[9] state leaders are at the vanguard of the movement, crafting policies to address food waste and reaping the environmental, social, and economic benefits. Further, though the federal government can take many vital steps to reduce food waste through regulations and funding, state governments, as the primary regulators of municipal solid waste, have at their disposal several unique policy options which would be difficult to implement under federal law.

State governments have sought to address food waste by banning organic waste from landfills, mandating or promoting surplus food donation, supporting food recovery and composting infrastructure, and re-evaluating how schools handle food waste. States that have implemented these policies have done so through processes of identifying local problems and rigorous experimentation to craft effective and innovative solutions. While the methods employed by states vary, they provide an array of experiences with food waste reduction upon which other states and the federal government can now draw.

CONTENTS OF THE TOOLKIT

State leaders are advancing efforts to tackle food waste across the United States—responding to consumer demand, creating jobs and economic opportunities, ensuring food makes it to those experiencing food insecurity, and addressing environmental harms and climate change. This toolkit seeks to similarly embolden officials and advocates from across the country to learn from others' successes and accelerate their own leadership and impact. To do so, this toolkit contains a range of tried and tested policy opportunities that states can use to prevent food waste and keep food out of landfills and incinerators. The target audience for this toolkit is state policymakers and advocates—whether their interest stems from concerns around climate change and environmental sustainability, financial responsibility, increasing food rescue, or finding opportunities to support local farmers,

all of which can be achieved through policies described in this toolkit. While this toolkit was drafted with this audience in mind, it may also be helpful to a wide range of individuals and groups interested in enacting legislation to tackle food waste at the local, state, or federal level (see Federal Actions on Food Waste text box below for recent federal activity around food waste).

FEDERAL ACTIONS ON FOOD WASTE

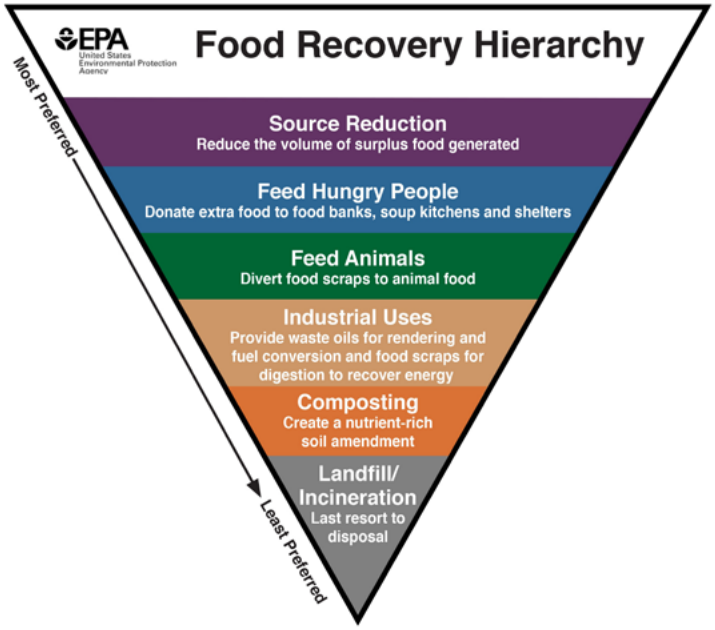
In addition to advocacy on the state and local level, the Harvard Law School Food Law & Policy Clinic (FLPC), NRDC (Natural Resources Defense Council), ReFED, and World Wildlife Fund (WWF) have done significant joint work on federal policies to prevent and reduce food waste. In April 2023, FLPC, NRDC, ReFED, and WWF formalized their partnership and created the Zero Food Waste Coalition.[10] The Coalition builds momentum and alignment on food waste policy. In April 2021, the four organizations, along with many private sector supporters, local government agencies, and non-profit organizations—published the U.S. Food Loss & Waste Policy Action Plan for Congress & the Administration (Action Plan).[11] The Action Plan calls upon Congress and the Biden administration to take ambitious action to achieve the goal of cutting U.S. food loss and waste in half by 2030. It recommends five key policy actions ranging from investing in infrastructure and programs that measure and prevent food waste to standardizing date labeling at the federal level. For more details, please see the U.S. Food Loss and Waste Action Plan for Congress & the Administration.[12]

In April 2022, FLPC, NRDC, ReFED, and WWF followed up on the Action Plan with Opportunities to Reduce Food Waste in the 2023 Farm Bill, a report which contains 22 detailed recommendations for how the 2023 Farm Bill can curb food waste, with a focus on opportunities to prevent food waste, recover surplus food, promote food waste recycling, and enhance coordination in food waste prevention efforts. The report includes legislative priorities such as standardizing date labels, creating a national education campaign around food waste, funding policies and programs to support organic waste recycling, and funding new positions to promote food waste prevention efforts at USDA and across government agencies. Many of the recommendations in the report are federal corollaries to state policies included in this toolkit; for example, improving federal tax incentives for food donation, and incentivizing compost application. Federal, state, and local governments must work together to tackle food waste. State and local governments can work together to serve as innovators, testing initiatives on small scales and tackling policies under their control. While the federal government can legislate in areas where uniform standards are essential, as with date labeling.

HOW TO USE THIS TOOLKIT

The toolkit introduces a wide range of policies that states can implement to address food waste. For each policy, it includes background on the issue, explains the need for the policy, describes any relevant federal legislation, outlines best practices for the state policy, and offers an example of existing or proposed state law that incorporates many of these best practices. The Appendix includes model legislative language for each featured policy that states can use as a starting point to develop and pass their own policies. Some models are completely finalized, whereas others include options and comments to help guide states to tailor the policy to fit their unique circumstances while still achieving the policy goals. In some instances, our organizations have drafted the legislation together, while in other instances we have included model legislation drafted by other organizations. This toolkit was designed to enable users to jump to the sections that will be most useful to them. The toolkit makes frequent use of cross-references to refer readers to other sections of the toolkit that cover related information.

The toolkit begins with the policies that are most effective at reducing food waste disposal—organic waste bans and related policies that restrict the disposal of food waste in landfills or incinerators. Organic waste disposal bans result in significant economic, social, and environmental benefits, including the reduction of food waste generation and increase in food donation, in addition to the expected increase in organic waste recycling.[13] While all the policies introduced in this toolkit are beneficial, policies that ban organic waste from going into landfills will likely be the most impactful at diverting food waste from disposal.



It also takes significant effort to get these policies passed and implemented, while also ensuring that compliance includes food waste prevention and food rescue and does not focus solely on organics recycling. For states that are not ready to pass organic waste bans, there are still significant steps they can take to move the needle on food waste, including promoting food donation, supporting composting infrastructure and compost end markets, and addressing food waste in schools.

While reading and using this toolkit, readers should keep the Environmental Protection Agency's (EPA) food recovery hierarchy in mind.[14] The hierarchy focuses on different management strategies for food waste, starting with a base built on food waste prevention. It then moves to feeding hungry people, feeding animals, diverting food waste to industrial uses, and lastly diverting food waste for composting. Readers should consider how the hierarchy aligns with various policies and how to shape policies according to the hierarchy to maximize impact.

Each policy will have different impacts on different aspects of the food system, including environmental and social aspects. The types of impacts and outcomes of the policy will change who the natural constituencies and advocates are for a particular policy as well as the strategies for coalition building to inform and support that policy. For example, tax incentives for food donations will increase food rescue, meaning that food recovery organizations, food banks, and anti-hunger advocates are likely to be natural allies, and it will also reduce the financial costs associated with disposing of surplus food, meaning that food businesses, such as retailers, restaurants, processors, and distributors, may also support the efforts. Wherever possible, states should involve potentially affected stakeholders in crafting legislation and amending policies.

This toolkit is composed of six sections that each contain a range of potential policy solutions that a state could pass and implement to address food waste. While each section deals with a specific category of policies, these policies do at times intersect, and the toolkit includes cross-references to other sections to highlight this overlap.

Section I: Building and Broadening Organic Waste Bans and Beyond

This section introduces policies to eliminate food waste from landfills. These policies include organic waste bans and mandatory organics recycling laws, food donation requirements, mandatory reporting laws that require entities to report on food waste generation to help develop data to support organic waste bans or planning for recycling infrastructure, and disposal surcharge fees that raise revenue for food waste diversion efforts like organic waste bans. This section includes:

- **Organic Waste Bans:** This subsection explores state laws that ban disposal of food scraps in landfills and incinerators, looking to Vermont as a model.
- **Food Donation Requirements:** This subsection explores state laws that ban disposal of food scraps in landfills and incinerators and require surplus food be donated as a way to reduce food waste. It looks specifically to the organic waste bans in California and New York as models.
- **Mandatory Reporting Laws:** This subsection outlines the potential for laws that require reporting by food waste generators, highlighting NRDC and the Environmental Law Institute's model legislation.
- **Disposal Surcharge Fees:** This subsection explores disposal surcharges that charge fees per ton of waste landfilled or incinerated to generate revenue for food waste diversion and other recycling efforts, relying on model legislation drafted by the Institute for Local Self-Reliance and using an introduced Maryland bill as a model.

