

116TH CONGRESS
2D SESSION

S. 3785

To authorize the Secretary of Agriculture to provide food and agriculture emergency aid to States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2020

Ms. BALDWIN (for herself, Ms. COLLINS, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To authorize the Secretary of Agriculture to provide food and agriculture emergency aid to States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Farming Support to
5 States Act of 2020”.

6 **SEC. 2. FOOD AND AGRICULTURE EMERGENCY AID TO**
7 **STATES.**

8 (a) DEFINITIONS.—In this section:

9 (1) ELIGIBLE ENTITY.—

1 (A) IN GENERAL.—The term “eligible enti-
2 ty” means—

3 (i) a Governor or chief executive offi-
4 cer of a State, on behalf of the State;

5 (ii) a State department of agriculture
6 or other State entity;

7 (iii) a nonprofit entity with the capac-
8 ity to provide consultation, expertise, and
9 financial, procurement, or grant distribu-
10 tion capacity necessary to meet the stated
11 mission of the entity with respect to aid
12 provided under the Program;

13 (iv) an institution of higher education;

14 (v) a land-grant college or university
15 or local office of the Cooperative Extension
16 System;

17 (vi) an Indian Tribe or an organiza-
18 tion representing Indian Tribes; and

19 (vii) an entity described in clauses (i)
20 through (vi), in partnership with one or
21 more partners described in subparagraph
22 (B).

23 (B) PARTNERS.—An entity described in
24 clauses (i) through (vi) of subparagraph (A)
25 may establish a partnership with one or more

1 partners prior to the submission of a request
2 under subsection (d)(2), or, in consultation with
3 the Secretary, add one or more partners to a
4 partnership after that submission, which may
5 include—

6 (i) an association, including a pro-
7 ducer association, trade association, or en-
8 tity representing a group of farmers or ag-
9 riculture and food businesses that rep-
10 resents the interests of stakeholders who
11 contribute to the rural economy, agricul-
12 tural and food sectors, and the further
13 processing, distribution, and retailing of
14 food;

15 (ii) an entity that distributes food to
16 address food insecurity or administers
17 feeding programs, food delivery, or other
18 activities to improve food access and food
19 security;

20 (iii) a generic program to promote
21 and provide research and information for
22 farmers and consumers on agricultural
23 products (commonly known as a “checkoff
24 program”);

1 (iv) a private entity, including an ag-
 2 ricultural cooperative, corporation, busi-
 3 ness, or sole proprietor;

4 (v) an economic development entity;

5 (vi) a foundation;

6 (vii) a unit of government within a
 7 State;

8 (viii) any other public-serving entity;

9 and

10 (ix) any other entity described in
 11 clauses (i) through (vi) of subparagraph
 12 (A).

13 (2) PROGRAM.—The term “Program” means
 14 the Food and Agriculture Emergency Response and
 15 Resiliency Program established under subsection (b).

16 (3) SECRETARY.—The term “Secretary” means
 17 the Secretary of Agriculture, acting through the Ad-
 18 ministrator of the Agricultural Marketing Service.

19 (4) STATE.—The term “State” means—

20 (A) each of the several States of the
 21 United States;

22 (B) the District of Columbia;

23 (C) the Commonwealth of Puerto Rico;

24 (D) Guam;

25 (E) American Samoa;

- 1 (F) the Commonwealth of the Northern
2 Mariana Islands;
3 (G) the Federated States of Micronesia;
4 (H) the Republic of the Marshall Islands;
5 (I) the Republic of Palau; and
6 (J) the United States Virgin Islands.

7 (b) ESTABLISHMENT.—The Secretary shall establish
8 a program, to be known as the “Food and Agriculture
9 Emergency Response and Resiliency Program”, under
10 which the Secretary shall make available to eligible entities
11 aid to carry out activities to respond to urgent and emerg-
12 ing issues in the agriculture economy and food supply
13 chain impacted by the Coronavirus Disease 2019 (referred
14 to in this section as “COVID–19”) and related food sys-
15 tem threats.

16 (c) ALLOCATION.—

17 (1) IN GENERAL.—The Secretary shall allocate
18 the total amount made available for aid under the
19 Program in accordance with the following:

20 (A) Twenty-five percent shall be allocated
21 equally among the States.

22 (B) Twenty-five percent shall be allocated
23 equally among States for which the agriculture
24 sector represented not less than $\frac{1}{4}$ of a percent,

1 and less than 1 percent, of the gross domestic
2 product of the State in fiscal year 2017.

3 (C) Fifty percent shall be allocated equally
4 among States for which the agriculture sector
5 represented not less than 1 percent of the gross
6 domestic product of the State in fiscal year
7 2017.

8 (2) RECIPIENTS.—For purposes of paragraph
9 (1), an allocation to an eligible entity (other than a
10 State) that is located in a State shall count towards
11 the allocation for that State.

12 (d) REQUESTS FOR AID.—

13 (1) IN GENERAL.—To provide aid to an eligible
14 entity under the Program, the Secretary shall enter
15 into a cooperative agreement or other legal instru-
16 ment with the eligible entity.

