

1 S.???

2 Senators Hooker, Kitchel, McNeil and Pearson move that the bill be  
3 amended after Sec. ???, [more complete description], by inserting Secs. A–H  
4 to read:

5 Sec. A. DEFINITIONS

6 As used in sections A–J of this act:

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

9 (i) a grocery store;

10 (ii) a pharmacy;

11 (iii) a retailer identified as essential in Sec. 6, paragraphs f and h  
12 of addendum 6 to Executive Order 01-20, provided that the majority of the  
13 retail establishment is open to the general public for in-person sales rather than  
14 curbside pickup or delivery;

15 (iv) a wholesale distributor making deliveries to a retailer

16 described in subdivision (i)-(iii) of this subdivision (1)(A)

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

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

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

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

- 1                    (ix) a residential care home as defined in 33 V.S.A. § 7102;
- 2                    (x) a therapeutic community residence as defined in 33 V.S.A.
- 3                    § 7102;
- 4                    (xi) a health care facility as defined in 18 V.S.A. § 9432 or a
- 5                    physician’s office;
- 6                    (xii) a child care facility as defined in 33 V.S.A. § 3511 that is
- 7                    providing child care services to essential service providers pursuant to
- 8                    Directive 2 of Executive Order 01-20;
- 9                    (xiii) a vocational rehabilitation service provider;
- 10                   (xiv) a dentist’s office or a dental facility;
- 11                   (xv) a homeless shelter;
- 12                   (xvi) a home health agency;
- 13                   (xvii) a community health center;
- 14                   (xviii) a program licensed by the Department for Children and
- 15                   Families as residential treatment program;
- 16                   (xix) an ambulance service or first responder service as defined in
- 17                   24 V.S.A. § 2651;
- 18                   (xx) a mortuary or crematorium; or
- 19                   (xxi) providers of necessities and services to economically
- 20                   disadvantaged populations.

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

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

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

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

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

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

12                   (II) clean or sanitize the premises of a covered employer;

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

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

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

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

21                   (v) earns an hourly base wage of \$XX.XX or less; and

1                    (vi) worked at least 34 hours for a covered employer during the  
2 relevant calendar month.

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

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

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

11                    (5) “Program” means the Essential Employees Grant Program.

12                    (6) “Program Period” means the period from April 1, 2020 through July  
13 31, 2020, inclusive.

14                    (7) “Secretary” means the Secretary of Administration.

15                    **Sec. B. ESSENTIAL EMPLOYEES GRANT PROGRAM;**

16                    **ESTABLISHMENT; CONTRACTS FOR PROGRAM**

17                    **ADMINISTRATION**

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

1           **(b)(1) The Program shall be administered by the Secretary of**

2           **Administration.**

3           **(2) The Secretary shall contract with a private entity to serve as the**

4           **Program’s grant issuer as provided pursuant to subsection (c) of this section.**

5           **(3) The Secretary may utilize staff and resources from any State agency**

6           **or department as necessary to implement and administer the Program.**

7           **(4) The Secretary may contract with one or more private entities as**

8           **necessary to implement or administer the Program.**

9           **(c) Notwithstanding any provision of law to the contrary, the Secretary may**

10           **enter into contracts with the grant issuer and any private entities that are**

11           **necessary to implement or administer the Program without the need to**

12           **competitively bid such contracts.** For the purposes of the Program, the public

13           **health risk posed by COVID-19 shall be deemed to be an emergency situation**

14           **that justifies the execution of sole source contracts pursuant to Bulletin 3.5, the**

15           **State’s Procurement and Contracting Procedures.**

16           **(d) The contract with the grant issuer shall, at a minimum, provide that the**

17           **grant issuer shall:**

18           **(1) issue grant payments to eligible employees pursuant to the**

19           **provisions of section D and pursuant to a time period and procedures**

20           **established by the Secretary:**

1           (2) comply with all rules and procedures that the Secretary adopts in  
2 relation to the Program; and

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

4           (e)(1) The Secretary shall adopt rules as necessary to implement and  
5 administer the Program.