Section II: Opportunities to Promote Food Donation

This section introduces policies that can promote and incentivize the donation of food (aside from donation requirements highlighted in Section 1), including tax incentives, liability protection, and food safety for food donation. This section includes:

- **Liability Protections for Food Donation:** This subsection describes the federal Bill Emerson Good Samaritan Food Donation Act,[15] as amended by the Food Donation Improvement Act,[16] which provides liability protections to food donors, and suggests methods for states to expand liability protection for food donations, using New Jersey's law as a model.
- **Tax Incentives for Food Donation:** This subsection presents current federal tax incentives for food donors and delves into opportunities for states to expand tax incentives as a mechanism to spur food donation, looking specifically at the tax incentives adopted in California as an example.
- **Food Safety Guidance for Food Donation:** This subsection explores the complexity of food safety regulations and the roles of federal and state governments in breaking down barriers to food donation presented by unclear food safety regulations, using Texas regulations as a model policy.

Section III: Supporting Organic Waste Processing Infrastructure

This section introduces a policy that can help states support and develop composting infrastructure to ensure there is sufficient capacity to recycle food scraps. This section includes:

- **Permitting and Zoning for Composting and Anaerobic Digestion Facilities:** This subsection explores opportunities for states to improve composting infrastructure by directing regulatory agencies to streamline permitting and zoning for composting facilities, using Maryland and Ohio EPA guidance as a model for some of the key components.
- **Recycling Food Scraps into Animal Feed:** This subsection briefly walks through the history of how this beneficial practice has become heavily regulated. This section suggests eliminating state laws that restrict or unnecessarily burden those who wish to develop businesses that repurpose food scraps into profitable animal feeds, and further recommends providing informational and monetary support to those businesses.

Section IV: Developing End Markets for Compost

This section introduces policies that can help states support end markets for finished compost products resulting from composting food scraps, to make the financial case for increased recycling of food scraps. This section includes:

- **Compost Procurement:** This subsection explores compost procurement policies where states commit to purchasing local compost for their needs in order to support the market for compost, using Washington State's compost procurement law and the NRDC and Environmental Law Institute's drafted model as examples.
- **Incentivize Compost Application:** This subsection highlights opportunities for states to incentivize the application of compost to improve soil health, sequester greenhouse gasses, and support compost end markets, using California's Healthy Soils Program as a model.

Section V: Preventing Food Waste Upstream

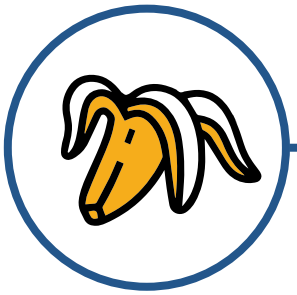
This section outlines policies to prevent food waste upstream, including reforming date labels to prevent safe, wholesome food from being thrown away due to confusion. This section includes:

- **Date Labeling:** This subsection explains what date labels mean and suggests how state governments can strengthen their date labeling laws to reduce consumer confusion and prevent food waste, using a bill introduced in Massachusetts as a model.

Section VI: Other Governmental Action to Address Food Waste

This section outlines other governmental policies and actions that states can take to reduce food waste, including food waste efforts in K-12 schools, climate and solid waste action plans, and government grants and support. This section includes:

- **Food Waste Reduction in K-12 Schools:** This subsection discusses the policies that states, municipalities, school districts, and schools can implement to decrease food waste, using Rhode Island's legislation related to food waste in K-12 schools to demonstrate legislative steps taken to enact such change.
- **Climate and Solid Waste Plans:** This subsection explores the potential to include food waste reduction targets and actions in climate action plans and solid waste management plans, using New Jersey's climate plan as a model.
- **Government Support for Food Waste Reduction:** This subsection explores federal and state government support for food waste reduction via funding and education.



SECTION I

BUILDING AND BROADENING ORGANIC WASTE BANS AND BEYOND

Policies that restrict sending food to landfill, and particularly organic waste bans (including both disposal bans and mandatory waste recycling laws) and related food donation requirements, are the most effective tool states have to keep food out of landfills and incinerators because, simply put, they ban food waste generators from disposing of food in landfills or incinerators or divert disposal by mandating that generators recycle or donate food.

Organic waste bans and similar policies are spreading across the country.[17] Currently, nine states and ten localities have some form of an organic waste ban, waste recycling law, or donation requirement, and there is growing interest in the practice.[18] While these policies require infrastructure and effort on the state level with associated costs, they also have the potential to spur economic development. For example, a study of the impact of Massachusetts' organic waste ban found that the policy created over 500 jobs and stimulated $175 million in economic activity during its first two years.[19]

States have taken two general pathways towards preventing food disposal: (1) standard organic waste bans, which include both disposal bans that prohibit covered entities from sending organic waste to the landfill as well as mandatory organics recycling laws which require covered entities to subscribe to an organics collection service or send food waste to a compost or anaerobic digestion facility, and (2) organic waste bans with a donation requirement, which, in addition to the disposal ban in option (1), require the donation of all or some portion of edible surplus food. Because these pathways are somewhat distinct, this toolkit describes them as separate policies though there is significant overlap in terms of drafting, advocacy tactics, and outcomes.

Standard organic waste bans, such as Vermont's policy, focus primarily on restricting disposal of food in landfills and incinerators. In contrast, organic waste bans that include food donation requirements, such as California's and New York's policies, mandate that some generators donate surplus food to those in need. Each of these policies has strengths—standard organic waste bans can be the fastest and most straightforward policy to reduce disposed food, whereas donation requirements can ensure surplus food goes to its highest use according to the food recovery hierarchy: feeding people. The sections below describe the two policies in depth.

Because organic waste bans and food donation requirements are significant endeavors, there are steps that states can take along the way to help plan for and fund these policies. This section also includes details on two other steppingstones: (1) mandatory reporting laws, which require businesses and other organizations to report on

the amount of food waste they generate, and (2) disposal surcharges, which charge a per ton fee for solid waste disposal that can be used to fund diversion activities. Both are concrete steps to build the capacity necessary to implement an organic waste ban. There are other policies later in the toolkit that can similarly support organic waste bans or food donation requirements including Liability Protections for Food Donation, Tax Incentives for Food Donation, Permitting and Zoning for Composting and Anaerobic Digestion Facilities, and Section IV, Developing End Markets for Compost.

ORGANIC WASTE BANS

INTRODUCTION

As noted above, organic waste bans are a category of laws and regulatory requirements that restrict the amount of organic waste or food waste that can be disposed of in landfills or incinerators and/or require that food waste generators divert organic waste. Organic waste bans are one of the most effective tools policymakers have at their disposal to change the way businesses and consumers manage and value their organic waste. State government studies show that the benefits of waste bans include job creation and emissions reduction.[20]

The first pathway for organic waste bans simply restricts generators from disposing food waste in landfills but does not require excess food be donated. The strictest version of an organic waste ban was passed in Vermont. The Vermont law eliminated compliance thresholds based on business size or volume of waste (meaning the waste ban applies to all individuals in the state, not just the largest food waste generators), does not include exemptions based on distance or cost, and requires commercial composting.[21] In general, standard organic waste bans, like Vermont's, are more straightforward to develop, implement, and enforce than those that also include donation requirements. Donation requirements add another regulatory layer specifically dictating what happens to surplus food. Though standard organic waste bans do not mandate donation, they can still help encourage food businesses to keep food out of the waste stream and instead commit it to higher uses, like donation. For other policies that states can enact to encourage donation, see Section II: Opportunities to Promote Food Donation. Of the nine states that currently have organic waste bans, seven have standard organic waste bans that do not include donation requirements.

While the federal government can support these policies via funding, state and local governments regulate municipal solid waste and are responsible for passing and implementing organic waste bans and donation requirements (whereas the federal government sets standards for hazardous waste). The following section provides an overview of federal government support related to organic waste bans and then highlights best practices for standard organic waste bans, with a focus on Vermont as a model.

FEDERAL LAW

While organic waste bans and mandatory recycling laws are instituted at the state or local level, the federal government can support such laws through grant funding allocated to food waste

reduction. For example, communities may need to construct composting or anaerobic digestion facilities.[22] Federal funding sources include the U.S. Department of Agriculture's (USDA) Rural Energy for America Program, which allows agricultural producers and rural businesses to apply for funding to purchase or install renewable energy systems, including anaerobic digester systems.[23] Additionally, the 2018 Farm Bill included a new Community Compost and Food Waste Reduction pilot program, which provides up to $25 million in annual grant funding to localities in at least 10 states to develop and implement organic waste or food waste reduction projects.[24] The program also prioritizes returning compost to local farms to help develop more circular economies.[25]

MODEL STATE LAW

Organic waste bans are increasing in popularity, and currently nine states and ten localities have policies in place. Of these nine states, seven are implementing standard organic waste bans that do not include donation components. Connecticut, Massachusetts, New York, Rhode Island, New Jersey, Maryland, Vermont, Washington, and California have all adopted state organic waste bans in the past decade.[26] The waste bans in New York and California include donation components, and Washington's legislation includes a donation target, which has yet to be implemented through regulations.[27] However, the design of each law differs in ways that impact the reach and effect of the law on reducing food waste and promoting food donation. These laws often vary in terms of which entities are covered, how much organic waste an entity must produce to be covered, and whether exceptions or waivers exist (based on geographic, financial, or other considerations).[28] As a general rule, the more types of entities covered, the lower the baseline to be considered a covered entity, and the fewer waivers or exceptions granted, the stronger the policy will be.[29] However, stricter requirements may be more politically difficult to pass and harder to implement in practice. In general, a successful state organic waste ban should:

