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SENATE BILL 47

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Pete Campos and Elizabeth "Liz" Stefanics

AN ACT

RELATING TO WASTE MANAGEMENT; ENACTING THE FOOD RECOVERY AND COMPOSTING ACT; ESTABLISHING A FOOD RECOVERY AND COMPOSTING PROGRAM WITHIN THE DEPARTMENT OF ENVIRONMENT; CREATING THE FOOD RECOVERY AND COMPOSTING ADVISORY GROUP; IMPOSING A SURCHARGE ON SOLID WASTE DISPOSAL; CREATING THE FOOD RECOVERY AND COMPOSTING FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Food Recovery and Composting Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Food Recovery and Composting Act:

A. "composting" means the controlled aerobic biological decomposition of organic waste resulting in a stable

1 organic product that can be used as a soil additive, fertilizer
2 or growth media;

3 B. "composting facility" means a facility, other
4 than a transformation facility, that:

5 (1) is capable of providing biological
6 stabilization of organic material;

7 (2) accepts only source-separated compostable
8 materials; and

9 (3) is registered with the department;

10 C. "department" means the department of
11 environment;

12 D. "eligible entity" means a municipality, a
13 county, a land grant-merced controlled and governed pursuant to
14 Sections 49-1-1 through 49-1-8 or 49-4-1 through 49-4-21 NMSA
15 1978, an acequia, a soil and water conservation district, a
16 solid waste authority or an Indian nation, tribe or pueblo;

17 E. "organic waste" means biodegradable material
18 that comes from plants or animals;

19 F. "solid waste" means any discarded material
20 destined for landfill disposal, incineration or other final
21 disposal at a solid waste facility, not including segregated or
22 source-separated materials that are rescued, reused or
23 composted;

24 G. "solid waste facility" includes:

25 (1) an incinerator;

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- 1 (2) a solid waste transfer station;
2 (3) a landfill or landfill system; and
3 (4) other facilities accepting mixed solid
4 waste; and

5 H. "transformation facility" means a facility that
6 changes the physical, chemical or energy state of waste to
7 reduce the volume, change the energy or create new products out
8 of the waste.

9 SECTION 3. [NEW MATERIAL] FOOD RECOVERY AND COMPOSTING
10 PROGRAM.--

11 A. The "food recovery and composting program" is
12 created in the department to provide grants and education and
13 outreach to advance food recovery, composting and organic waste
14 reduction across the state. The department, in consultation
15 with the food recovery and composting advisory group, shall
16 administer the program.

17 B. The department may:

- 18 (1) award grants to eligible entities;
19 (2) contract for services to advance food
20 recovery, composting and organic waste reduction initiatives;
21 and

22 (3) provide education, outreach and other
23 programming to advance food recovery, composting and organic
24 waste reduction initiatives.

25 C. The department shall promulgate rules to

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1 administer the food recovery and composting program, including:

2 (1) provisions to establish procedures for
3 review, evaluation and approval of grant applications that:

4 (a) aim to achieve wide participation
5 from all regions;

6 (b) ensure balanced urban and rural
7 representation in the selection process;

8 (c) establish a user-friendly and
9 straightforward application process; and

10 (d) provide support and technical
11 assistance to applicants during the application process; and

12 (2) reporting requirements for grantees to
13 share the progress and expenditures made under the grant with
14 the department.

15 D. Beginning January 1, 2027, the department may
16 award a grant to an eligible entity to:

17 (1) advance food recovery, composting or
18 organic waste reduction initiatives;

19 (2) fund pilot programs and perform targeted
20 research that explores the public health and economic benefits
21 of food recovery, composting or organic waste reduction
22 initiatives;

23 (3) provide education and outreach related to
24 advancing food recovery, composting or organic waste reduction
25 initiatives in the state; and

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1 (4) contract for services that achieve the
2 objectives outlined in Paragraphs (1) through (3) of this
3 subsection.

4 SECTION 4. [NEW MATERIAL] FOOD RECOVERY AND COMPOSTING
5 ADVISORY GROUP.--

6 A. The "food recovery and composting advisory
7 group" is created and is composed of no more than fifteen
8 members, including at least one representative each from:

- 9 (1) the department;
- 10 (2) the New Mexico department of agriculture;
- 11 (3) the economic development department;
- 12 (4) a municipal government;
- 13 (5) a board of county commissioners;
- 14 (6) a tribal government located within the
15 state;
- 16 (7) a land grant-merced controlled and
17 governed pursuant to Sections 49-1-1 through 49-1-8 or 49-4-1
18 through 49-4-21 NMSA 1978;
- 19 (8) a solid waste authority;
- 20 (9) an acequia;
- 21 (10) a soil and water conservation district;
- 22 (11) an organization specializing in pollution
23 reduction;
- 24 (12) an organization specializing in food
25 recovery, composting or organic waste reduction; and

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1 (13) the food recovery, composting or organic
2 waste reduction industry.