6           (2) In accordance with 3 V.S.A. chapter 25, the Secretary shall adopt all  
7 rules for the Program as emergency rules and concurrently propose them as  
8 permanent rules. The emergency rules shall be deemed to meet the standard  
9 for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

10 **Sec. C. SAFEGUARDING PERSONAL INFORMATION;**

11 **CONFIDENTIALITY**

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

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

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

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

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

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

7           (1) name

8           (2) address;

9           (3) date of birth;

10          (4) place of birth;

11          (5) mother's maiden name;

12          (6) unique biometric data generated from measurements or technical

13          analysis of human body characteristics used to identify or authenticate the

14          individual, such as a fingerprint, retina or iris image, or other unique physical

15          representation or digital representation of biometric data;

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

18          (8) Social Security number or other government-issued identification  
19          number; or

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

4           **Sec. D. 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                   \$XXXX.XX.

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 \$XXX.XX.

14                   (3) The number of hours actually worked by an eligible employee for  
15                   each calendar month shall not include:

16                           (A) any hours of employer-provided accrued paid leave or leave  
17                           provided pursuant to the Emergency Family and Medical Leave Expansion Act  
18                           or the Emergency Paid Sick Leave Act that are used by the eligible employee;  
19                   and

20                           (B) any hours of remote or telework performed by the eligible  
21                   employee.



1       **(b) If an eligible employee works for more than one covered employer**  
2       **during any calendar month in the Program Period, the eligible employee shall**  
3       **be entitled to receive not more than two checks pursuant to this section. The**  
4       **employee shall be entitled to receive payments in relation to the two jobs at**  
5       **which the employee worked the greatest number of hours.**

6       **(c) The monthly check for each eligible employee shall be sent to their**  
7       **covered employer who shall give the check to the employee not more than five**  
8       **calendar days after the covered employer receives it.**

9       **(d) Checks shall be issued by the grant issuer on a monthly basis according**  
10       **to a schedule adopted by the Secretary.**

11       **(e)(1) The Secretary shall, as soon as practicable, determine whether a**  
12       **sufficient amount of the funds appropriated pursuant to section G of this act**  
13       **remains to pay the anticipated grant requests for June and July. If the**  
14       **Secretary determines that the remaining funds are likely to be insufficient to**  
15       **pay the claims for June and July, the Secretary shall, in consultation with the**  
16       **grant issuer, reduce the grant amounts set forth in subsection (a) of this section**  
17       **by an amount necessary to ensure that all anticipated grant requests for June**  
18       **and July can be paid.**

19       **(2) The grant issuer shall cease paying claims submitted after a date**  
20       **established by the Secretary by rule or upon the exhaustion of the funds**  
21       **appropriated in section G of this act, whichever occurs sooner.**

1        (f)(1) Each eligible employee shall, together with his or her initial grant  
2        payment, be provided with written notice that the grant may be subject to  
3        income tax and that the eligible employee’s grant is subject to withholding.

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

7        (g) In the event that the federal government implements a federal program  
8        to provide monetary benefits to some or all eligible employees for the  
9        performance of work in essential jobs that expose them to an elevated risk of  
10       contracting COVID-19, any eligible employee that is eligible for benefits  
11       pursuant to the federal program shall cease to be eligible for the grants  
12       provided pursuant to this section.

13       **Sec. E. APPLICATION; REQUIRED INFORMATION;**

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

18       (2) The Secretary shall require employers to provide information  
19       demonstrating that they are a covered employer and that each listed employee  
20       is performing a job whose functions would make the employee eligible to  
21       receive a grant pursuant to the Program.

