

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 3185

STATE OF NEW JERSEY

DATED: NOVEMBER 3, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill No. 3185.

This bill would incentivize the development and construction of anaerobic digestion facilities that process food waste within the State by providing a tax credit against the corporation business tax to compensate a taxpayer for the costs incurred during the development and construction of the anaerobic digestion facility. The tax credit would be available for a period of six years.

The bill defines “anaerobic digestion facility” as a facility that operates and hosts an anaerobic digester. The bill defines “anaerobic digester” as a device that promotes the decomposition of organic material into simple organics and gaseous biogas products, in the absence of elemental oxygen, by means of controlling temperature and volume, and that includes a methane recovery system. The bill also defines “food waste” to mean food processing vegetative waste, food processing residue generated from processing and packaging operations, overripe produce, trimmings from food, food product overruns from food processing, soiled and unrecyclable paper generated from food processing, and used cooking fats, oil, and grease. “Food waste” does not include food donated by the generator for human consumption, any waste generated by a consumer after the generator issues or sells food to the consumer, or any waste regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R. s.94.5.

The amount of the tax credit provided by the bill would not exceed the lesser of (1) 50 percent of the costs incurred to develop and construct the anaerobic digestion facility, or (2) \$250,000. The bill would also limit the cumulative total of tax credits awarded pursuant to the bill to \$15 million.

To qualify for the tax credit, a taxpayer would be required to apply to the Commissioner of Environmental Protection (commissioner) for a certification that provides: (1) that the anaerobic digestion facility developed by the taxpayer is eligible for the tax credit; and (2) the amount of the tax credit. The application to the commissioner would be required to demonstrate that the anaerobic digestion facility was developed and constructed prior to applying for the tax credit. The application would also be required to include a receipt demonstrating the total cost of the development and construction of the anaerobic digestion facility, a certification that the anaerobic digestion facility

will be used to process food waste, and any other information determined relevant by the Department of Environmental Protection (DEP). The bill would require the DEP, in consultation with the Director of the Division of Taxation, to adopt rules and regulations as are necessary to implement the bill's provisions

Finally, the bill would require, no later than six years after the bill's effective date, the DEP to prepare and submit to the Governor, the State Treasurer, and the Legislature, a report that, at a minimum, summarizes the effectiveness of the tax credit in incentivizing the development and construction of anaerobic digestion facilities that process food waste in the State.