

No. 138. An act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency.

(S.351)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Purpose * * *

Sec. 1. PURPOSE

The purpose of this act is to appropriate the following amounts to farming and forest businesses for losses, or expenses, or both, incurred as a result of the COVID-19 public health emergency:

(1) \$25,000,000.00 for the Dairy Assistance Program established under this act, provided that from the appropriated funds, \$21,200,000.00 shall be available for grant awards to milk producers, and \$3,800,000 shall be available for awards to dairy processors;

(2) \$5,000,000.00 for the Non-dairy Agricultural Producer and Processor Assistance Program established under this act;

(3) \$5,000,000.00 for the Forest Economy Stabilization Grant Program established under this act; and

(4) \$192,000.00 to the Vermont Housing and Conservation Board to provide business, financial, and mental health assistance to farm and food businesses.

* * * Coronavirus Relief Fund; Administrative Provisions * * *

Sec. 2. CONSISTENCY WITH CARES ACT AND GUIDANCE

The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this act complies with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance because the economic harm to be covered:

(1) is necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);

(2) was not accounted for in Vermont's fiscal year 2020 budget; and

(3) was, or will be, incurred during the period beginning on March 1, 2020 and ending on December 30, 2020.

Sec. 3. GRANT RECIPIENT REQUIREMENTS; REVERSION AND
REALLOCATION SCHEDULE

All appropriations made from the State's Coronavirus Relief Fund (CRF) in this and other bills passed after March 1, 2020 as part of the 2020 legislative session are made with the knowledge that the statutory and regulatory context is constantly changing. Additional federal legislation may further change the potential for and appropriateness of CRF usage. As a result:

(1) Appropriations from the CRF are subject to changes in source of funds that may occur as the result of subsequent legislation or through administrative actions, where permissible by law.

(2) Specific CRF uses may need to change based on changes to federal laws or on revised or updated federal guidance.

(3) It is the responsibility of all entities receiving CRF monies to ensure compliance with all federal guidelines as to CRF spending and use.

(4) Unless otherwise authorized by the Commissioner of Finance and Management, any monies appropriated from the CRF shall revert to the CRF to the extent that they have not been expended on or before December 20, 2020 to enable reallocation.

Sec. 4. CORONAVIRUS RELIEF FUND GRANTS; CONDITIONS

(a) Any person receiving a grant comprising monies from the Coronavirus Relief Fund shall use the monies only for purposes that comply with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance.

(b) Any person who expends monies from the Coronavirus Relief Fund for purposes not eligible under Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance shall be liable for repayment of the funds to the State of Vermont; provided, however, that a person shall not be liable for such repayment if the person expended the monies in good faith reliance on authorization of the proposed expenditure or specific guidance from the agency or department administering the grant program.

(c) The Attorney General or a State agency or department administering a grant program established or authorized under this act may seek appropriate

criminal or civil penalties as authorized by law for a violation of the terms or conditions of the applicable program, grant, or award.

Sec. 5. CORONAVIRUS RELIEF FUND; RECORD KEEPING;
COMPLIANCE; REPORTS

(a) In order to ensure compliance with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance, and to assist the State in demonstrating such compliance:

(1) any agency or department, and any subrecipient of a grant, that is authorized to disburse grant funds appropriated by this act shall include standard audit provisions, as required by Agency of Administration Bulletins 3.5 and 5, in all contracts, loans, and grant agreements; and

(2) each grant recipient shall report on its use of the monies received pursuant to this act to the agency or department administering the grant as required by that agency or department and shall maintain records of its expenditures of the monies for three years, or for a longer period if so required by State or federal law, to enable verification as needed.

(b) Unless otherwise provided under this act, on or before July 31, 2020 and September 1, 2020, each agency or department administering a grant program pursuant to this act shall provide information to the legislative committees of jurisdiction, including the House and Senate Committees on Appropriations, regarding its distribution of grant funds to date, the amount of

grant funds that remains available for distribution, and its plans for awarding the available funds on or before December 20, 2020.

* * * Dairy Assistance Program * * *

Sec. 6. DAIRY ASSISTANCE PROGRAM; COVID-19 PUBLIC HEALTH
EMERGENCY; APPROPRIATION

(a) Appropriation. The sum of \$25,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Agriculture, Food and Markets in fiscal year 2021 for the purpose of establishing the Dairy Assistance Program as set forth in this section. Of the funds appropriated under this section, \$21,200,000.00 shall be available for grant awards to milk producers, and \$3,800,000 shall be available for awards to dairy processors.

