

1 Introduced by Committee on Agriculture and Forestry

2 Date:

3 Subject: Agriculture; pandemic response; financial assistance

4 Statement of purpose of bill as introduced: This bill proposes to establish

5 within the Agency of Agriculture, Food and Markets a Dairy Farmer

6 Assistance Program (Program) to provide financial assistance to milk

7 producers and dairy processors that have suffered economic harm in Vermont

8 caused by the COVID-19 public health emergency.

9 An act relating to financial assistance to milk producers and dairy
10 processors due to the COVID-19 public health emergency

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

12 Sec. 1. DAIRY ASSISTANCE PROGRAM; COVID-19 PUBLIC

13 HEALTH EMERGENCY

14 (a) Definitions. As used in this section:

15 (1) “Animal feeding operation” (AFO) means a lot or facility where
16 livestock have been, are, or will be stabled or confined and fed or maintained
17 for a total of 45 days or more in any 12-month period; and crops, vegetation, or
18 forage growth are not sustained in the normal growing season over any portion
19 of the lot or facility. Two or more individual farms qualifying as an AFO that
20 are under common ownership and that adjoin each other or use a common area

1 or system for the disposal of waste shall be considered to be a single AFO if
2 the combined number of resulting livestock qualifies as a medium farm as
3 defined in subdivision (7) of this subsection.

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

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

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

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

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

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

4 (8) “Milk producer” or “producer” is a person, partnership,
5 unincorporated association, or corporation that owns or controls one or more
6 dairy cows, dairy goats, or dairy sheep and sells or offers for sale a part or all
7 of the milk produced by the animals.

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

10 (10) “Small farm” means:

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

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

14 (b) Program establishment; eligibility.

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

19 (2) In order to qualify for assistance under this section, a milk producer
20 or dairy processor shall:

21 (A) be currently producing milk or dairy products; and

1 (B) accurately demonstrate to the Secretary economic harm that
2 occurred or accrued on or after March 1, 2020 and before December 30, 2020
3 by providing evidence of losses related to the costs of business disruption
4 caused by the COVID-19 public health emergency.

5 (3) Economic harm is not compensable under this section if the same
6 expenses have been or will be covered by insurance or another federal grant.

7 (c) Administration; implementation.

8 (1) The Program shall be administered by the Agency of Agriculture,
9 Food and Markets, which shall award available funds to eligible applicants that
10 demonstrate economic harm.

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

15 (3) The Secretary shall, based on the amount of economic harm incurred
16 by the milk producer or dairy processor on the date the application is received,
17 provide awards up to the maximum disbursement permitted for each type of
18 qualified farm or for each qualified dairy processor. Applications shall be
19 processed in the order received, but an application shall not be ready for
20 evaluation until the Secretary determines that the application is
21 administratively complete and includes all required proof of economic harm.

1 (d) Payment; maximum award.

2 (1) Until all funds appropriated to the Program for milk producers are
3 awarded, the Secretary shall award payments to reimburse qualified milk
4 producers for demonstrated economic harm as follows:

5 (A) Large farms shall receive up to \$700,000.00.

6 (B) Medium farms shall receive up to \$70,000.00.

7 (C) Certified smalls farms shall receive up to \$70,000.00.

8 (D) Small farms shall receive up to \$70,000.00.

9 (2) Until all funds appropriated to the Program for dairy processors are
10 awarded, the Secretary shall award payments to reimburse qualified dairy
11 processors for demonstrated economic harm as follows:

12 (A) Dairy processors that process less than 500 pounds of milk per
13 day shall receive up to \$56,500.00.

14 (B) Dairy processors that process from 500 to 9,999 pounds of milk
15 per day shall receive up to \$70,000.00.

16 (C) Dairy processors that process from 10,000 to 49,999 pounds of
17 milk per day shall receive up to \$97,000.00.

18 (D) Dairy processors that process from 50,000 to 99,999 pounds of
19 milk per day shall receive up to \$127,000.00.

20 (E) Dairy processors that process from 100,000 to 499,999 pounds of
21 milk per day shall receive up to \$157,000.00.

1 (F) Dairy processors that process 500,000 pounds or more of milk per
2 day shall receive up to \$185,000.00.

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

7 (e) Application; processing.

8 (1) Once a milk producer or dairy processor submits a complete
9 application and demonstrates economic harm, the Secretary shall promptly
10 issue a payment, provided that the appropriated funds have not been expended.
11 The last payment may be a partial payment consisting of the remaining
12 available funds.

13 (2) Whenever a milk producer or dairy processor has not demonstrated
14 economic harm equal to or greater than the maximum allowed disbursement
15 for its category, the application shall remain pending for a potential future
16 showing of additional economic harm. Qualified milk producers or dairy
17 producers that incur additional economic harm after the date of their initial
18 application may file with the Secretary an addendum to demonstrate
19 subsequent economic harm. The Secretary shall create an addendum form that
20 milk producers or dairy processors shall utilize when applying for additional
21 relief. Milk producers and dairy processors shall certify that all information

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

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

16 (4) Each assistance payment shall be a direct payment from the State of
17 Vermont to an eligible milk producer or dairy processor. A milk producer or
18 dairy processor shall not submit more than one application, but a milk producer
19 or dairy processor that does not initially qualify for the maximum allowed
20 payment may submit an addendum to demonstrate additional economic harm
21 not later than October 1, 2020.

1 (f) Penalty. A milk producer or dairy processor who submits false or
2 misleading information under this section shall be subject to an administrative
3 penalty of up to [\$?,000.00] to be assessed by the Secretary under the process
4 and requirements for administrative penalties set forth under 6 V.S.A. § 15.

5 **[Excerpt of penalty language proposed by AAFM: (a) A violation under**
6 this section may give rise to civil, administrative, and/or criminal enforcement
7 under Title 6 or Title 13.

8 (b) Any ineligible or unqualified applicant who inappropriately receives
9 funds shall be administratively and/or civilly liable for returning the funds to
10 the State of Vermont and for a penalty of up to \$10,000.00. Any person who
11 willfully, knowingly, or recklessly submits false information in an attempt or
12 successful effort to defraud the State shall be imprisoned for not more than five
13 years and fined not more than \$1,000.00, or both. Any person may also be
14 subject to prosecution for any additional crime(s) committed under Title 13.]

1 Sec. 2. APPROPRIATIONS

2 (a) The amount of \$?0,000,000 is appropriated from the Coronavirus Relief
3 Fund to the Department of Finance and Management for transfer to the Agency
4 of Agriculture, Food and Markets for use in Fiscal Years 2020 and 2021 to
5 process payments under the Dairy Assistance Program established under Sec. 1
6 of this act. From the appropriated funds, \$?0,000,000 shall be available for
7 assistance under Sec. 1 to milk producers, and \$?0,000,000 shall be available
8 for assistance under Sec. 1 to dairy processors.

9 (b) Any funds appropriated under subsection (a) of this section that are not
10 expended by November 1, 2020 shall revert to the Agency of Agriculture,
11 Food and Markets for ongoing financial assistance to farmers who can
12 demonstrate economic harm incurred from March 1, 2020 through December
13 30, 2020 consistent with the requirements of P.L. 116-136.

14 Sec. 3. EFFECTIVE DATE

15 This act shall take effect on passage.