- **Apply a tiered and phased-in approach:** A phased-in approach, with different dates on which waste generators are subject to the law's provisions, allows generators and jurisdictions time to prepare and build the recycling infrastructure necessary to implement these laws. Often policies include thresholds for the amount of waste that entities must generate to be covered, and these thresholds reduce over time to cover more generators. For example, Maryland's organic waste ban covers generators that produce more than two tons of food waste per week starting January 1, 2023, and this threshold decreases to one ton of food waste per week in January 2024.[30] Other states may tie threshold decreases to the state's ability to meet overall waste diversion goals. For example, Massachusetts's Department of Environmental Protection passed regulations to reduce its organic waste ban threshold from one to half a ton per week of food waste to help meet overall waste reduction goals.[31] Lastly, policies could eliminate thresholds over time and cover all generators. For example, Vermont's organic waste ban created a process that gradually reduced its coverage threshold before eventually phasing in all generators that produce any amount of food waste, including residences, in 2020, effectively banning all food scraps from the landfill.[32] Vermont is the only state with an organic waste ban that goes down to the residential level. Additionally, Vermont's

law mandates a food scrap collection service at waste facilities and requires food scrap haulers to offer their services to non-residential customers and apartments of four units or more if no other hauler offers that service.[33]

- **Grant only limited waivers and exemptions, if at all:** Some organic waste bans include exemptions based on industry type (e.g., hospitals, schools), geographic proximity to processing facility, or cost, whereas others offer waivers if the requirements would cause "undue hardship." While many laws include these waivers and exemptions, laws that do not provide them or rarely provide them will be most effective at maximizing compliance and thus increasing the amount of food diverted from disposal. While Vermont's Universal Recycling Law initially included a geographic waiver to cover only generators located within 20 miles of a composting facility, in 2020 this exemption was phased out.[34] Additionally, rather than relying on a waiver, governments could consider additional incentives and support to increase compliance.
- **Delegate implementation, specify enforcement authority, and promote outreach to generators:** The law should designate enforcement and regulatory authority to implement the law to a state department, usually the department responsible for managing organic waste or environmental protection. To maintain consistency across the state, this authority should be delegated to a state department, as opposed to a county or municipal authority. When structuring the law's implementation and enforcement, the authorized state department should solicit input from local and regional business and government entities that will be impacted by relevant policies or regulations. States should provide outreach, sector-specific guidance, resources to build industry buy-in and support compliance, and education on organic waste bans, including who must comply and how to comply. Before resorting to traditional enforcement mechanisms, such as fines, states should encourage compliance through outreach and education. For example, in Massachusetts, RecyclingWorks MA offers sector-specific compliance tips for various industries, including food manufacturers and restaurants.[35] Massachusetts also provides a food waste estimation guide that offers guidance and methodology, broken down by industry, to determine whether entities are subject to the state's organic waste ban.[36] Alternatively, New York publishes a list of all the organizations subject to the state's organic waste ban.[37]
- **Provide grants for food waste reduction efforts:** States can offer grants to fund food waste prevention, food rescue, and projects to enhance the viability of organic waste bans, such as supporting the development of composting, anaerobic digestion, food rescue, or on-farm organics recycling infrastructure. For example, the Massachusetts Department of Environmental Protection administers a grant program to fund recycling and composting equipment, school recycling, and organics capacity development projects.[38] States can also provide food rescue infrastructure grants, such as grants for farmers and food recovery organizations to facilitate value-added processing for surplus foods that would otherwise be tilled under or left in the field. For example, the California Department of Resources Recycling and Recovery (CalRecycle) administers the Organics Grant program, which provides funding for composting infrastructure and food waste prevention and recovery.[39] CalRecycle also

administers the Edible Food Recovery Grant Program to fund food recovery and food waste prevention projects.[40]

Vermont's Universal Recycling Law, passed in 2012, can serve as a model for a standard organic waste ban, as it includes many of the best practices outlined above. The food scraps provisions of the Universal Recycling Law require covered waste generators to source separate food scraps and send them to facilities that manage them in an approved manner. The law includes the following elements:

- **Creating a disposal ban:** Though the law encourages management of food scraps in accordance with Vermont's food recovery hierarchy which outlines priority uses,[41] it does not require any specific sort of food recovery or recycling.
- **Covering all generators:** Unlike all other state organic waste bans, Vermont's food scrap ban was designed to eventually cover all individuals in addition to commercial food waste generators.[42] The law covers individuals, businesses, corporations, and public entities, and it phased in organizations at lower thresholds of food waste generation over time.
- **Taking a phased approach:** The law first took effect on July 1, 2014, at which time it covered only entities generating more than 104 tons per year of food scraps.[43] The threshold amount of waste dropped to 52 tons per year on July 1, 2015, 26 tons per year on July 1, 2016, and 18 tons per year on July 1, 2017.[44]
- **Eliminating distance exemptions:** Prior to 2020, businesses and households were exempt from the ban if they were located more than 20 miles from an organics processing facility that accepts food scraps.[45] As of July 1, 2020, the law covers all generators of food waste, regardless of the amount they generate or distance from an organics processing facility.[46]
- **Focusing on outreach and awareness for enforcement:** The law provides that violators can be fined up to $25,000 and face six months in prison.[47] However, the state has focused thus far on outreach, awareness, and voluntary compliance and has not issued any fines to date.[48] To support voluntary compliance, the law mandates a coordinated education and outreach plan.[49]

See Appendix A for model legislation for a standard organic waste ban.

FOOD DONATION REQUIREMENTS

INTRODUCTION

While most organic waste bans enacted to date follow the model of disposal bans or mandatory recycling laws, described in the previous section, newer policies in California and New York also include food donation requirements.[50] As the name suggests, food donation requirements mandate that certain generators of surplus food redirect safe food to people or other recovery and recycling pathways rather than disposal. Globally, a few countries like the Czech Republic,[51] Ecuador,[52] France,[53] Peru,[54] and Poland[55] have donation requirements, and though this policy is still novel, it is being adopted slowly across the United States. California and New York have recently begun implementing food donation requirements and goals alongside organic waste ban policies, and Washington's organic waste ban includes a food donation target,[56] though it is not yet clear how it will be implemented and whether there will be

a donation requirement to achieve this goal. It is important to note that these states include food donation as a component of a broader organic waste ban, compared to globally where countries have implemented donation requirements as standalone policies.

Food donation requirements are beneficial in that they ensure food is put to the highest and best use, but they also can be complicated. Mandating food donation is hugely impactful not only for diverting waste from disposal and incineration, but also for feeding people, supporting food rescue, and changing the culture around food waste. That said, donation requirements are complicated to implement and require significant effort and funding, particularly to build up food rescue capacity. Given the complexity, California engaged stakeholders for nearly four years to develop and finalize their regulations.[57] The California and New York models and regulations can serve as a foundation for other states and may help reduce the associated regulatory start-up costs, though there will still be significant implementation and enforcement activity required. The following section provides an overview of federal government support related to donation requirements and then highlights best practices, with a focus on California and New York as models.

FEDERAL LAW

As noted above, the federal government can support donation requirements and organic waste bans through grant funding for food waste diversion; for example, the Community Compost and Food Waste Reduction pilot program provides funding for local food waste and compost projects.[58] The federal government can also support these policies through infrastructure investments. For example, in June 2021, the USDA announced a one-time infrastructure investment of up to $100 million in food recovery infrastructure grants for food assistance organizations, particularly those that reach underserved areas.[59] The grants can be used for efforts such as developing storage and refrigeration capacity and paying staff, allowing these organizations to rescue more food and feed more people.[60] Additionally, the federal Bill Emerson Good Samaritan Food Donation Act[61] provides critical liability protection to food donors (for more details see Liability Protection for Food Donations), and donors can also take advantage of federal and state (if applicable) tax incentives for donated food (for more details see Tax Incentives for Food Donation).