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

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

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

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

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

18           (2) A covered employer that elects not to enroll in the Program or  
19           neglects or fails to submit a request for grant payments for any month in the  
20           Program Period shall not be liable to its eligible employees for any amounts  
21           that they may have been entitled to receive under the Program if the covered

1 employer had enrolled in the Program or submitted a grant request for that  
2 month.

3 **Sec. F.** REPORTS; AUDIT

4 (a) The Secretary shall require the grant issuer and any private entity that is  
5 performing a function of the Program to provide the Secretary with monthly  
6 reports providing information on Program performance, including, as  
7 applicable, the number of claims received and processed, the number of  
8 employers enrolled, and the amount of grant funds paid.

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

11 (1) the total number of covered employers that participated in the  
12 Program;

13 (2) the total number of eligible employees who received grants through  
14 the Program;

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

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

19 (5) any other information regarding the Program that the Secretary  
20 determines is pertinent.

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

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

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

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

12        Sec. G. FRAUD; ENFORCEMENT

13            (a) A person shall not intentionally make a false statement or representation  
14        to obtain or increase any grant for an eligible employee under section D of this  
15        act.

16            (b) The Attorney General may enforce the provisions of this section and  
17        sections D and E of this act by restraining prohibited acts, seeking civil  
18        penalties, obtaining assurances of discontinuance, and conducting civil  
19        investigations in accordance with the procedures established in 9 V.S.A.  
20        §§ 2458–2461 as though a violation of this section were an unfair act in  
21        commerce. Any person complained against shall have the same rights and

1 remedies as specified in those sections. The Superior Courts are authorized to  
2 impose the same civil penalties and investigation costs and to order other relief  
3 to the State of Vermont for violations of this section as they are authorized to  
4 impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an  
5 unfair act in commerce. In addition, the Superior Courts may order a person  
6 who violates the provisions of this section to pay restitution to the State in an  
7 amount equal to the amount of any benefit or other payment that was obtained  
8 by means of a false statement or representation.

9 **Sec. H. APPROPRIATION**

10 The amount of \$XXX,XXX,XXX.XX is appropriated in Fiscal Year 2020  
11 from the General Fund to the Agency of Administration for use in fiscal years  
12 2020 and 2021 for the administration of and payment of grants pursuant to the  
13 Essential Employees Grant Program.

14 **Sec. I. OUTREACH AND INFORMATION; CUSTOMER SERVICE**

15 (a) The Secretary shall develop and implement an outreach and information  
16 program to inform covered employers and eligible employees about the  
17 Program and how to participate in it and obtain grant payments through it.

18 (b)(1) The Secretary shall be authorized to use staff and resources of other  
19 executive branch agencies and departments as needed to carry out subsection

20 (a) of this section.

1           (2) The Secretary may contract with one or more private entities as  
2           necessary to carry out the provisions of subsection (a) of this section and to  
3           provide customer service for the Program. Notwithstanding any provision of  
4           law to the contrary, the Secretary may contract with the entity or entities that  
5           will that will perform functions related to providing information, outreach, and  
6           customer service for the Program without the need to competitively bid such  
7           contracts. For the purposes of those contracts, the public health risk posed by  
8           COVID-19 shall be deemed to be an emergency situation that justifies the  
9           execution of sole source contracts pursuant to Bulletin 3.5, the State’s  
10           Procurement and Contracting Procedures.

11           **Sec. J. TRANSIT AGENCIES; BENEFITS TO ESSENTIAL WORKERS**

12           The General Assembly encourages transit agencies to utilize funding from  
13           the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116–136,  
14           or any other federal act providing additional funding related to COVID-19, to  
15           the extent permitted by law, to provide increased compensation, whether in the  
16           form of an increased hourly wage, a bonus, or some other monetary benefit, to  
17           drivers and other employees who provide in-person services to members of the  
18           general public during the period from April 1, 2020 through July 31, 2020.

19           **Sec. K. EFFECTIVE DATE**

20           This section and Secs. A–J of this act shall take effect on passage.