(b) Necessity. The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to stabilize milk producers and dairy processors based on their lost revenues related to business interruption caused by the COVID-19 public health emergency.

(c) Definitions. As used in this section:

(1) "Animal feeding operation" (AFO) means a lot or facility where livestock have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO that

are under common ownership and that adjoin each other or use a common area or system for the disposal of waste shall be considered to be a single AFO if the combined number of livestock resulting qualifies as a medium farm as that term is defined under this subsection.

(2) “Certified small farm” means a small farm with at least 50 mature dairy cows required to certify compliance with the Required Agricultural Practices under 6 V.S.A. § 4871 and so certified as of March 1, 2020.

(3) “Dairy processor” means a person, partnership, unincorporated association, or corporation who owns or controls any place, premises, or establishment where butter, cheese, cream, buttermilk, infant formula, ice cream, yogurt, or other dairy products identified by rule by the Secretary are processed for sale.

(4) “Economic harm” means a milk producer’s or dairy processor’s expenses or lost revenues, or both related to the 2020 COVID-19 public health emergency.

(5) “Goat or sheep dairy farm” means any place or premises where one or more dairy goats or dairy sheep, or both, are kept and where a part or all of the milk from the animals is sold or offered for sale.

(6) “Good standing” means a participant in the Program administered under this section:

(A) that does not have an active enforcement violation that has reached a final order with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources; and

(B) that is in compliance with all terms of a current grant agreement or contract with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources.

(7) “Large farm” means an AFO that houses 700 or more mature dairy animals and where a part or all of the milk from the dairy animals is sold or offered for sale.

(8) “Medium farm” means an AFO that houses 200 to 699 mature dairy animals and where a part or all of the milk from the dairy animals is sold or offered for sale.

(9) “Milk producer” or “producer” means a person, partnership, unincorporated association, or corporation who owns or controls one or more dairy cows, dairy goats, or dairy sheep and sells or offers for sale a part or all of the milk produced by the animals.

(10) “Secretary” means the Secretary of Agriculture, Food and Markets or designee.

(11) “Small farm” means:

(A) an AFO that houses not more than 199 mature dairy cows; or

(B) a goat or sheep dairy farm where a part or all of the milk from the animals is sold or offered for sale.

(d) Program establishment; eligibility.

(1) There is established within the Agency of Agriculture, Food and Markets a Dairy Assistance Program (Program) to provide financial assistance to milk producers and dairy processors that have suffered economic harm in Vermont caused by the COVID-19 public health emergency.

(2) A milk producer or dairy processor shall be eligible to qualify for assistance under this section if:

(A)(i) the milk producer or dairy processor is currently producing milk or dairy products; or

(ii) the milk producer was producing milk on March 1, 2020, and subsequently ceased production, but submits to the Secretary a good faith plan to restart production of milk or a plan to restart operation through production of another commodity;

(B) the milk producer or dairy processor is in good standing; and

(C) the milk producer or dairy processor accurately demonstrates to the Secretary economic harm that occurred or accrued on or after March 1, 2020 and before December 1, 2020 by providing evidence of lost revenues or expenses related to business interruption caused by the COVID-19 public health emergency.

(3) A milk producer may elect to have its economic harm determined by calculating the difference between what the producer was paid for milk produced between March 1, 2020 and December 1, 2020 and the price that the

producer would have been paid if the price for milk remained at the statistical uniform price of \$18.13 hundredweight for the Middlebury location in January of 2020, or the milk producer may enter its own verifiable average price for March through December 2020 and calculate the difference to its own verifiable average price for January 2020 as well as added costs or expenses related to the COVID-19 public health emergency.

(4) Economic harm is not compensable under this section if the same economic harm is covered by insurance or if the economic harm was compensated under another State or federal grant; provided, however, that this restriction does not apply to loans or advance payments for which repayment is expected.

(e) Administration; implementation.

(1) The Program shall be administered by the Agency of Agriculture, Food and Markets, which shall award available funds to milk producers or dairy processors that demonstrate economic harm.