17 (2) REQUESTS.—An eligible entity seeking to
18 enter into an cooperative agreement or other legal
19 instrument under paragraph (1) shall submit to the
20 Secretary a request for aid under that Program that
21 contains such information as the Secretary may re-
22 quire for the purpose of complying with this Act.

23 (3) NOTIFICATION.—Not later than 10 days
24 after the date on which the Secretary receives a re-

1 quest under paragraph (2), the Secretary shall pro-
2 vide to the eligible entity a written notification—

3 (A) acknowledging the receipt of the re-
4 quest; and

5 (B) describing—

6 (i) the requirements to be imposed on
7 the eligible entity under the Program for
8 public reporting on the use of aid received
9 under the Program;

10 (ii) the criteria to be used to ensure
11 that activities supported using aid under
12 the Program are permissible under this
13 Act;

14 (iii) any additional information nec-
15 essary for the Secretary to make a deter-
16 mination on the request;

17 (iv) the expected dates for a deter-
18 mination on the request and the distribu-
19 tion of aid to the eligible entity; and

20 (v) a point of contact in the Agricul-
21 tural Marketing Service.

22 (4) PRIORITIES.—Subject to subsection (c), in
23 entering into cooperative agreements and other legal
24 instruments under paragraph (1), the Secretary
25 shall give priority to requests—

1 (A) submitted by—

2 (i) the Governor of a State;

3 (ii) a State department of agriculture;

4 or

5 (iii) an eligible entity that submits a
6 request for aid that has the demonstrated
7 support of other eligible entities; or

8 (B) under which aid would be used for ac-
9 tivities—

10 (i) that contribute to the resiliency,
11 diversity, and distributed production of ag-
12 ricultural products across local, regional,
13 and national-scale food systems;

14 (ii) that serve businesses and other
15 food system entities that have a limited ca-
16 pacity to fund, develop, or deploy COVID-
17 19 response actions;

18 (iii) that serve businesses and other
19 food system entities of which the financial
20 and business solvency is at risk;

21 (iv) that stabilize rural, farming, and
22 food-related sectors with actions that
23 build—

24 (I) resiliency and long-term via-
25 bility of rural economies; and

1 (II) the competitiveness of entre-
 2 preneurs and small- and medium-sized
 3 entities;

4 (v) that serve agricultural producers
 5 and processors that—

6 (I) have faced economic insta-
 7 bility related to, or exacerbated by,
 8 COVID–19;

9 (II) are underserved by available
 10 aid from the Department of Agri-
 11 culture for commodity assistance pro-
 12 grams; or

13 (III) are producers or processors
 14 of noncommodity products, forest
 15 products, or specialty crops; or

16 (vi) that—

17 (I) restore and strengthen the re-
 18 siliency of entities that are a core part
 19 of local and regional economies and
 20 identity; and

21 (II) strengthen and enhance the
 22 quality of rural life.

23 (e) DISTRIBUTION.—

24 (1) INITIAL DISTRIBUTION.—

1 (A) IN GENERAL.—The Secretary shall
2 provide 1 initial distribution of aid under the
3 Program of \$2,000,000 to 1 eligible entity in
4 each State that submits to the Secretary a re-
5 quest under subsection (d)(2) not later than 30
6 days after the date of enactment of this Act.

7 (B) REQUESTS.—A request submitted by
8 an eligible entity for an initial distribution
9 under subparagraph (A) shall—

10 (i) include a brief summary of the ca-
11 pacity of the eligible entity to administer
12 the aid and the general expenditures
13 planned for the aid; and

14 (ii) be considered to be a complete re-
15 quest on receipt by the Secretary of the re-
16 quest in writing, including the brief sum-
17 mary described in clause (i).

18 (C) AVAILABILITY.—Not later than 14
19 days after the date on which the Secretary re-
20 ceives a complete request described in subpara-
21 graph (B)(ii) that the Secretary approves, the
22 Secretary shall make the aid available to the el-
23 igible entity.

24 (D) USES.—An initial distribution of aid
25 under subparagraph (A) shall be used to ad-

dress urgent matters, as determined by the eligible entity, such as—

- (i) supply chain issues;
- (ii) responding to farmer stress;
- (iii) assisting with livestock depopulation and indemnification;
- (iv) securing needed food for food assistance programs; and
- (v) other eligible uses under the Program.

(E) PUBLICATION.—Not later than 3 days after the date on which aid is provided to an eligible entity under an initial distribution under subparagraph (A), the Secretary shall make publicly available any correspondence submitted by the eligible entity as part of the request for the aid.

(F) REPORTS.—Not later than 90 days after the date on which an eligible entity receives aid under an initial distribution under subparagraph (A), the eligible entity shall submit a report described in subsection (f)(8).

(2) OTHER REQUESTS MADE DURING INITIAL DISTRIBUTION PERIOD.—During the period that initial distributions of aid are requested and distrib-

1 uted under paragraph (1), an eligible entity may
2 submit a request for aid under subsection (d)(2) (in-
3 cluding a request for more than \$2,000,000), which
4 shall be subject to the requirements of this section
5 (other than paragraph (1)).