MODEL STATE LAW

While growing globally, food donation requirements are still novel policies in the United States. Currently, both California and New York include donation requirements as part of their broader organic waste bans. The donation requirements in both states first went into effect January 1, 2022, so as of the date of this report there is limited implementation data to inform best practices. Additionally, Washington's HB1799, passed March 8, 2022, includes a donation target, though it is unclear how it will be implemented when the law goes into effect January 1, 2024, as regulations have not yet been released. Despite the newness of these policies, best practices are emerging, and future food donation requirements should:

- **Require donation of food that meets health and safety requirements and recycling of any remaining food scraps:** To ensure that

food goes to its highest use, human consumption,[62] surplus food that meets local health and safety requirements should be donated to food recovery organizations and ultimately people. To ensure the maximum amount of waste is diverted, a law should then require that any remaining food scraps, either those that are not fit for human consumption or that food recovery organizations reject (for reasons such as that the food is spoiled or is not nutritious or desirable), be sent to organics recycling. An example of a state with such a requirement is New York, where covered entities—businesses and institutions that generate an average of two tons of unused food per week—must first donate surplus food and then recycle all remaining food scraps.[63]

- **Apply a tiered and phased-in approach:** As with standard organic waste bans, a phased-in approach with different dates on which food waste generators are subject to the provisions of the law allows generators and jurisdictions time to build and fund the food recovery infrastructure necessary for implementation. A tiered approach also allows more time for education and outreach to generators in later tiers, which may consist of generators with less experience in recovering food and often include generators of prepared foods, recovery of which involves additional food handling requirements. California's approach with its food donation requirements provides an illustrative example.[64] As of January 2022, Tier One edible food generators—including supermarkets, grocery stores, food service providers, food distributors, and wholesale food vendors—are required to comply with California's food donation requirements.[65] By 2024, Tier Two edible food generators—including restaurants with over 250 seats, certain hotels, health facilities, large venues, large events, state agency cafeterias, and local agencies with on-site food facilities—must comply as well.[66]
- **Perform capacity planning and provide grants for food recovery organizations:** A donation requirement will benefit some food recovery organizations, but it may also burden food recovery organizations with more limited capacity. Many smaller food recovery organizations are independent from larger food banks and rely heavily on volunteers, and their costs have been rising due to increasing fuel and staffing costs. To ensure that the state has sufficient food recovery infrastructure, it should undergo capacity planning. For example, as part of its food donation requirement, California requires counties to estimate the amount of edible food currently disposed by generators as well as recovery capacity within that county based on information requested from their local food recovery organizations and services.[67] Additionally, states should offer grants to support the development of food rescue infrastructure to enhance the viability of food donation requirements. For example, CalRecycle administers the Edible Food Recovery Grant Program and Food Waste Prevention and Rescue Grant Program, and has awarded over $28.8 million to food rescue organizations.[68] These grants go exclusively to projects that reduce the amount of food in landfills.[69] Grants should be tailored to support small food recovery organizations with fewer resources, such as by providing consistent, accessible funding not only for the purchase of equipment and other infrastructure, but also to support on-going overhead costs such as staffing and warehouse space. Importantly, laws should not require food recovery organizations to accept donations that do not meet their internal require-

ments. In addition, California's regulations allow both for-profit food recovery services and nonprofit organizations to contract to recover food from excess food generators as long as the food is ultimately delivered to a charitable food distribution organization.[70]

- **Promote education and outreach:** Food donation requirements should include mandated outreach and education by the relevant state department, with sector-specific guidance and tools to assist with these requirements. This guidance should include specifics on who must comply, how to comply, and resources to build industry buy-in and support compliance. Guidance could clarify legal terms used in legislation. For example, if the legislation requires commercial food generators to separate and donate surplus food to the "maximum extent practicable," state guidance should clarify that this requirement will vary from organization to organization, depending on circumstances and resources. As an example of additional resources the state may provide, CalRecycle offers a number of educational and guidance tools including a list of local food recovery organizations and a model food recovery agreement.[71] CalRecycle also offers a capacity planning calculator to help jurisdictions estimate the amount of edible food that is disposed and the existing capacity available at food recovery organizations.[72] States should also work with municipalities to share educational resources, given the varying educational and resource needs between jurisdictions.
- **Coordinate policy execution with local jurisdictions:** States may wish to delegate certain aspects of implementation to local jurisdictions, such as mandating public education and analyzing donation capacity. However, states should avoid delegating full compliance monitoring and enforcement to municipal jurisdictions, which may make compliance overly burdensome for businesses and food recovery organizations that operate across multiple jurisdictions. Excessive local level regulation may also make innovative food recovery models, such as upcycling businesses, difficult to pursue.
- **Monitor and track outcomes:** Food donation requirements should include the authority to monitor and evaluate participating businesses, institutions, and food recovery organizations for compliance and outcomes through mandatory reporting and/or another enforcement mechanism (like inspection). For example, in California, food recovery organizations (only those food recovery organizations that contract with businesses subject to the food donation requirement regulations) are required to report the pounds of edible food recovered each year to their jurisdiction, which then reports total pounds of edible food recovered up to the state agency.[73] Food generators are required to maintain records of donated food and make those records available for inspection, but are not required by state regulations to report these records, although certain jurisdictions may require such reporting.[74] The model legislation in Appendix B follows California's model, but has food recovery organizations report to the state, as opposed to municipal jurisdictions, to make compliance feasible for food recovery organizations.[75] For more on reporting, see Mandatory Reporting.

Both California and New York state laws are model donation requirement policies that include many of the best practices noted above. These laws can be used as examples for other states looking to implement similar requirements.

California's law, Senate Bill 1383 (SB 1383) passed in 2016 and the implementing regulations[76] drafted by CalRecycle contain many best practices, including:

- **Setting a food recovery target:** The law sets an ambitious state-wide target of recovering 20% of all edible food that would otherwise be sent to disposal to feed people in need by 2025.[77] Though the goal is 20% statewide, certain commercial food generators are required to donate the maximum amount of their excess edible food. The baseline is based off of the overall waste stream, which includes other generators (like households) that do not have edible food recovery requirements often for health, safety, and other practical reasons. This statewide target provided the authority for CalRecycle to implement the food donation requirements via legislation.[78]
- **Phasing in donation requirements:** The regulations take a phased approach, requiring the largest entities which tend to be most experienced with food recovery and donation practices (Tier One) to comply with the donation requirements as of January 1, 2022 and Tier Two Entities to comply as of January 1, 2024.[79]
- **Requiring organics recycling:** The law also requires jurisdictions to provide mandatory organic waste collection for all generators and have the capacity to recycle those organics, with some limited exceptions.[80] Activities that constitute recycling include composting, anaerobic digestion, and animal feed/rendering, among others. Further, it mandates jurisdictions implement residential food scraps collection and composting programs so households can also recycle food waste.[81]
- **Including grants:** CalRecycle offers grants for food recovery practices. It has funded over 100 projects with $28.8 million in total funding through the Edible Food Recovery Grant Program (started in 2021) and Food Waste Prevention and Rescue Grant Program (started in 2017).
- **Delegating educational authority to local jurisdictions:** While it is a statewide law, SB 1383 requires local jurisdictions, including cities and counties, to implement the donation requirement, including educating generators about the requirement and facilitating connections between generators and food recovery organizations.[82]

In New York, the Food Donation and Food Scraps Recycling Law, effective January 1, 2022, and its implementing regulations[83] also incorporate many best practices, including:

- **Mandating donation:** The law requires that designated food scraps generators separate excess edible food for donation to food relief organizations to the "maximum extent practicable."[84] Food scraps that cannot be donated must be recycled.[85]
- **Covering a broad range of entities:** The law defines food scraps generators as businesses and entities that generate an average of two tons of unused food per week[86] (with some notable exceptions),[87] except supermarkets, which are covered regardless of the amount of food waste generated.[88]
- **Requiring outreach and education:** Finally, it directs the New York Department of Environmental Conservation to develop educational materials to assist food waste generators as well as materials on food waste minimization for municipalities to distribute.[89]

See Appendix B for model legislation for a food donation requirement.

MANDATORY REPORTING

INTRODUCTION

Measurement is necessary for management, and food loss and waste is currently under-measured. This impacts states' ability to understand and address the issue through policies like organic waste bans or donation requirements. A statewide mandatory reporting law would require large businesses and organizations to report the amount of surplus food and food waste that they generate.[90] The data collected from mandatory reporting can help states establish a baseline of how much surplus food and food waste is generated within their state and which generators are most responsible. This data can then create the foundation for targeted waste diversion requirements.[91] Additionally, measuring and tracking food waste through a mandatory reporting law would increase both organizational and public awareness of food waste as a major environmental and social issue.[92] This increased awareness of food waste can build general support for waste diversion requirements, as well as motivate individuals and businesses to implement their own waste reduction efforts due to reputational concerns.[93] For example, the year that Sodexo at Good Samaritan Medical Center in Lafayette, Colorado started using food-tracking technology, the company reduced its food waste by 25%, or 6,290 pounds.[94] Similarly, IKEA has started using food waste-tracking technology through the vendors LeanPath and Winnow Solutions and saved over four million meals in just over two years.[95]

Currently, no states or localities have standalone mandatory reporting laws around food waste, though several states' organic waste ban laws include reporting components. Internationally, the Courtauld Commitment in the United Kingdom is a voluntary agreement around food waste that provides guidance and protocols on food waste reporting and encourages participants to track and report on their food waste.[96] The following section highlights best practices for mandatory reporting, with a focus on model legislation drafted by NRDC and the Environmental Law Institute (ELI).

FEDERAL LAW

There are no federal laws that address mandatory reporting of food waste.