(2) The Secretary shall create an application form that milk producers and dairy processors shall utilize when applying for assistance. Applicants shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief.

(3) The Secretary shall, based on the amount of economic harm incurred by the milk producer or dairy processor on the date the application is received, provide up to the maximum award permitted for each type of qualified farm or

processor tier. Applications shall be processed in the order received, but an application shall not be ready for evaluation until the Secretary determines that the application is administratively complete and includes all required proof of economic harm.

(f) Payment; maximum award.

(1) Until all funds appropriated to the Program for milk producers are awarded, the Secretary shall award assistance as grants to reimburse qualified milk producers for demonstrated economic harm up to the following maximum amounts:

(A) Small farms shall receive up to \$18,300.00.

(B) Certified small farms shall receive up to \$34,300.00.

(C) Medium farms shall receive up to \$56,000.00.

(D) Large farms shall receive up to \$100,000.00.

(2) Until all funds appropriated to the Program for dairy processors are awarded, the Secretary shall award payments as grants to reimburse qualified dairy processors for demonstrated economic harm up to the following maximum amounts:

(A) Dairy processors that process less than 500 pounds of milk per day shall receive up to \$31,000.00.

(B) Dairy processors that process from 500 to 9,999 pounds of milk per day shall receive up to \$40,000.00.

(C) Dairy processors that process from 10,000 to 49,999 pounds of milk per day shall receive up to \$50,000.00.

(D) Dairy processors that process 50,000 pounds or more of milk per day shall receive up to \$60,000.00.

(3) To determine maximum grant eligibility, each milk producer shall be evaluated within the farm type known to the Secretary as of March 1, 2020, and each dairy processor shall be evaluated within the milk processing size known to the Secretary as of March 1, 2020.

(g) Application; processing.

(1) Once a milk producer or dairy processor submits a complete application and demonstrates economic harm, the Secretary shall promptly issue a grant payment, provided that the appropriated funds have not been expended. Initial applications shall be submitted not later than October 1, 2020, and the last grant payment may be a partial payment consisting of the remaining available funds.

(2) Whenever a milk producer or dairy processor has not demonstrated economic harm equal to or greater than the maximum allowed disbursement for its category, the application shall remain pending for a potential future showing of additional economic harm. Qualified milk producers or dairy processors that incur additional economic harm after the date of their initial application may file with the Secretary an addendum to demonstrate subsequent economic harm. The Secretary shall create an addendum form that

milk producers and dairy processors shall utilize when applying for additional relief. Milk producers and dairy processors shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief. Eligible milk producers or dairy processors may submit an addendum to their initial application on or before October 1, 2020 to show any additional economic harm eligible for compensatory payment. No milk producer or dairy processor shall receive total grant payments that exceed the maximum allowed grant payment.

(3) All submitted initial applications shall be processed before considering addenda demonstrating additional economic harm, and each addendum shall be processed in the order received. An addendum shall not be ready for evaluation until the Secretary receives all required proof of economic harm and deems the application administratively complete. Once an eligible milk producer or dairy processor submits a complete addendum and demonstrates additional economic harm, the Secretary shall promptly issue a payment, provided that the appropriated funds have not been expended. The last payment may be a partial payment consisting of the remaining available funds.

(4) Each grant award shall be a direct payment from the State of Vermont to a milk producer or dairy processor. Except as provided under this section, a dairy processor shall not submit more than one application, and a milk producer shall not submit more than one application per each separate

farm owned or controlled by the producer. A person who is both a milk producer and a dairy processor may submit one application as a milk producer and one as a dairy processor when each business is organized as a separate business entity. A person that is both a milk producer and a dairy processor but is not organized as separate business entities shall submit one application for assistance under this section, but will be eligible for assistance as a milk producer and a dairy processor, provided that the total assistance awarded under this section shall not exceed the total economic harm incurred by the applicant. The Secretary may ask an applicant that is both a milk producer and a dairy processor but is not organized as separate business entities to submit separate applications as a milk producer and a dairy processor if separate applications are more administratively efficient. A milk producer or dairy processor that does not initially qualify for the maximum allowed payment may submit an addendum to demonstrate additional economic harm not later than October 1, 2020.

(h) Program terms and limitations.