3 B. The secretary of environment shall appoint
4 members of the food recovery and composting advisory group to
5 serve two-year terms as volunteers with no compensation,
6 perquisite or allowance from the state for their services. The
7 secretary shall fill vacancies by appointing a replacement to
8 serve the unexpired term.

9 C. The food recovery and composting advisory group
10 shall:

11 (1) make recommendations to the department on
12 grant application guidelines, deadlines and reporting
13 requirements for eligible entities;

14 (2) review and make recommendations for
15 funding grant applications made to the department under the
16 food recovery and composting program that ensure a balanced
17 selection process of applicants from urban and rural areas; and

18 (3) develop voluntary and incentive-based
19 programming to advance food recovery, composting and organic
20 waste reduction initiatives that shall be administered by the
21 department.

22 SECTION 5. [NEW MATERIAL] FOOD RECOVERY AND COMPOSTING
23 FUND.--

24 A. The "food recovery and composting fund" is
25 created as a nonreverting fund in the state treasury. The fund
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1 consists of appropriations, gifts, grants, donations, income
2 from investment of the fund and other money credited to the
3 fund. The department shall administer the fund, and money in
4 the fund is subject to appropriation by the legislature to the
5 department to carry out the provisions of Subsection B of this
6 section. Disbursements from the fund shall be made by warrant
7 of the secretary of finance and administration pursuant to
8 vouchers signed by the secretary of environment.

9 B. Money in the fund may be used by the department
10 to:

11 (1) make grants to eligible entities;

12 (2) contract for services to advance food
13 recovery, composting or organic waste reduction initiatives;
14 provided that no more than fifteen percent of the amount
15 appropriated from the fund is used to contract for the
16 services; and

17 (3) provide education, outreach and other
18 programming to advance food recovery, composting and organic
19 waste reduction initiatives; provided that no more than fifteen
20 percent of the amount appropriated from the fund is used to
21 provide such programming.

22 SECTION 6. [NEW MATERIAL] FOOD RECOVERY AND COMPOSTING
23 SURCHARGE.--

24 A. A surcharge is imposed on each solid waste
25 facility operating within the state. The surcharge shall be in
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1 an amount equal to three dollars (\$3.00) per ton of solid waste
2 processed at the solid waste facility. The owner or operator
3 of a solid waste facility that owns or operates an on-site
4 composting facility shall pay a reduced surcharge of two
5 dollars (\$2.00) per ton of solid waste processed at that solid
6 waste facility. The surcharge imposed pursuant to this section
7 may be referred to as the "food recovery and composting
8 surcharge".

9 B. The surcharge imposed by this section shall be
10 administered in accordance with the provisions of the Tax
11 Administration Act and shall be paid to the taxation and
12 revenue department by each solid waste facility that processes
13 solid waste pursuant to Subsection A of this section in the
14 form and manner required by that department on or before the
15 twenty-fifth day of the month following the month in which the
16 solid waste is processed. The taxation and revenue department
17 may retain an administrative fee of up to three percent of the
18 amount collected.

19 C. Beginning January 1, 2027, and every January 1
20 thereafter, the department shall publish a report on the amount
21 of money collected pursuant to this section broken down by the
22 number of tons of solid waste processed at each solid waste
23 facility.

24 SECTION 7. Section 7-1-2 NMSA 1978 (being Laws 1965,
25 Chapter 248, Section 2, as amended) is amended to read:

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1 "7-1-2. APPLICABILITY.--The Tax Administration Act
2 applies to and governs:

3 A. the administration and enforcement of the
4 following taxes or tax acts as they now exist or may hereafter
5 be amended:

- 6 (1) Income Tax Act;
- 7 (2) Withholding Tax Act;
- 8 (3) Oil and Gas Proceeds and Pass-Through
9 Entity Withholding Tax Act;
- 10 (4) Gross Receipts and Compensating Tax Act,
11 Interstate Telecommunications Gross Receipts Tax Act and Leased
12 Vehicle Gross Receipts Tax Act;
- 13 (5) Liquor Excise Tax Act;
- 14 (6) Local Liquor Excise Tax Act;
- 15 (7) any municipal local option gross receipts
16 tax or municipal compensating tax;
- 17 (8) any county local option gross receipts tax
18 or county compensating tax;
- 19 (9) Special Fuels Supplier Tax Act;
- 20 (10) Gasoline Tax Act;
- 21 (11) petroleum products loading fee, which fee
22 shall be considered a tax for the purpose of the Tax
23 Administration Act;
- 24 (12) Alternative Fuel Tax Act;
- 25 (13) Cigarette Tax Act;