MODEL STATE LAW

While there are currently no standalone local- or state-level food waste mandatory reporting laws, when considering best practices for such laws, states can look at reporting requirements associated with existing organic waste bans and donation requirements[97] as well as reporting requirements for other substances (e.g., California's regulations around hazardous waste),[98] and international models. For example, starting in 2023, New York's food donation regulations require businesses to report annually on the pounds of food donated and recycled, including details on types of food donated and challenges associated with food donation and recycling.[99] Similarly, California SB 1383 regulations require covered food waste generators to keep records on the quantity of food donated, the list of food recovery organizations donated to, and the schedules of food donation deliveries or collections.[100] A successful mandatory reporting law should incorporate the following best practices:

- **Limiting covered entities:** To minimize impact on small businesses and organizations and to prioritize the largest generators, states should require reporting only from the largest businesses, nonprofit organizations, and public sector entities that handle food.[101] States may also choose to limit covered entities by type (e.g., by exempting a given industry), by entity size, or by the quantity of food waste.[102] For example, New York's organic waste ban only covers entities that generate more than two tons of food waste per week and categorically excludes certain organizations, such as hospitals.[103] States may also want to include a waiver process for businesses that might experience undue hardship due to the requirement.[104]
- **Requiring sufficient detail to meet needs:** States should require covered entities to report on food waste with sufficient detail to meet states' strategic and planning needs. For example, a state may request data on total amount of food waste generated, amount donated to food rescue organizations, amount recycled through various methods (such as composting, anaerobic digestion, and animal feed), and amount disposed of in landfills or incinerators, and it may request this data based on food type.[105] Alternatively, some states may choose to collect less data or may add a qualitative component. For example, New York regulations require food waste generators to comment on donation and recycling challenges and any other issues that they would like to communicate to the department.[106] Similarly, California's Code of Regulations requires hazardous waste generators to describe their efforts to reduce the volume and toxicity of the waste that they generated, as well as changes in hazardous waste and volume compared to previous years.[107]
- **Giving flexible methods for quantification and offer support:** States should allow businesses and organizations to select the best quantification method that works for them.[108] This includes direct measurement methods, such as measuring food weight, and approximation methods, such as counting the number of food items in the waste stream, assessing the volume of space occupied by food waste, or utilizing warehouse record books.[109] For example, to help businesses estimate the amount of food waste generated as required under New York State's organic waste ban, the Department of Environmental Conservation provides a link to a Food Waste Estimator Calculator.[110]
- **Educating covered entities and provide compliance assistance:** To ensure that businesses and organizations understand the law and have the necessary resources to comply, states should educate covered entities and provide technical assistance around compliance before the law goes into effect and on an ongoing basis.[111] To prioritize equity, states should focus their outreach on underserved communities, like businesses owned by people of color or immigrants, and should ensure that all outreach material is culturally and linguistically appropriate.[112]

While, as noted above, there are no standalone mandatory reporting laws, NRDC, in conjunction with the Environmental Law Institute, recently published model mandatory reporting legislation for local jurisdictions which can serve as a model for a statewide law. This model legislation was developed after extensive research and stakeholder interviews. The legislation:

- **Requires an annual report:** The model legislation requires covered entities to submit

an annual report to their local municipal department detailing the amounts of surplus food and food waste generated, including the amount of surplus food donated to nonprofit organizations, the amount of food scraps recycled, and the amount of food scraps and surplus food disposed.[113] The amounts, reported in tons or pounds, may either be measured directly or estimated through counting, volume, or record-keeping.[114] In addition to reporting food quantities, the model legislation requires covered entities to provide a qualitative description of any uncertainties surrounding the reported food waste generation, as well as major challenges surrounding food donation and recycling.[115]

- **Mandates technical assistance:** The legislation requires municipalities to provide educational materials and compliance assistance to eligible entities, including translated educational materials to business owners who speak non-English languages.[116]
- **Includes potential for waivers:** The legislation allows covered entities to apply for a waiver from the reporting requirements in any year. Waivers may be granted on a case-by-case basis upon a written finding of undue hardship.

See Appendix C for model legislation for a mandatory reporting requirement.

DISPOSAL SURCHARGE FEES

INTRODUCTION

Used in many states for decades, disposal surcharge fees (sometimes referred to as landfill taxes) are a per-ton fee added by the government to the tipping fees charged at waste disposal sites, such as landfills and incinerators.[117] States implement disposal surcharges to defray general solid waste costs or support waste diversion projects such as composting, recycling, and food recovery.[118] Surcharges, which make it more expensive to throw things away, can incentivize transitioning from disposing of food waste to diversion through prevention, donation, and composting while also mobilizing funding for waste diversion programs. It is often the case that throwing food into landfill is the most financially sound option for food businesses. By increasing the cost of waste disposal, surcharges change that financial balance and push businesses to reconsider their waste processes to waste less food and find alternative pathways for excess food, such as donation or composting. Because surcharges are a self-funding mechanism, they are a crucial tool when new organic waste program funding is a nonstarter or funding gaps impede efforts to increase food waste diversion and recycling.[119]

By charging per ton fees, disposal surcharges help states generate revenue and reduce the amount of food and other waste in landfills.[120] In most states, either private or local government waste haulers pay the surcharge, ranging from $0.50 to $13 per ton, at the disposal site,[121] and waste haulers typically have discretion over whether and how to pass the fee down to consumers (though the New Jersey law requires waste haulers to explicitly list the surcharge as a separate fee in their consumer bills).[122] Increased disposal costs, including those for food waste, can spur generators to change their practices and reduce the amount of waste they send to disposal. At the same time, disposal surcharges generate annual fees for food waste diversion ranging from $4.8 million to over $100

million depending on the size of the state and the amount of the charge—money that can then be invested in efforts to prevent food waste and facilitate diversion by increasing food recovery and composting.[123]

While funding from disposal surcharge fees can be used to fund a wide variety of programs, several states (from a range of political environments) use them specifically to fund waste diversion. Currently eight states—Indiana, Iowa, Minnesota, New Jersey, North Carolina, Ohio, Pennsylvania, and Wisconsin—have disposal surcharges that fund waste diversion efforts.[124] In these states, revenue from disposal surcharge fees is typically housed in a specialized fund, often administered by the state's environmental agency,[125] and funding flows to diversion projects via local governments or grant projects. This funding can then spur economic development. For example, in Indiana, disposal surcharges funded $1.8 million in grant projects to increase recycling infrastructure and expand curbside recycling programs, resulting in 47 new jobs and 85,000 additional tons of recycling.[126] Funding generated from disposal surcharge fees can help support further diversion policies such as Organic Waste Bans, Food Donation Requirements, or organic waste infrastructure (such as that needed for composting, food rescue, and anaerobic digestors). The following section provides an overview of state disposal surcharge fees and highlights best practices for state laws with a focus on a bill introduced in Maryland. The information in this chapter is adapted from research and analysis done by Sophia Jones at the Institute for Local Self-Reliance (ILSR).

FEDERAL LAW

Because disposal surcharges are levied at a state or local level, there are no relevant federal laws.

MODEL STATE LAW

Currently eight states have disposal surcharges that fund waste diversion efforts.[127] Each state law varies in terms of the surcharge fee levied, the structure of the disposal surcharge (e.g., where it is levied), and how the funds can be used. States with less staff capacity may prefer a detailed listing of the types of grant projects funds may be used for, whereas states with more capacity and sophistication may prefer flexibility to allow for more experimentation. While each disposal surcharge and its impact on food waste diversion will necessarily vary depending on a state's needs, best practices include:

- **Committing funds to food waste prevention and diversion efforts:** While many states have disposal surcharge fees, a smaller subset designates this funding for diversion efforts.[128] States should clearly commit these fees to funding food waste prevention, food scrap recycling, and other waste diversion efforts. For example, Alameda County in California uses revenue from its disposal surcharge for projects including comprehensive school and community engagement campaigns on food waste prevention, composting, and healthy soils; implementing carbon farm planning; and food waste reduction initiatives.[129] States can make this commitment legislatively by outlining how the funds should be used and where they should be stored and potentially restricting future funding reallocations.[130]
- **Investing money back into local communities:** Funding generated through disposal

surcharges should be equitably invested back into communities, taking into consideration local priorities and needs. To ensure equity, states should redistribute funds based on county population, publicize and ensure grant program applications are accessible, prioritize local community concerns, and prioritize grant funding for communities impacted by waste pollution. For example, many stakeholders fear that disposal surcharges will increase illegal dumping, so Ohio created a separate grant program,[131] the Recycling and Litter Prevention Grant Program, to combat illegal dumping through litter collection, educational programming, and proper disposal of scrap tires.[132] The grant program is partially funded by the state's disposal surcharge.

- **Revisiting fees periodically:** States should build in flexibility to respond to influences like inflation and changes in waste disposal practices. For example, Maryland's 2022 Solid Waste Disposal and Diversion and On-Farm Composting and Compost Use Bill (HB 1070) (described in greater detail below) requires the state to revisit the fee every five years, at which time it is adjusted in accordance with changes to the consumer price index and evaluated to determine whether any other changes are necessary.[133]

ILSR has drafted a model legislation template for Funding Waste Diversion and On-Farm Composting via a Disposal Surcharge which includes the best practices suggested above.[134] First introduced in February 2022, with the support of ILSR, Maryland Solid Waste Disposal and Diversion and On-Farm Composting and Compost Use House Bill 1139 exemplifies many of the best practices outlined above. The bill, which did not advance in the 2022 session but was reintroduced in February of 2023, would:

- **Create a dedicated fund for food waste diversion:** The bill sets a $2 per ton disposal surcharge and would establish the Waste Reduction Grants Fund.[135] Grants from this fund would be awarded for both the implementation of and education on waste reduction strategies, edible food rescue, on-farm composting and compost use, and minimization of illegal dumping.[136]
- **Include equity in structure of grant program:** Waste diversion county grants would be awarded to local governments and competitive waste diversion grants would be available to covered businesses, farmers and ranchers, schools, and nonprofits.[137] The legislation considers equity in creating the grant program by prioritizing funding for low-income, socially disadvantaged, female, or veteran farmers as well as projects that serve low-income and socially disadvantaged communities.[138]

See Appendix D for model legislation for a disposal surcharge fee.