(1) The Secretary of Agriculture, Food and Markets shall issue grant payments under this section on a first-come, first-served basis until all funds are expended or December 20, 2020, whichever is sooner.

(2) The name of a milk producer or dairy processor that receives an award under this section and the amount of the award are public records subject to inspection and copying under the Public Records Act.

(3) Any application documents of a milk producer or dairy processor containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(4) Data or information submitted to the Secretary by a milk producer or dairy processor under this section to demonstrate economic harm shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose submitted information in summary or aggregated form that does not directly or indirectly identify an individual milk producer or dairy processor.

(5) Notwithstanding any law or State grant requirement to the contrary, a milk producer or dairy processor shall not be denied participation in the Program or have a payment withheld, set off, or reduced for failure to be in full compliance with any obligation to pay any or all taxes due to the State of Vermont.

* * * Non-dairy Agricultural Producer and Processor Assistance

Program * * *

Sec. 7. NON-DAIRY AGRICULTURAL PRODUCER AND PROCESSOR
ASSISTANCE PROGRAM

(a) Appropriations. The sum of \$5,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Agriculture, Food and Markets in fiscal year 2021 for the purpose of establishing the Non-dairy Agricultural

Producer and Processor Assistance Program as set forth in this section. The Agency of Agriculture, Food and Markets shall enter into a memorandum of understanding with the Vermont Economic Development Authority for the implementation and administration of the Non-dairy Agricultural Producer and Processor Assistance Program.

(b) Necessity. The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to stabilize agricultural producers, commercial processors, commercial slaughterhouses, and farmers' markets based on their lost revenues and expenses related to business interruption caused by the COVID-19 public health emergency.

(c) Definitions. As used in this section:

(1) "Agricultural producer" means a farmer who is not eligible for assistance under the Dairy Assistance Program established under this act and who has produced a gross annual income of \$10,000.00 from the sale of agricultural products, livestock, livestock products, or poultry products in one of the two, or three of the five, calendar years preceding submission of an application under this section.

(2) "Agricultural product" means any raw agricultural commodity, as defined in 6 V.S.A. § 21(6), that is principally produced on a farm and includes products prepared from the raw agricultural commodities principally produced on the farm.

(3) “Commercial processor” means any person who maintains an establishment regulated under 6 V.S.A. chapter 204 for the purpose of processing livestock, meat, meat food product, poultry, or poultry product other than for the exclusive use in the household of the owner of the commodity, by him or her and members of his or her household and his or her nonpaying guests and employees.

(4) “Commercial slaughterhouse” means any person engaged in the business of slaughtering livestock or poultry other than as a custom slaughterer or a person conducting slaughter under 6 V.S.A. § 3312(b), (c), or (d).

(5) “Economic harm” means an eligible applicant’s expenses or lost revenue, or both, related to the 2020 COVID-19 public health emergency.

(6) “Eligible applicant” means any agricultural producer, commercial processor, commercial slaughterhouse, or farmers’ market that suffered qualifying economic harm under this section.

(7) “Farmer” means a person who is engaged in farming and subject to the Required Agricultural Practices Rule.

(8) “Farmers’ market” means an event or series of events at which two or more vendors of agricultural products, as defined in 11 V.S.A. § 991, gather for purposes of offering for sale to the public their agricultural products.

(9) “Farming” has the same meaning as in 10 V.S.A. § 6001.

(10) “Good standing” means a participant in the Program administered under this section:

(A) that does not have an active enforcement violation that has reached a final order with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources; and

(B) that is in compliance with all terms of a current grant agreement or contract with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources.

(11) “Livestock” means cattle, cow/calf pairs, youngstock, heifers, bulls, American bison, swine, sheep, goats, horses, cervids, camelids, ratites, rabbits, pheasants, chukar partridge, coturnix quail, laying hens, broilers, ducks, turkeys, or any other type of fowl as designated by the Secretary.

(12) “Livestock product” means any carcass, or part of a carcass, meat, or meat food product of any livestock.

(13) “Poultry product” means any poultry carcass or part of a carcass; or any product that is made wholly or in part from any poultry carcass or part of a carcass.

(14) “Secretary” means the Secretary of Agriculture, Food and Markets.

(d) Administration of Program; eligibility.

