

1 Introduced by Committee on Appropriations

2 Date:

3 Subject: Executive; Agency of Administration; COVID-19; employee grant
4 program

5 Statement of purpose of bill as introduced: This bill proposes to create the
6 Essential Employees Grant Program for the payment of monthly grants to
7 employees performing essential work that exposes them to an increased risk of
8 contracting COVID-19.

9 An act relating to creating the COVID-19 Essential Employees Grant
10 Program

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

12 Sec. 1. DEFINITIONS

13 As used in sections 1–11 of this act:

14 (1)(A) “Covered employer” means an entity that employs one or more
15 individuals in Vermont in relation to its operation of one of the following:

16 (i) a grocery store;

17 (ii) a pharmacy;

18 (iii) a retailer identified as essential in Sec. 6, paragraphs f and h
19 of addendum 6 to Executive Order 01-20, provided that the majority of the

1 retail establishment is open to the general public for in-person sales rather than
2 curbside pickup or delivery;

3 (iv) a wholesale distributor making deliveries to a retailer
4 described in subdivisions (i)–(iii) of this subdivision (1)(A)

5 (v) a trash collection or waste management service;

6 (vi) a janitorial service that provides cleaning or janitorial services
7 to another covered employer;

8 (vii) an assisted living residence as defined in 33 V.S.A. § 7102;

9 (viii) a nursing home as defined in 33 V.S.A. § 7102;

10 (ix) a residential care home as defined in 33 V.S.A. § 7102;

11 (x) a therapeutic community residence as defined in 33 V.S.A.
12 § 7102;

13 (xi) a health care facility as defined in 18 V.S.A. § 9432 or a
14 physician’s office;

15 (xii) a child care facility as defined in 33 V.S.A. § 3511 that is
16 providing child care services to essential service providers pursuant to
17 Directive 2 of Executive Order 01-20;

18 (xiii) a vocational rehabilitation service provider;

19 (xiv) a dentist’s office or a dental facility;

20 (xv) a homeless shelter;

21 (xvi) a home health agency as defined in 33 V.S.A. § 6302;

1 (xvii) a federally qualified health center, rural health clinic, or
2 clinic for the uninsured;

3 (xviii) a program licensed by the Department for Children and
4 Families as a residential treatment program;

5 (xix) an ambulance service or first responder service as defined in
6 24 V.S.A. § 2651;

7 (xx) a funeral establishment or crematory establishment as defined
8 in 26 V.S.A. § 1211; or

9 (xxi) providers of necessities and services to economically
10 disadvantaged populations.

11 (B) A “covered employer” shall also include ARIS Solutions, which
12 shall be deemed to be the employer of an independent direct support provider,
13 as defined pursuant to 21 V.S.A. § 1631, that is an eligible employee.

14 (C) “Covered employer” does not include the State, a political
15 subdivision of the State, or the United States.

16 (2)(A) “Eligible employee” means an individual who:

17 (i) is employed by a covered employer that has enrolled in the
18 Program pursuant to section E of this act;

19 (ii) performs a job whose principal function is to:

20 (I) provide in-person services to members of the public or
21 clients;

1 (II) clean or sanitize the premises of a covered employer in a
2 location that is open to the general public;

3 (III) stock products on the premises of a retailer described in
4 subdivisions (1)(A)(i)–(iii) of this section in a location that is open to the
5 general public; or

6 (IV) perform activities that would reasonably result in a
7 similarly elevated risk of being exposed to or contracting COVID-19;

8 (iii) is unable to perform his or her job remotely or to telework;

9 (iv) actively performed the principal function of his or her job
10 during the Program Period;

11 (v) except in the case of employees of home health agencies and
12 nursing homes, earns an hourly base wage of \$25.00 or less;

13 (vi) worked at least 34 hours for a covered employer during the
14 relevant calendar month; and

15 (vii) is not eligible to receive monetary benefits for the
16 performance of work in a job that exposes them to an elevated risk of being
17 exposed to or contracting COVID-19 under any program authorized or
18 implemented by the federal government.

19 (B) “Eligible employee” includes an independent direct support
20 provider as defined pursuant to 21 V.S.A. § 1631 who satisfies the
21 requirements of subdivisions (A)(ii)–(vii) of subdivision (2) of this section.