APPENDICES

MODEL STATE LEGISLATION

Note on definitions: throughout this document we use different definitions based on the models we pulled from and the implications of different words in different contexts. Of course, it is within the discretion of states using this toolkit to opt for different definitions or more standardized definitions as they see fit.

APPENDIX A: ORGANIC WASTE BANS

Section 1. Purpose

Over one-third of food in the United States is wasted, resulting in significant environmental and social harms. Ninety-five percent of food waste is disposed of in landfills or incinerated, and food is typically the largest component by weight of landfill waste, making up 24% on average. Diverting food waste from disposal can help municipalities achieve waste reduction and climate mitigation goals; reduce emissions of methane, a potent greenhouse gas that contributes to climate change and that is emitted from food waste as it decays in landfills; extend the useful life of municipal landfills; and foster economic development through increased compost supplier and processor jobs. Therefore, it is the intent of the legislature to support policies that reduce the amount of food waste going to disposal and support food waste prevention, food recovery, and food scrap recycling efforts.

Section 2. Definitions

a. "Department" means [*Define this as needed for your state and include the state agency responsible for the organic waste ban in your state*].

b. "Food scraps," for purposes of this section, means inedible food, trimmings from the preparation of food, surplus food that is not donated, and food processing waste. "Food scraps" does not include used cooking oil, yellow grease, or any food that is subject to a recall or seizure due to the presence of pathogens.

c. "Surplus food," for the purpose of this section, means food that is not sold or used by a commercial food generator and is still safe to be consumed but would otherwise be disposed of by the generator. Surplus food shall not include unpackaged fresh meat, fish or poultry; food damaged by pests, mold, bacteria or other contamination; or food subject to governmental or producer recall due to food safety.

d. "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, state agency or department, federal agency, or any other legal or commercial entity.

e. "Source separated" or "source separation" means the separation of organic materials from non-organic materials at the point of generation.

Section 3. Priority Uses

a. It is the policy of the state that surplus food and food scraps collected under the requirements of this chapter shall be managed according to the following order of priority uses:

   1. Reduction of the amount generated at the source;
   2. Diversion for food consumption by humans;
   3. Diversion for agricultural use, including consumption by animals; and
   4. Composting and anaerobic digestion.

Section 4. Food Waste Recycling Requirement

A person who produces more than an amount identified under subsection (c) of this section in combined surplus food and food scraps shall:

a. Separate surplus food and food scraps from other solid waste, provided that a de minimis amount of such food may be disposed of in solid waste when a person has established a program to separate surplus food and food scraps and the program includes a component for the education of program users regarding the need to separate such food; and

b. Arrange for the transfer of surplus food or food scraps to location(s) that manage surplus food or food scraps in a manner consistent with the priority uses established under section 3(a)(i)-(iv) or manage food scraps on site.*

**While some state legislation (e.g., CT and RI) includes distance-based exemptions for food scraps generators that are not located within a given distance of an authorized composting or anaerobic digestion facility, we do not advise including such a provision.*

c. The following persons shall be subject to the requirements of subsections (a)-(b) of this section [*You will need to determine what threshold you want to use and end with, as well as the cadence to reach that threshold**]:

   1. Beginning [*2 years from enactment*], a person whose acts or processes produce more than 104 tons per year of combined surplus food and food scraps;
   1. Beginning [*3 years from enactment*], a person whose acts or processes produce more than 52 tons per year of combined surplus food and food scraps;
   1. Beginning [*4 years from enactment*], a person whose acts or processes produce more than 26 tons per year of combined surplus food and food scraps;
   1. Beginning [*5 years from enactment*], a person whose acts or processes produce more than 18 tons per year of combined surplus food and food scraps; and

1. Beginning [*8 years from enactment*], any person who generates any amount of combined surplus food and food scraps.

**Another strategy to determine thresholds is by grouping food scraps generators into tiers. For an example of this look to the model legislation for a Food Donation Requirement.*

d. A person who produces more than an amount identified under section 4(c) in combined surplus food and food scraps shall comply with the requirements of this section unless the generator demonstrates the existence of extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of this section, extraordinary circumstances include earthquakes, wildfires, flooding, and other emergencies and natural disasters.

Section 5. Waiver Process

a. A person who produces more than an amount identified under section 4(c) in combined surplus food and food scraps may petition the Department for a temporary waiver from some or all the requirements of section 4. The Department may grant temporary waivers upon receipt of proof that compliance with the requirements of section 4 would cause undue economic hardship. A waiver shall be no longer than one year in duration; however, the Department may renew such waiver.

b. The Department shall adopt rules to specify the type of information that a waiver applicant must submit to the Department and to specify the Department's process for reviewing and approving waiver applications.

Section 6. Outreach and Grants

a. The Department shall perform outreach and education as necessary to inform relevant persons of the requirements associated with section 4.

b. Subject to appropriation [*You may need to adjust for how your state addresses funding in legislative language*], the Department shall create and administer a grant program to support compliance with the requirements of this section with [*E.g., $1,000,000, you will need to decide how large you want this grant program to be*] in funds annually.

Section 7. Rulemaking

The Department is authorized to promulgate rules and regulations required to implement sections 2 through 6 and issue compliance orders as necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

States may want to include enforcement and reporting requirements rather than designate that these requirements be implemented through regulations. Below are two model Sections on Recordkeeping Requirements and Enforcement that states could include.

Section 8. Recordkeeping Requirements

All persons subject to the requirements in Section 4 shall submit an annual recordkeeping report to the Department. This record shall include the total amount of food donated, the total amount of food recycled, the organics recycler or recyclers and associated transporters used, and any other information required by regulations.

Section 9: Enforcement

a. The Department may issue a warning to a person who violates the requirements of Section 4 or any rule or regulation adopted under Section 7.

b. If a person subsequently violates Section 4 or any rule or regulation adopted under Section 7 after receiving a warning under Section 9(a), the Department may subject that person to a civil penalty, to be collected in a civil action brought by the Department, of:

    1. $250 for the second violation;

    2. $500 for the third violation; and

    3. $1,000 for the fourth and each subsequent violation.

c. Each day a violation occurs is a separate violation under this section.

d. Penalties collected under this subsection shall be distributed to a special fund, to be used only to finance incentives that encourage food waste reduction and composting in the state.

APPENDIX B: FOOD DONATION REQUIREMENTS

It is possible to pass this donation requirement as a standalone law, but all states with food donation requirements have incorporated them as part of an overall organic waste ban. This section is a food donation-specific requirement, but it can easily be merged with the above organic waste ban.

Section 1. Purpose

Over one-third of food in the United States is wasted, resulting in significant environmental and social harms. Meanwhile, over 10% of households in America experience food insecurity. [*Insert state specific food insecurity figures*]. Food donation is a logical solution to redirect safe, surplus food destined for disposal to individuals experiencing food insecurity. Recognizing the harm of food waste and the need to divert surplus food, the state sets a goal of recovering surplus food to reduce food insecurity and food waste.

Section 2. Definitions

a. "Commercial food generators" means Tier I and Tier II commercial food generators, as defined in this section. For the purpose of this ordinance, food recovery organizations are not commercial food generators:

   1. Tier I commercial food generators are supermarkets, grocery stores with a total facility size equal to or greater than ten thousand (10,000) square feet, food service providers, food distributors, and wholesale food vendors.

   2. Tier II commercial food generators are large restaurants with two hundred fifty (250) or more seats or a total facility size equal to or greater than five thousand (5,000) square feet; hotels with an on-site food facility and one hundred (100) or more beds; large venues and large events; colleges or universities; local or state agencies with large cafeterias; and any public or private school grades kindergarten through twelve (K-12) with on-site food facilities that generate surplus food.

b. "Department" means [*define this as needed for your state and include the state agency that will be responsible for administering this requirement*].

c. "Surplus food," for the purpose of this section, means food that is not sold or used by a commercial food generator and is still safe to be consumed but would otherwise be disposed of by the generator. Surplus food shall not include unpackaged fresh meat, fish or poultry; food damaged by pests, mold, bacteria or other contamination; and food subject to governmental or producer recall due to food safety.

d. "Food recovery organization" means a not-for-profit organization that provides food to individuals without charge or at a charge sufficient only to cover the cost of handling such food* including but not limited to a food pantry, food bank, soup kitchen, shelter, or other community-based organization.

e. "Food recovery transportation service" means a person or entity that collects and transports surplus food from a commercial food generator to a food recovery organization.