(1) The Vermont Economic Development Authority shall administer a Program according to the terms of a memorandum of understanding with the Agency of Agriculture, Food, and Markets and shall approve applications for assistance under this section to offset the economic harm incurred due to the COVID-19 public health emergency.

(2) In order to qualify for assistance under this section, an eligible applicant shall:

(A) be currently operating a farm, a commercial processing facility, a commercial slaughterhouse, or a farmers' market;

(B) be in good standing; and

(C) accurately demonstrate to the Vermont Economic Development Authority the economic harm that occurred or accrued on or after March 1, 2020 and before December 1, 2020 by providing evidence of losses or expenses related to business interruption caused by the COVID-19 public health emergency.

(3) Based on federal law and guidance, the Vermont Economic Development Authority, in consultation with the Agency of Agriculture, Food and Markets, shall establish guidelines identifying the specific types of costs for which grant recipients may use grant funds, provided that essential operating expenses to respond to the COVID-19 public health emergency and maintain operation of an eligible applicant shall be eligible uses of grants under this section.

(4) Economic harm is not compensable under this section if the same economic harm is covered by insurance or if the economic harm was compensated under another State or federal grant; provided, however, that this restriction does not apply to loans or advance payments for which repayment is expected.

(5) An eligible applicant shall not receive an award under this section if the applicant had a net business profit between March 1, 2020 and August 1, 2020.

(e) Implementation.

(1) The Vermont Economic Development Authority shall create an application form that eligible applicants shall utilize when applying for relief. Eligible applicants shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief.

(3) The Vermont Economic Development Authority shall, based on the amount of economic harm incurred by the eligible applicant on the date the application is received, provide up to the maximum award. Applications shall be processed in the order received, but an application shall not be ready for evaluation until the Vermont Economic Development Authority determines that the application is administratively complete and includes all required proof of economic harm.

(4) The Vermont Economic Development Authority may use not less than five percent and up to 8 percent of the appropriation for this Program for administrative costs of implementing and administering the Program provided that the expenses represent an increase over previously budgeted amounts and are limited to what is necessary.

(f) Payment; maximum award.

(1) Until all funds appropriated to the Program are awarded, the Vermont Economic Development Authority shall award grant payments to reimburse eligible applicants for demonstrated economic harm as follows based on annual gross sales:

(A) Eligible applicants with annual gross sales of \$10,000.00 to \$24,999.00 shall receive up to \$2,500.00.

(B) Eligible applicants with annual gross sales of \$25,000.00 to \$49,999.00 shall receive up to \$5,000.00.

(C) Eligible applicants with annual gross sales of \$50,000.00 to \$99,999.00 shall receive up to \$10,000.00.

(D) Eligible applicants with annual gross sales of \$100,000.00 or more shall receive up to \$20,000.00.

(2) An eligible applicant shall be evaluated according to the information regarding the applicant known to the Secretary or the Vermont Economic Development Authority as of March 1, 2020 or according to information required to be submitted as part of the application.

(g) Application; processing.

(1) Once an eligible applicant submits a complete application and demonstrates economic harm, the Vermont Economic Development Authority shall promptly approve a grant payment, provided that the appropriated funds have not been expended. Applications shall be submitted not later than

October 1, 2020, and the last payment may be a partial payment consisting of the remaining available funds.

(2) Each assistance payment shall be a direct grant payment from the State Treasurer to an eligible applicant. Eligible applicants shall not submit more than one application per each separate farm or business owned or controlled by the producer or processor.

(h) Program terms and limitations.

(1) The Vermont Economic Development Authority shall approve grant payments under this section on a first-come, first-served basis until funds are expended or December 20, 2020, whichever is sooner.

(2) The name of an eligible applicant that receives an award under this section and the amount of the award are public records subject to inspection and copying under the Public Records Act.

(3) Any application documents of an eligible applicant containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(4) Data and information submitted to the Secretary or to the Vermont Economic Development Authority by an eligible applicant under this section to demonstrate economic harm shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:

(A) the Secretary or the Vermont Economic Development Authority may use and disclose such information in summary or aggregated form that does not directly or indirectly identify an individual eligible applicant; and

(B) the Vermont Economic Development Authority shall provide to the Secretary the name and contact information of any eligible applicant that receives an award under this section so that the Secretary may begin to establish a database or record of the non-dairy agricultural producers, commercial processors, commercial slaughterhouses, and farmers' markets in the State.