1 (C) “Eligible employee” does not include an independent contractor
2 or self-employed individual.

3 (3) “Grant issuer” means the entity that the Secretary contracts with to
4 process and disburse payments of grant monies to covered employers for
5 payment to eligible employees.

6 (4) “Program” means the Essential Employees Grant Program.

7 (5) “Program Period” means the period from April 1, 2020 through
8 June 30, 2020, inclusive.

9 (6) “Secretary” means the Secretary of Administration.

10 Sec. 2. ESSENTIAL EMPLOYEES GRANT PROGRAM;

11 ESTABLISHMENT; CONTRACTS FOR PROGRAM

12 ADMINISTRATION

13 (a) There is established the Essential Employees Grant Program to provide
14 grants to eligible employees who, during the Program Period, perform work in
15 essential jobs that expose them to an elevated risk of being exposed to or
16 contracting COVID-19.

17 (b)(1) The Program shall be administered by the Secretary of
18 Administration.

19 (2) The Secretary shall contract with a private entity to serve as the
20 Program’s grant issuer as provided pursuant to subsection (c) of this section.

1 (3) The Secretary may utilize staff and resources from any State agency
2 or department as necessary to implement and administer the Program.

3 (4) The Secretary may contract with one or more private entities as
4 necessary to implement or administer the Program.

5 (5) With respect to grants for eligible employees of home health
6 agencies and nursing homes:

7 (A) the Secretary shall, in consultation with the Secretary of Human
8 Services, the Commissioner of Disabilities, Aging and Independent Living,
9 and the Commissioner of Vermont Health Access, develop a process for
10 paying grants to those employees as provided pursuant to Sec. 6 of this act; and

11 (B) the Agency of Human Services, Department of Disabilities,
12 Aging and Independent Living, and Department of Vermont Health Access
13 shall jointly administer the processing and payment of grants to those
14 employees as provided pursuant to Sec. 6 of this act.

15 (c) Notwithstanding any provision of law to the contrary, the Secretary may
16 enter into contracts with the grant issuer and any private entities that are
17 necessary to implement or administer the Program without the need to
18 competitively bid such contracts. For the purposes of the Program, the public
19 health risk posed by COVID-19 shall be deemed to be an emergency situation
20 that justifies the execution of sole source contracts pursuant to Bulletin 3.5, the
21 State’s Procurement and Contracting Procedures.

1 (d) The contract with the grant issuer shall, at a minimum, provide that the
2 grant issuer shall:

3 (1) issue grant payments to eligible employees pursuant to the
4 provisions of Sec. 5 of this act and pursuant to a time period and procedures
5 established by the Secretary;

6 (2) comply with all requirements, guidelines, and procedures that the
7 Secretary adopts in relation to the Program; and

8 (3) comply with all requirements of this act.

9 (e)(1) The Secretary shall adopt requirements, guidelines, and procedures
10 as necessary to implement and administer the Program.

11 Sec. 3. SAFEGUARDING PERSONAL INFORMATION;

12 CONFIDENTIALITY

13 (a) All personally identifiable information that is collected by the Program,
14 any entity of State government performing a function of the Program, or any
15 entity that the Secretary contracts with to perform a function of the Program
16 shall be kept confidential and shall be exempt from inspection and copying
17 under the Public Records Act.

18 (b) The Secretary shall ensure that any entity of State government
19 performing a function of the Program, or any entity that the Secretary contracts
20 with to perform a function of the Program:

1 (1) implements appropriate procedures and safeguards to protect any
2 personally identifiable information that it obtains in relation to the Program;

3 (2) shall not disclose an individual’s Social Security number to another
4 State entity or contractor performing a function of the Program unless that
5 disclosure is necessary for the administration of the Program; and

6 (3) complies with all applicable requirements of 9 V.S.A. chapter 62.