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- 1 (14) Estate Tax Act;
- 2 (15) Railroad Car Company Tax Act;
- 3 (16) Investment Credit Act, rural job tax
4 credit, Laboratory Partnership with Small Business Tax Credit
5 Act, Technology Jobs and Research and Development Tax Credit
6 Act, Film Production Tax Credit Act, Affordable Housing Tax
7 Credit Act and high-wage jobs tax credit;
- 8 (17) Corporate Income and Franchise Tax Act;
- 9 (18) Uniform Division of Income for Tax
10 Purposes Act;
- 11 (19) Multistate Tax Compact;
- 12 (20) Tobacco Products Tax Act;
- 13 (21) the telecommunications relay service
14 surcharge imposed by Section 63-9F-11 NMSA 1978, which
15 surcharge shall be considered a tax for the purposes of the Tax
16 Administration Act;
- 17 (22) the Insurance Premium Tax Act;
- 18 (23) the Health Care Quality Surcharge Act;
- 19 (24) the Cannabis Tax Act; ~~and~~
- 20 (25) the Health Care Delivery and Access Act;
- 21 and
- 22 (26) the Food Recovery and Composting Act;

23 B. the administration and enforcement of the
24 following taxes, surtaxes, advanced payments or tax acts as
25 they now exist or may hereafter be amended:

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- 1 (1) Resources Excise Tax Act;
- 2 (2) Severance Tax Act;
- 3 (3) any severance surtax;
- 4 (4) Oil and Gas Severance Tax Act;
- 5 (5) Oil and Gas Conservation Tax Act;
- 6 (6) Oil and Gas Emergency School Tax Act;
- 7 (7) Oil and Gas Ad Valorem Production Tax Act;
- 8 (8) Natural Gas Processors Tax Act;
- 9 (9) Oil and Gas Production Equipment Ad
- 10 Valorem Tax Act;
- 11 (10) Copper Production Ad Valorem Tax Act;
- 12 (11) any advance payment required to be made
- 13 by any act specified in this subsection, which advance payment
- 14 shall be considered a tax for the purposes of the Tax
- 15 Administration Act;
- 16 (12) Enhanced Oil Recovery Act;
- 17 (13) Natural Gas and Crude Oil Production
- 18 Incentive Act; and
- 19 (14) intergovernmental production tax credit
- 20 and intergovernmental production equipment tax credit;
- 21 C. the administration and enforcement of the
- 22 following taxes, surcharges, fees or acts as they now exist or
- 23 may hereafter be amended:
- 24 (1) Weight Distance Tax Act;
- 25 (2) the workers' compensation fee authorized

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1 by Section 52-5-19 NMSA 1978, which fee shall be considered a
2 tax for purposes of the Tax Administration Act;

3 (3) Uniform Unclaimed Property Act (1995);

4 (4) 911 emergency surcharge and the network
5 and database surcharge, which surcharges shall be considered
6 taxes for purposes of the Tax Administration Act;

7 (5) the solid waste assessment fee authorized
8 by the Solid Waste Act, which fee shall be considered a tax for
9 purposes of the Tax Administration Act;

10 (6) the water conservation fee imposed by
11 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
12 for the purposes of the Tax Administration Act; and

13 (7) the gaming tax imposed pursuant to the
14 Gaming Control Act; and

15 D. the administration and enforcement of all other
16 laws, with respect to which the department is charged with
17 responsibilities pursuant to the Tax Administration Act, but
18 only to the extent that the other laws do not conflict with the
19 Tax Administration Act."

20 SECTION 8. A new section of the Tax Administration Act,
21 Section 7-1-6.74 NMSA 1978, is enacted to read:

22 "7-1-6.74. [NEW MATERIAL] DISTRIBUTION--FOOD RECOVERY AND
23 COMPOSTING SURCHARGE.--A distribution pursuant to Section
24 7-1-6.1 NMSA 1978 of the net receipts attributable to the food
25 recovery and composting surcharge shall be distributed to the

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1 food recovery and composting fund."

2 SECTION 9. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2026.

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