(5) Notwithstanding any law or State grant requirement to the contrary, an eligible applicant shall not be denied participation in the Program or have a payment withheld, set off, or reduced for failure to be in full compliance with any obligation to pay any or all taxes due to the State of Vermont.

* * * Assistance Outreach * * *

Sec. 8. EDUCATION AND OUTREACH; AGRICULTURAL

ASSISTANCE PROGRAMS; REPORTING; REVERSION

(a) The Secretary of Agriculture, Food and Markets, in consultation with interested parties and partner organizations, shall conduct outreach and education regarding the availability of financial assistance to farmers and agricultural processors under the Dairy Assistance Program and the Non-dairy Agricultural Producer and Processor Assistance Program established under this act.

(b) The Secretary of Agriculture, Food and Markets shall prepare a short survey that applicants under the Dairy Assistance Program and the Non-dairy Agricultural Producer and Processor Assistance Program established under this act shall complete to help identify farmers and agricultural processors that are interested in technical assistance, succession planning, or similar services provided by the State and its agricultural partners.

(c) The Secretary of Agriculture, Food and Markets, beginning on July 1, 2020 and ending on January 1, 2021, shall report to the Senate Committees on Agriculture and on Appropriations and the House Committees on Agriculture and Forestry and on Appropriations on the first day of each month regarding the status of the Dairy Assistance Program and the Non-dairy Agricultural Producer and Processor Assistance Program established by this act. The report shall include:

(1) the number of applicants for assistance in each month and overall;

and

(2) the amount of grant funds awarded under each program.

(d) In the September 1, 2020 report required under subsection (c) of this section, the Secretary of Agriculture, Food and Markets shall provide an accounting of the funds remaining to be appropriated under the Non-dairy Agricultural Producer and Processor Assistance Program. If Non-dairy Agricultural Producer and Processor Assistance Program funds remain unappropriated on September 15, 2020, the Secretary of Agriculture, Food and

Markets may reallocate funds from the Non-dairy Agricultural Producer and Processor Assistance Program for award under the Dairy Assistance Program.

* * * Forest Economy Stabilization Grants * * *

Sec. 9. FOREST ECONOMY STABILIZATION GRANT PROGRAM;

CORONAVIRUS RELIEF FUND; APPROPRIATION

(a) The sum of \$5,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Natural Resources in fiscal year 2021 for the purpose of establishing the Forest Economy Stabilization Grant Program as set forth in this section. The Agency of Natural Resources shall enter into memorandum of understanding with the Vermont Economic Development Authority for the implementation and administration of the Forest Economy Stabilization Grant Program.

(b) The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to stabilize forest products businesses due to lost revenues and expenses related to the business interruptions caused by the COVID-19 public health emergency. Low-grade wood constitutes nearly three-quarters of the annual timber harvest in Vermont, and low-grade wood is a key component to paper making. However, the COVID-19 public health emergency has reduced market demand for paper in offices, schools, institutions, advertising, and many other outlets. As a result, millions of tons of unsold paper are stockpiled in warehouses at paper mills, thereby freezing the supply chain for paper making and other

associated products harvested and processed from Vermont forests. In addition, low-grade pulpwood chips that would have been used to make paper are being diverted to wood-fired electric plants, thereby displacing the use of whole-tree chips normally supplied by logging contractors delivering whole-tree chips. As a result of these market and supply chain disruptions caused by the COVID-19 public health emergency, forest products businesses are suffering significant business interruptions that restrict the ability of logging contractors to harvest, limit timber sales, diminish landowner return, reduce the supply of forest products to processors that have viable markets, and significantly reduce the need for services from haulers, foresters, and other forest products businesses.

(c) As used in this section:

(1) “Economic harm” means a forest products business’s expenses or lost revenues, or both, related to the 2020 COVID-19 public health emergency.

(2) “Forest products business” means a Vermont enterprise that is primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing forest or wood products derived from Vermont forests. “Forest products business” includes consulting forestry services and secondary manufacturers of wood products.

(d)(1) The Vermont Economic Development Authority shall administer the Forest Economy Stabilization Grant Program according to the terms of the memorandum of understanding with the Agency of Natural Resources and

shall approve application for assistance under this section for eligible forest products businesses that have suffered economic harm.