7 (c) As used in this section, “personally identifiable information” means an
8 individual’s:

9 (1) name

10 (2) address;

11 (3) date of birth;

12 (4) place of birth;

13 (5) mother’s maiden name;

14 (6) unique biometric data generated from measurements or technical
15 analysis of human body characteristics used to identify or authenticate the
16 individual, such as a fingerprint, retina or iris image, or other unique physical
17 representation or digital representation of biometric data;

18 (7) name or address of a member of the individual’s immediate family
19 or household;

20 (8) Social Security number or other government-issued identification
21 number; or

1 (9) other information that, either alone or in combination with the
2 information listed in subdivisions (1)–(8) of this subsection, would allow a
3 reasonable person to identify the individual with reasonable certainty.

4 Sec. 4. GRANTS; PAYMENT; INCOME TAX WITHHOLDING

5 (a) Grants shall be paid to eligible employees in the following amounts:

6 (1) For each month during the Program Period in which a covered
7 employer submits documentation showing that an eligible employee actually
8 worked more than 108 hours, the eligible employee shall receive a grant of
9 \$1,000.00.

10 (2) For each month during the Program Period in which a covered
11 employer submits documentation showing that an eligible employee actually
12 worked at least 34 hours and less than 108 hours, the eligible employee shall
13 receive a grant of \$600.00.

14 (b)(1) The number of hours actually worked by an eligible employee for
15 each calendar month shall include any hours of employer-provided accrued
16 paid leave or leave provided pursuant to the Emergency Family and Medical
17 Leave Expansion Act or the Emergency Paid Sick Leave Act that are used by
18 the eligible employee because he or she has contracted COVID-19 or is
19 quarantined because of exposure to COVID-19.

20 (2) The number of hours actually worked by an eligible employee for
21 each calendar month shall not include:

1 (A) any hours of employer-provided accrued paid leave or leave
2 provided pursuant to the Emergency Family and Medical Leave Expansion Act
3 or the Emergency Paid Sick Leave Act that are used by the eligible employee
4 to care for another individual; and

5 (B) any hours of remote or telework performed by the eligible
6 employee.

7 (c) An eligible employee who qualifies for a grant pursuant to subdivisions
8 (2)(A)(i)–(vii) of Sec. 1 of this act shall be permitted to receive not more than
9 two grants per calendar month for eligible work performed at different covered
10 employers. If an eligible employee performed work that qualifies for a grant at
11 more than two covered employers during a particular month, the employee
12 shall receive grants in relation to the two jobs at which the employee worked
13 the greatest number of hours during that month.

14 (d) The monthly check for each eligible employee shall be sent to their
15 covered employer who shall give the check to the employee not more than five
16 calendar days after the covered employer receives it.

17 (e) Checks shall be issued by the grant issuer on a monthly basis according
18 to a schedule adopted by the Secretary.

19 (f)(1) The Secretary shall, as soon as practicable, determine whether a
20 sufficient amount of the funds appropriated pursuant to Sec. 9 of this act
21 remains to pay the anticipated grant requests for June. If the Secretary

1 determines that the remaining funds are likely to be insufficient to pay the
2 claims for June, the Secretary shall, in consultation with the grant issuer,
3 reduce the grant amounts set forth in subsection (a) of this section by an
4 amount necessary to ensure that all anticipated grant requests for June can be
5 paid.

6 (2) The grant issuer shall cease paying claims submitted after a date
7 established by the Secretary by guidelines or procedure or upon the exhaustion
8 of the funds appropriated in Sec. 9 of this act, whichever occurs sooner.

9 (g)(1) Each eligible employee shall, together with his or her initial grant
10 payment, be provided with written notice that the grant may be subject to
11 income tax and that the eligible employee's grant is subject to withholding.

12 (2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A.
13 chapter 151, subchapter 4 pertaining to the withholding of income tax shall be
14 followed in relation to the payment of grants pursuant to this section.

15 **Sec. 5. APPLICATION; REQUIRED INFORMATION;**

16 (a)(1) In order to enroll in the Program and make its employees eligible for
17 grants issued under the Program, a covered employer shall submit to the
18 Secretary or the Secretary's designee a notice of enrollment in a form specified
19 by the Secretary.

20 (2) The Secretary shall require employers to provide information
21 demonstrating that they are a covered employer and that each listed employee

1 is performing a job whose functions would make the employee eligible to
2 receive a grant pursuant to the Program.