**Including organizations that charge a small fee allows flexibility for innovative food recovery models that charge a nominal fee to end recipients of donated food. Some states may not yet recognize these organizations, but we encourage their inclusion.*

Section 3. The Food Recovery Program

a. The Food Recovery Program shall require that commercial food generators, to the maximum extent practicable, separate and donate their surplus food to a food recovery organization either directly or through a food recovery transportation service, in accordance with applicable laws, rules, and regulations related to food donation.

b. Commercial food generators shall have the following responsibilities related to the Food Recovery Program:

   1. Tier I commercial food generators shall comply with the requirements of this section commencing [*two years after enactment*];

   2. Tier II commercial food generators shall comply with the requirements of this section commencing [*three years after enactment*];

   3. Commercial food generators shall demonstrate compliance with the requirements of this section through maintaining a contract or written agreement with a food recovery organization for regular food donations to be picked up or dropped off;

   4. Commercial food generators donating surplus foods containing more than one ingredient that are not commercially packaged shall include a list of any major food allergen pursuant to the Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) in the surplus food to the maximum practicable or, if not possible, an allergen disclaimer;

   5. Commercial food generators shall comply with the requirements of this section unless the generator demonstrates the existence of extraordinary circumstances beyond its control that make such compliance impracticable. For the purposes of this section, extraordinary circumstances include earthquakes, wildfires, flooding, and other emergencies and natural disasters; and

   6. Nothing in this section shall require or authorize a commercial food generator to donate food that does not meet food safety requirements.

c. A designated commercial food generator may petition the Department for a temporary waiver from some or all of the requirements of this section. The Department may grant temporary waivers upon receipt of proof that compliance with this section would cause undue economic hardship. A waiver shall be no longer than one year in duration; however, the Department may renew such waiver.

d. The Department shall have the following responsibilities related to the Food Recovery Program:

   1. Publish and maintain on its website: a list of types of businesses included in Tier I and Tier II as commercial food generators, a list of all food recovery organizations, a list of food recovery

transportation services, a model contract between commercial food generators and food recovery organizations, and educational materials related to food donation;

2. Develop and make available educational materials to assist designated commercial food generators with compliance with this section. The Department shall also distribute educational materials on food waste prevention and minimization;
3. Create and administer a process to adjudicate hardship waiver requests;
4. Work with [*insert relevant state agencies*] to develop, publish, and distribute guidance around food safety requirements for food donation;
5. Work to increase the capacity of food recovery organizations as needed; and
6. No later than [*3 years from enactment*] and on an annual basis thereafter, submit a report on the operation of the Food Recovery Program including, but not limited to, the amount of food donated, sample educational materials, and the number of waivers provided.

e. Food Recovery Organizations shall have the following responsibilities related to the Food Recovery Program:

1. Food recovery organizations that enter into a contract with commercial food generators under 3(b)(iii)* shall submit a report to the Department within one year of implementation of this ordinance, and no less than annually thereafter, in an electronic format. The report must summarize the total amount of food received from commercial food generators in the state throughout the year, the amount received from each commercial food generator, and any other information as required by the Department. Food recovery organizations may report the required information in the format used by the food recovery organization to track donations in the normal course of business.

**While making food recovery organizations responsible for reporting may create a burden, such organizations typically already track how much food they recover to: (1) help donors get tax credits for which a letter is needed and (2) track donations to prove success. However, in some circumstances, such as where a food donation requirement is enacted in addition to or as part of an organic waste ban, it may make sense to make businesses responsible for reporting.*

f. To the maximum extent allowable under state law, donations made pursuant to this section shall be covered by [*insert citation for the federal Bill Emerson Good Samaritan Food Donation Act and any state liability protection law*], which protects eligible food donors that donate and food recovery organizations that distribute wholesome food either directly or through nonprofits for distribution to those in need from civil and criminal liability.

Section 4. Outreach and Grants

a. The Department shall perform outreach and education as necessary to inform relevant persons, including food businesses, commercial food generators, food recovery organizations, and food recovery transportation services of the requirements associated with section 5.

b. Subject to appropriation [*May need to adjust for how your state addresses funding in legislative language*], the Department shall create and administer a grant program to support compliance with the requirements of this section with [*E.g., $500,000, you will need to decide how large you want this grant program to be*] in funds annually.

Section 5. Rulemaking

The Department is authorized to promulgate rules and regulations as required to implement sections 2 through 4, and 6.

Section 6: Enforcement

a. The Department may issue a warning to a commercial food generator who violates the requirements of Section 3 or any rule or regulation adopted under Section 5.

b. After receiving a warning, a commercial food generator who subsequently violates Section 3, or any rule or regulation adopted under Section 5, may be subject to a civil penalty, to be collected in a civil action brought by the Department, of:

   1. $250 for the second violation;
   2. $500 for the third violation; and
   3. $1,000 for the fourth and each subsequent violation

c. Each day a violation occurs is a separate violation under this section.

d. Penalties collected under this subsection shall be distributed to a special fund, to be used only to finance incentives that encourage food waste reduction and composting in the state.

APPENDIX C: MANDATORY REPORTING

This legislation is modeled very closely after NRDC and Environmental Law Institute's model local ordinance for mandatory reporting by large food waste generators, and much of the language is identical except that it was modified for state-level laws.[139]

Section 1. Goals and Purpose

a. Diverting food waste from landfills by preventing food waste, donating surplus food, and recycling food scraps can help states achieve waste reduction and climate mitigation goals. Specifically, diverting food waste from landfills and incinerators typically:

   1. Reduces emissions of methane—a potent greenhouse gas that contributes to climate change and that is emitted from food waste as it decays in landfills—and emissions of carbon dioxide from food waste that is incinerated;
   2. Avoids wasting the greenhouse gas emissions associated with producing, transporting, and disposing of wasted food;
   3. Extends the useful life of landfills, thereby reducing the need to expand and create new landfills, which are costly and disproportionately sited in low-income communities and communities of color;
   4. Reduces the harmful public health and environmental impacts of landfills and incinerators;
   5. Fosters economic development through increased compost supplier and processor jobs;
   6. Lowers waste management costs associated with landfill disposal;
   7. Addresses food insecurity when surplus food is rescued and distributed to those in need, particularly households and communities of color which disproportionately face hunger; and
   8. Increases production of compost when food scraps are recycled, thereby producing valuable soil amendment that can sequester carbon and increase nutrient and water retention, which can reduce the demand for irrigation and fertilizer.

b. It is intended that mandatory food waste generation reporting by covered entities will:

   1. Provide data that can inform state laws as well as waste management operations;
   2. Increase awareness among businesses and the general public about the problem of food waste and food insecurity and the need for organics recycling; and
   3. Lead to reductions in landfill disposal and incineration of food waste as a result of raised awareness, reputational considerations, and other factors contributing to increased food waste prevention, surplus food rescue, and food scrap recycling.

Section 2. Definitions

a. "Anaerobic digestion" means a process through which bacteria break down organic materials, such as food waste, in the absence of oxygen to generate biogas and nutrient-rich matter.

b. "Animal feed" means edible material in a form that complies with applicable regulatory requirements and, when consumed by an animal, provides energy and/or nutrients.

c. "Business" means a commercial entity including, but not limited to, a firm, partnership, proprietorship, or corporation.

d. "Compost" means a product that results from controlled aerobic, biological decomposition of biodegradable materials, including food waste, that is typically used as a soil amendment.

e. "Covered entity" means businesses, nonprofit organizations, and state and municipal governmental subunits that cook, assemble, process, serve, or sell food—or do so as service providers for other enterprises—and generate a total annual average of two tons per week or more of food waste based on the methods referenced in Section 4.

f. "Department" means [*insert name of department of agency responsible for administering this requirement in your state*].

g. "Food" means any raw, cooked, processed, or prepared substance, beverage, or ingredient used or intended for human consumption.

h. "Food scraps" means inedible food parts, trimmings from the preparation of food, edible food that is not donated, and food processing waste that results from the distribution, storage, preparation, cooking, handling, selling, or serving of food.

i. "Food waste" means uneaten food and inedible parts, excluding packaging, that are landfilled, incinerated, disposed of down the drain/sewer, dumped, spread onto land, anaerobically digested, composted, or used for animal feed.

j. "Food waste generation" means includes all discarded food waste regardless of its destination, including food scraps that are later recycled, landfilled, or incinerated.

k. "Nonprofit organization" means an incorporated or unincorporated entity that:

   1. is operating for religious, charitable, or educational purposes; and

   2. does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

l. "Quasi-governmental entities" means organizations that have both a public and a private component, such as convention centers that are municipally owned but privately operated.

m. "Sampling" means choosing to measure or approximate, over a period of time, the amount of food waste:

   1. from a subset of food waste producing units within a population (such as a few hotels that belong to a larger hotel chain); or

   2. from a fraction of the physical food waste produced.

n. "Scaling" means increasing data in a fixed ratio from a limited number of observations in order to estimate the entire amount of food waste over the period of an inventory.

o. "Standard units" means common units of measurement such as inches, pounds, and tons.

p. "Surplus food" means food (including inedible parts) that is not sold or used by a covered entity and that meets food safety regulations, even though it may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

q. "Undue hardship" means a degree of hardship related to the compliance burden that is unreasonable or excessively costly for a covered entity to bear.