(2) A forest products business shall qualify for assistance under the Program if the business:

(A) was operating in the State on or before February 1, 2020; and

(B) accurately demonstrates to the Vermont Economic Development Authority economic harm that occurred or accrued on or after March 1, 2020 and before December 1, 2020 by providing evidence of lost revenues or expenses related to business interruption caused by the COVID-19 public health emergency.

(3) Based on federal law and guidance, the Vermont Economic Development Authority, in consultation with the Department of Forests, Parks, and Recreation, shall establish guidelines identifying the specific types of costs for which grant recipients may use grant funds, provided that essential operating expenses to respond to the COVID-19 public health emergency and maintain operation of a forest products business shall be eligible uses of grants under this section.

(4) Economic harm is not compensable under this section if the same economic harm is covered by insurance or if the economic harm was compensated under another State or federal grant; provided, however, that this restriction does not apply to loans or advance payments for which repayment is expected.

(e)(1) The Vermont Economic Development Authority, in consultation with the Department of Forests, Parks, and Recreation, shall create an application form that forest products businesses shall utilize when applying for assistance. Applicants shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief.

(2) The Vermont Economic Development Authority shall, based on the amount of economic harm incurred by the forest products business on the date the application is received, provide up to the maximum award permitted under this section. Applications shall be processed in the order received, but an application shall not be ready for evaluation until the Vermont Economic Development Authority determines that the application is administratively complete and includes all required proof of economic harm.

(3) Until all funds appropriated to the Forest Economy Stabilization Grant Program are awarded, the Vermont Economic Development Authority shall approve applications for grants to reimburse qualified forest products businesses for demonstrated economic harm up to the maximum amount of \$100,000.00 for each eligible forest products business.

(4) Grants to be awarded pursuant to this section shall be disbursed as a single payment. All funds shall be disbursed, and cover economic harm incurred, on or before December 30, 2020 as required by the CARES Act.

(5) The Vermont Economic Development Authority may use not less than five percent and up to 8 percent of the appropriation for this Program for

administrative costs of implementing and administering the Program provided that the expenses represent an increase over previously budgeted amounts and are limited to what is necessary.

(f)(1) The Vermont Economic Development Authority shall approve applications for grant payments under this section on a first-come, first-served basis until all funds are expended or December 20, 2020, whichever is sooner. Each grant payment shall be a direct grant payment from the State Treasurer to an eligible applicant.

(2) Any application documents of a forest products business containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(3) Data submitted to the Secretary by a forest products business under this section to demonstrate economic harm shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose submitted information in summary or aggregated form that does not directly or indirectly identify an individual forest products business.

(g) On or before July 31, 2020, the Agency of Natural Resources shall provide information to the House Committees on Appropriations, on Agriculture and Forestry, and on Natural Resources, Fish and Wildlife and the Senate Committees on Appropriations, on Agriculture, and on Natural

Resources and Energy regarding the Vermont Economic Development

Authority's distribution of Forest Economy Stabilization Grant Program grant funds to date, including the types of enterprises awarded funds, the aggregate amounts awarded by enterprise, and the aggregate amounts awarded by geographic region of the State. The Vermont Economic Development Authority shall provide an updated version of the report required under this section to the General Assembly on or before September 1, 2020 and on or before January 1, 2021.

(h) The Agency of Natural Resources shall transfer any amounts appropriated for the purposes of this section that remain both unencumbered and unspent as of September 15, 2020 to the Agency of Commerce and Community Development for additional emergency economic recovery grants pursuant to 2020 Acts and Resolves No. 115.

* * * Agricultural Fairs * * *

Sec. 9a. AGRICULTURAL FAIRS; RELIEF ASSISTANCE

(a) The sum of \$500,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Agriculture, Food and Markets in fiscal year 2021 for the purpose of awarding grants to agricultural fairs in the State that have suffered verifiable lost revenues or expenses caused by the COVID-19 public health emergency.

(b) To be eligible for an award under this section, an agricultural fair shall be registered with the Agency of Agriculture, Food and Markets. An

agricultural fair shall demonstrate to the Agency lost revenues or expenses that occurred or accrued on or after March 1, 2020 and before September 1, 2020 due to the COVID-19 public health emergency. The Agency of Agriculture, Food and Markets shall award grants under this section equitably to all eligible agricultural fairs in the State.