3 (3) As a condition of enrolling in the Program, each covered employer
4 shall agree to make all books and records related to work performed by eligible
5 employees during the Program Period available upon request to the Secretary,
6 the Secretary’s designee, or the Attorney General for inspection.

7 (4) An enrolled covered employer shall be permitted to update the list of
8 potentially eligible employees at regular intervals specified by the Secretary.

9 (b)(1) A covered employer that has enrolled in the Program shall submit a
10 separate request for grant payments in a form specified by the Secretary for
11 each calendar month during the Program Period according to a schedule
12 established by the Secretary.

13 (2) The Secretary shall specify the information that must be provided for
14 each eligible employee, including documentation of the hours of actual work
15 performed by each eligible employee for that month and any information
16 necessary for the grant issuer to withhold income taxes pursuant to subsection
17 (g) of Sec. 4 of this act.

18 (c)(1) Nothing in this section shall be construed to require a covered
19 employer to enroll in the Program.

20 (2) A covered employer that elects not to enroll in the Program or
21 neglects or fails to submit a request for grant payments for any month in the

1 Program Period shall not be liable to its eligible employees for any amounts
2 that they may have been entitled to receive under the Program if the covered
3 employer had enrolled in the Program or submitted a grant request for that
4 month.

5 Sec. 6. GRANTS FOR ELIGIBLE HOME HEALTH AND NURSING
6 HOME EMPLOYEES

7 (a)(1) Notwithstanding Secs. 4 and 5 of this act, eligible employees
8 performing work for a home health agency or nursing home shall receive
9 monthly grants during the program period pursuant to a procedure adopted by
10 the Secretary in consultation with the Secretary of Human Services, the
11 Commissioner of Disabilities, Aging and Independent Living, and the
12 Commissioner of Vermont Health Access.

13 (2)(A) Eligible employees who work at least 108 hours during a month
14 shall be entitled to a grant of \$1,000.00. Eligible employees who work at least
15 34 hours and less than 108 hours shall be entitled to a grant of \$600.00.

16 (B) Grant payments pursuant to this section shall not be limited to
17 employees earning less than \$25.00 per hour. Any income requirements for
18 grant payments made pursuant to this section shall be determined by the
19 Secretary in consultation with the Secretary of Human Services, the
20 Commissioner of Disabilities, Aging and Independent Living, and the
21 Commissioner of Vermont Health Access.

1 (b) The Agency of Human Services and Departments of Disabilities,
2 Aging, and Independent Living and of Vermont Health Access shall jointly
3 administer the payment and processing of grants pursuant to this section with
4 the Secretary.

5 (c) The Secretary shall, in consultation with the Secretary of Human
6 Services, Commissioner of Disabilities, Aging and Independent Living, and
7 Commissioner of Vermont Health Access, develop a process for identifying
8 eligible employees, determining grant amounts, and paying grants to eligible
9 employees through participating home health agencies and nursing homes.

10 (d)(1) Each eligible employee that receives a grant payment pursuant to
11 this section shall, together with his or her initial grant payment, be provided
12 with written notice that the grant may be subject to income tax and that the
13 eligible employee’s grant is subject to withholding.

14 (2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A.
15 chapter 151, subchapter 4 pertaining to the withholding of income tax shall be
16 followed in relation to the payment of grants pursuant to this section.

17 Sec. 7. REPORTS; AUDIT

18 (a) The Secretary shall require the grant issuer and any private entity that is
19 performing a function of the Program to provide the Secretary with monthly
20 reports providing information on Program performance, including, as

1 applicable, the number of claims received and processed, the number of
2 employers enrolled, and the amount of grant funds paid.

3 (b) On or before October 1, 2020, the Secretary shall submit a written
4 report to the Joint Fiscal Committee with the following information:

5 (1) the total number of covered employers that participated in the
6 Program;

7 (2) the total number of eligible employees who received grants through
8 the Program;

9 (3) the aggregate number of grants and the aggregate dollar amount of
10 the grants issued for each calendar month during the Program Period;

11 (4) the aggregate dollar amount of the grants issued for the entire
12 Program Period; and

13 (5) any other information regarding the Program that the Secretary
14 determines is pertinent.