Section 3. Reporting Requirements

Covered entities shall submit an annual report to the Department on or before [*add date that corresponds to start of fiscal or calendar year*], and annually thereafter, in an electronic format acceptable to the Department. The report shall include:

a. Amount of food waste generated during the prior year by weight (expressed in pounds/tons).
    1. Method used, pursuant to Section 4, to determine the amount of food waste generation reported;
    2. If sampling and scaling are used, a description of the approach, calculations used, and the period of time over which sample data were collected; and
    3. Qualitative description and/or a quantitative assessment of any uncertainties around the amount of food waste generation reported.

b. Amount and types of surplus food donated to a nonprofit organization during the prior year.
    1. Method used, pursuant to Section 4, to determine the amount by weight (expressed in pounds/tons) of donated surplus food reported.
    2. Major donation challenges that had to be overcome in the past year or are ongoing, such as donation logistics, storage, and transportation.

c. Amount of food scraps recycled during the prior year by weight (expressed in pounds/tons).
    1. Destination of food scraps, including:
        A. Animal feed;
        B. Anaerobic digestion; and
        C. Composting.
    2. Major food scrap recycling challenges that had to be overcome in the last year or are ongoing, such as odor, staff training, or availability of organics recyclers.

d. Concerns or problems complying with the requirements of this Section.

e. Reports submitted pursuant to this Section shall include a certification in a form acceptable to the Department.

Section 4. Methods for Quantifying Food Waste Generation and Surplus Food Donation:

Covered entities shall use one or more of the following methods to determine the weight of their generated food waste and surplus food (expressed in pounds/tons):

a. Directly measuring the generated food waste or surplus food with an instrument or device marked in standard units:
    1. Sampling and scaling data may be used in lieu of measuring total food waste or surplus food generated, provided reporting requirements in Section 3 are followed;
    2. Records obtained from waste haulers and processors with which the covered entity has a contractual relationship may be relied upon to quantify the amount of generated food waste and recycled food scraps; and
    3. Records obtained from nonprofit organizations that accept surplus food may be relied upon to quantify surplus food donations.
b. Employing approximation methods to generate weight estimates (expressed in pounds/tons) using the following methods:
    1. Counting: assessing the number of items that make up food waste and using the result to estimate the weight;
    2. Volume: assessing the physical space occupied by food waste and using the result to estimate the weight or relying on approximations provided by waste haulers and processors with which the covered entity has a contractual relationship; or
    3. Records: using individual pieces of data that have been written down or saved and that are often routinely collected for reasons other than quantifying food waste, such as warehouse record books.
c. If a method used pursuant to this Section produces results that are not expressed in weight—such as unit counts of items or volume—covered entities shall convert the results to weight (expressed in pounds/tons).

Section 5. Business Education and Compliance Assistance

a. The Department shall create and make available educational materials to assist covered entities in complying with the requirements of Section 3 during the [*calendar or fiscal*] year prior to the effective date of Section 3 and on an ongoing basis, including publishing information on its website. Such materials shall address:
    1. Benefits of food waste reduction;
    2. Benefits of measuring food waste; and
    3. Resources to facilitate measures to prevent food from going to waste, rescue surplus food, and recycle food scraps.

b. The Department shall provide compliance assistance to help covered entities comply with the requirements of Section 3 during the [*calendar or fiscal*] year prior to the effective date of Section 3 including:

   1. A platform for receiving and responding to compliance questions from covered entities;
   2. Resources on methods for quantifying food waste generation as described in Section 4; and
   3. Such other materials determined to be useful in aiding timely and effective compliance.

c. All educational and compliance assistance materials shall be appropriately translated into any non-English language spoken by a substantial number of owners of covered entities.

Section 6. Record Keeping:

Covered entities shall maintain records created for purposes of complying with the requirements in Sections 3 and 4 for a period of three years from the date of the filing of a report, and shall submit the records upon request of the Department within five business days of such request either by postal or electronic mail.

Section 7. Waivers

Covered entities may apply for a waiver from the reporting requirements in Section 3 in any [*calendar or fiscal*] year. Applications shall be submitted at least sixty (60) days prior to the start of the [*calendar or fiscal*] year for which a waiver is requested. Waivers may be granted on a case-by-case basis upon a written finding that the facts presented by the applicant support a finding of undue hardship as defined in Section 2. The Department shall notify the covered entity within thirty (30) days whether the waiver has been granted or denied. Interim waiver applications that present new and extenuating circumstances of undue hardship will be accepted throughout the course of the reporting year. The Department shall respond to interim waiver requests within thirty (30) days.

Section 8. Enforcement

A warning shall be issued for any violation by a covered entity that occurs during the first twelve months after the effective date. Any covered entity that violates Sections 3 or 6 after the law has been in effect for one year shall be liable for civil penalties, to the extent permissible under state law, in an amount not to exceed [*dollar amount consistent with comparable state violations*].

Section 9. Rulemaking

The Department is authorized to promulgate rules and regulations as required to implement sections 3 through 8.

Section 10. Effective Date

This section takes effect [*number of days*] after its [*adoption/publication*].

APPENDIX D: DISPOSAL SURCHARGE FEES

This legislation is adapted from the Institute for Local Self-Reliance's (ILSR) model state legislation for Funding Waste Diversion and On-Farm Composting via a Disposal Surcharge. Much of the language is identical except that the requirement for detailed plans for the allocation of funds collected has been removed. Policymakers can refer to ILSR's model legislation for detailed plans for the allocation of funds to an On-Farm Composting and Compost Use Grant Fund, a Waste Diversion Grant Fund, a County Waste Diversion Grants, and Competitive Waste Diversion Grants.

Section 1. Definitions

a. "Compost" means a stable organic product produced by a controlled aerobic decomposition process that can be used as a soil additive, fertilizer, growth media, or for other beneficial uses.

b. "Composting" means the controlled aerobic biological decomposition of organic waste material resulting in compost.

c. "Composting facility" means buildings, grounds (such as a composting pad), and equipment dedicated to the manufacture of compost. Composting facilities also include stormwater control systems.

d. "Department" means [*Define this as needed for state as the entity responsible for managing statewide accounts (such as Comptroller)*].

e. "Farm" means the site of a business or activity operated for the primary purpose of tilling, cropping, keeping, pasturing, or producing an agricultural product other than compost, including livestock, poultry, plants, trees, sod, food, feed, or fiber, by in-ground, out-of-ground, container, or other culture. It does not include the site of a business or activity operated for the primary purpose of producing compost.

f. "Refuse Disposal System" includes an incinerator; solid waste transfer station; landfill system; a landfill; and any other facility accepting mixed solid waste.

g. "Recycling" means any process in which recyclable materials are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

h. "Solid Waste" means any discarded material destined for landfill disposal, incineration, or other final disposal at a Refuse Disposal System. It does not include segregated or source-separated materials that are rescued, reused, recycled, or composted.

Section 2. Solid Waste Disposal Surcharge

a. There is a solid waste disposal surcharge of [*insert $ surcharge rate*] per ton of solid waste processed by a refuse disposal system to be paid by each owner or operator of a refuse disposal facility in the state.

b. On or before [*insert date 5 years after surcharge start date*], and every 5 years thereafter, the Department shall:

1. Adjust the solid waste disposal surcharge to reflect changes in the Consumer Price Index for the [*insert region in which the state is located*]; and
2. Increase the surcharge further as the Department deems necessary.

c. The surcharge may only be assessed once on solid waste destined for final disposal. (For example, if the surcharge has been assessed on an owner or operator of a transfer station that first processes solid waste, the surcharge may not be assessed on an owner or operator of a refuse disposal system that receives that same solid waste for final disposal.)

d. The Department shall collect the solid waste disposal surcharge assessed under this section and deposit the revenue into an Environmental Stewardship Fund.

1. Beginning [*insert start date*], on a quarterly basis, an owner or operator of a refuse disposal system shall complete and submit a return and pay the solid waste disposal surcharge.
2. The return shall include information on the number of tons of solid waste accepted for disposal, transfer, or collection, as appropriate, during the reporting period.

Section 3. Environmental Stewardship Fund

a. There is an Environmental Stewardship Fund to provide funding to the [*entities in charge of awarding grants*] to assist with the costs of developing, implementing, or expanding equipment, infrastructure, and education relating to:

1. Reducing the amount of solid waste generated in the state;
2. Reusing, repairing, recycling, and composting;
3. Surplus food rescue;
4. On-farm composting and compost use; and
5. Minimizing illegal dumping.

b. The Department shall administer the Fund.

c. The Fund is a special, non-lapsing Fund. The state Treasurer shall hold the Fund separately, and the Department shall account for the Fund.

d. The Fund consists of:

1. The solid waste disposal surcharge revenue deposited into the Fund;
2. Money appropriated in the state budget to the Fund;
3. Interest earnings (the state Treasurer shall invest the Fund's money in the same manner as other state money may be invested); and
4. Any other money from any other source accepted for the benefit of the Fund.

e. The Fund may be used only to provide the funding necessary to award grants under Section 3 (a) of this law and to cover the Fund's reasonable administrative costs, including those for grant programs.

Up to 5% of the estimated annual solid waste surcharge revenue may be used to cover reasonable administrative costs.*

**Your state might want to specify what percent of the funding should be allocated to which programs; for example: 25% of the money in the fund to an on-farm composting and compost use grant fund; and 75% of the money in the fund to a waste diversion fund.*

Section 4. Reporting Requirements

a. On or before December 1 each year, beginning in [*insert start year*], the Department shall report to the [*insert name of state*] legislature on the grants awarded under the Fund.

b. The report shall include the number and types of grants awarded; the impact of grant awards on job creation, waste prevention, and diversion; and the quantity of compost used by farmers.

c. Beginning with the report due [*insert date 5 years after start year*], and every 5 years thereafter, in the report, the Department shall include a recommendation on whether and to what extent an adjustment to the solid waste disposal surcharge is necessary.

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