(c) The Agency of Agriculture, Food and Markets shall transfer any amounts appropriated for the purposes of this section that remain both unencumbered and unspent as of September 15, 2020 to the Agency of Commerce and Community Development for additional emergency economic recovery grants pursuant to 2020 Acts and Resolves No. 115.

* * * Farm Worker Safety * * *

Sec. 10. FARM WORKER HEALTH AND SAFETY; CORONAVIRUS;

AVAILABILITY

The Secretary of Agriculture, Food and Markets, after consultation with the Department of Labor and the Vermont Occupational Safety and Health Administration (VOSHA), shall post on the Agency of Agriculture, Food and Markets' website educational material available from VOSHA related to farm worker health and safety, including VOSHA's recommended best practices or preventative measures farm workers should implement to address the threat to health and safety posed by the COVID-19 coronavirus and other similar threats to health and safety. The Secretary of Agriculture, Food and Markets shall post the English and Spanish language versions of the VOSHA educational

material required under this section and shall provide links or references on how to obtain the material from VOSHA in other languages.

* * * VHCB; COVID-19 Business Consulting for Farms * * *

Sec. 11. APPROPRIATIONS; VHCB; COVID-19 CONSULTING

SERVICES FOR FARM AND FOOD BUSINESSES

In addition to funds appropriated in fiscal year 2021 to the Vermont Housing and Conservation Board (VHCB), \$192,000.00 is appropriated to VHCB from the Coronavirus Relief Fund to provide business, financial, and mental health assistance to farm and food businesses that suffered losses or expenses due to business interruptions caused by the COVID-19 public health emergency. Consulting services shall include information and assistance with accessing federal and State COVID-19 relief funds, access to additional markets, diversification of income streams, access to mental health services, and other assistance farm and food businesses may require to address or recover from business interruption caused by the COVID-19 public health emergency.

* * * VHCB; Authority * * *

Sec. 12. 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

(a) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and those

general powers provided to a nonprofit corporation by Title 11B and including, without limitation of the general powers under Titles 11A and 11B, the power to:

(1) upon application from an eligible applicant in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter; ~~and~~

(4) transfer funds to the Department of Housing and Community Development to carry out the purposes of this chapter;

(5) make and execute all legal documents necessary or convenient for the exercise of its powers and functions under this chapter, including legal documents that may be made and executed with the State or any of its agencies or instrumentalities, with the United States or any of its agencies or instrumentalities or with private corporations or individuals;

(6) receive and accept grants from any source to be held, used, or applied or awarded to carry out the purposes of this chapter subject to the conditions upon which the grants, aid, or contributions may be made;

(7) make and publish rules and regulations respecting its housing programs and such other rules and regulations as are necessary to effectuate its corporate purposes; and

(8) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(b)(1) The Board shall seek out and fund nonprofit organizations and municipalities that can assist any region of the State that has high housing prices, high unemployment, ~~and~~ or low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing.

(2) The Board shall administer the “HOME” affordable housing program ~~which that~~ that was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The State of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the Board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and results that the Board will annually report on to the Vermont Department of Housing and Community Development.

(c) On behalf of the State of Vermont, the Board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund ~~which~~ that was enacted under HR 3221, Division A, Title 1, Subtitle B, Section 1131 of the Housing and Economic Reform Act of 2008 (P.L. 110-289) to increase perpetually affordable rental housing and home ownership for low and very low income families. The Board is also authorized to receive and administer federal funds or enter into cooperative agreements for a shared appreciation and/or community land trust demonstration program that increases perpetually affordable homeownership options for lower income Vermonters and promotes such options both within and outside Vermont.

(d) On behalf of the State of Vermont, the Board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the Board shall seek to maximize State participation in the federal Wetlands Reserve Program and ~~such~~ other programs as is appropriate to allow for increased or additional implementation

of conservation practices on farmland and forestland protected or preserved under this chapter.

(e) The Board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and State bonding act of the following: “The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act.” An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

Sec. 13. 2017 Acts and Resolves No. 77, Sec. 12 is amended to read:

Sec. 12. ~~REPEALS~~ REPEAL

~~(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2021; and~~

~~(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.~~

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: July 2, 2020