15 (c) The grant issuer and any other private entity with whom that Secretary
16 contracts for the performance of a function related to the Program shall:

17 (1) keep its books and records related to the Program available for audit
18 as required by the Secretary during the period of the contract and for three
19 years thereafter or any longer period that is otherwise required by law;

1 (2) make all books and records related to the Program available to the
2 Secretary, the Attorney General, and the Auditor of Accounts upon request;
3 and

4 (3) make its books and records available for review or audit upon
5 request by any State or federal authority with jurisdiction, or an entity
6 appointed by such a State or federal authority.

7 Sec. 8. FRAUD; ENFORCEMENT

8 (a) A person shall not intentionally make a false statement or representation
9 to obtain or increase any grant for an eligible employee under this act.

10 (b) The Attorney General may enforce the provisions of this section and
11 Secs. 4–6 of this act by restraining prohibited acts, seeking civil penalties,
12 obtaining assurances of discontinuance, and conducting civil investigations in
13 accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as
14 though a violation of this section were an unfair act in commerce. Any person
15 complained against shall have the same rights and remedies as specified in
16 those sections. The Superior Courts are authorized to impose the same civil
17 penalties and investigation costs and to order other relief to the State of
18 Vermont for violations of this section as they are authorized to impose or order
19 under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in
20 commerce. In addition, the Superior Courts may order a person who violates
21 the provisions of this section to pay restitution to the State in an amount equal

1 to the amount of any benefit or other payment that was obtained by means of a
2 false statement or representation.

3 Sec. 9. APPROPRIATION; INTENT; FEDERAL FUNDS

4 (a) Intent. It is the intent of the General Assembly that the State shall only
5 expend funds appropriated in this section to support the Essential Employees
6 Grant Program during the COVID-19 emergency in the absence of a specific
7 federal program to support eligible employees or covered employers as defined
8 in this act.

9 (b) The amount of \$XXX,XXX,XXX.XX is appropriated in Fiscal Year
10 2020 from the Coronavirus Relief Fund to the Agency of Administration for
11 use in fiscal years 2020 and 2021 for the administration of and payment of
12 grants pursuant to the Essential Employees Grant Program. The amount
13 needed to support the payment of grants to eligible employees working for a
14 nursing home or home health agency shall be transferred to the Agency of
15 Human Services.

16 (c)(1) For the amount appropriated in subsection (b) of this section, the
17 Commissioner of Finance and Management shall only release the amount
18 necessary to pay each of the three monthly installments during the Program
19 Period to the Agency of Administration upon notification from the State
20 Treasurer that prior to the issuance of each monthly installment there is no

1 specific federal program to support eligible employees or covered employers
2 as defined in this act.

3 (2) If a federal program supporting eligible employees or covered
4 employers as defined in this act is enacted, the Commissioner of Finance and
5 Management shall only release the amount from the amount appropriated in
6 subsection (b) of this section that is needed to issue grants made under the
7 Program prior to the enactment of the federal program.

8 (3) To the extent permissible, the State shall apply any federal funding
9 granted directly to the State through a federal program to any grants already
10 provided under the Program.

11 (d) Any expended funds remaining after the Program Period ends shall
12 revert to the Coronavirus Relief Fund for reallocation.

13 (e) As used in this section, a “federal program” includes federal funds that
14 have been granted or are likely to be granted to the State, or are granted
15 directly to eligible employees or covered employers as defined in this act, and
16 any federal tax incentives or credits enacted to support eligible employees or
17 covered employers as defined in this act.

18 Sec. 10. AGENCY OF TRANSPORTATION; TRANSIT AGENCIES;

19 BENEFITS TO ESSENTIAL WORKERS

20 The General Assembly encourages the Agency of Transportation, in
21 consultation with transit agencies, to develop a plan to utilize funding from the

1 Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116–136, or
2 any other federal act providing additional funding related to COVID-19, to the
3 extent permitted by law, to provide increased compensation, whether in the
4 form of an increased hourly wage, a bonus, or some other monetary benefit, to
5 drivers and other employees who provide in-person services to members of the
6 general public during the Program Period or a longer period permitted by
7 federal law in recognition of the increased risk of being exposed to or
8 contracting COVID-19.

9 Sec. 11. EFFECTIVE DATE

10 This act shall take effect on passage.