6 (3) SUBSEQUENT DISTRIBUTIONS.—Aid avail-
7 able under the Program that is not distributed
8 under paragraph (1) or (2) shall be available to eli-
9 gible entities that submit requests under subsection
10 (d)(2) during subsequent periods determined by the
11 Secretary, which shall occur not less frequently than
12 once every 45 days until the date on which aid avail-
13 able under the Program is fully expended.

14 (f) REQUIREMENTS RELATING TO ELIGIBLE ENTI-
15 TIES.—

16 (1) NON-FEDERAL CONTRIBUTIONS.—The Sec-
17 retary shall not require an eligible entity to con-
18 tribute non-Federal funds to carry out a cooperative
19 agreement or other legal instrument under the Pro-
20 gram.

21 (2) USE CONSISTENT WITH TERMS OF COOPER-
22 ATIVE AGREEMENT.—An eligible entity shall use aid
23 received under the Program for the purposes and in
24 the manner provided in the cooperative agreement or

1 other legal instrument under which the aid is pro-
2 vided.

3 (3) REQUIREMENT.—

4 (A) IN GENERAL.—In the case of assist-
5 ance or amounts provided using aid under the
6 Program by an eligible entity to a specific per-
7 son, the assistance or amounts shall not be
8 made available to a foreign person making di-
9 rect investment (as those terms are defined in
10 section 801.2 of title 15, Code of Federal Regu-
11 lations (or successor regulations)) in the United
12 States.

13 (B) EXCEPTION.—Subparagraph (A) shall
14 not apply to public, widely available assistance,
15 such as best practice guidelines or other non-
16 proprietary, nonexclusive aid.

17 (4) SUBAGREEMENTS.—Nothing in this section
18 prevents an eligible entity from using aid received
19 under the Program to enter into a subagreement
20 with—

21 (A) another eligible entity; or

22 (B) a political subdivision of a State that
23 has legal responsibilities relating to preserving
24 the integrity and function of the food supply,

1 including activities relating to agricultural pro-
2 duction, marketing, and distribution of food.

3 (5) NO STATE LEGISLATIVE APPROVAL RE-
4 QUIRED.—The Governor or chief executive officer of
5 a State, or other State entity, shall be permitted to
6 allocate a distribution of aid under the Program
7 without the approval or review of the allocation or
8 distribution of aid by the legislature of the State.

9 (6) AVAILABILITY.—Aid received by an eligible
10 entity under the Program shall remain available
11 until expended by the eligible entity.

12 (7) ADMINISTRATION.—An eligible entity re-
13 ceiving aid under the Program may use not more
14 than 8 percent of the aid for a fiscal year for admin-
15 istrative expenses.

16 (8) REPORTING REQUIREMENT.—

17 (A) IN GENERAL.—Not later than 90 days
18 after the date of completion of an activity con-
19 ducted using aid provided under the Program,
20 the eligible entity using the aid shall submit to
21 the Secretary a report that describes the pur-
22 poses and results of the activity.

23 (B) PUBLICATION.—Not later than 14
24 days after each report is received by the Sec-

1 retary under subparagraph (A), the report shall
2 be made publicly available.

3 (g) USE OF FUNDS.—An eligible entity shall use aid
4 received under the Program for emergency response ca-
5 pacity and activities to respond to specific needs relating
6 to COVID–19 and related food system threats in the fol-
7 lowing categories:

8 (1) RETAIL FOOD AVAILABILITY, CONSUMER
9 FOOD ACCESS, FOOD SUPPLY CHAIN STABILITY, AND
10 PRESERVING FOOD SAFETY.—

11 (A) Forecasting and managing food and
12 farm supply chain disruptions to ensure a sta-
13 ble food supply.

14 (B) Minimizing food retail disruptions for
15 consumers.

16 (C) Preventing or minimizing food waste
17 by taking steps to further process, distribute, or
18 otherwise make available food for donation or
19 provision to individuals in need.

20 (D) Compensating farmers for donated
21 food through mechanisms designed to minimize
22 market distortions.

23 (E) Procurement and provision of food
24 products to individuals in need, including by ad-

1 dressing distribution and access challenges for
2 communities and individuals.

3 (F) Ensuring continuity in food safety pro-
4 tections.

5 (G) Responding to labor issues from
6 COVID-19 and related food system threats to
7 minimize supply chain disruption and maximize
8 proactive prevention and response activities re-
9 lating to COVID-19 and related food system
10 threats to protect worker health and safety.

11 (2) HEALTH AND RESPONSE NEEDS RELATED
12 TO THE STABILITY OF THE FOOD SYSTEM AND
13 RURAL ECONOMIES.—

14 (A) Incentivizing and facilitating the use of
15 prevention, response, testing, and treatment by
16 farm workers and food processing workers re-
17 lating to COVID-19 and related food system
18 threats.

19 (B) Supporting the essential work of vet-
20 erinarians and other food safety and animal
21 health workers, first responders, and other
22 rural professionals with occupational disease ex-
23 posure risks.

24 (C) Supporting farmers and workers who
25 face elevated risks of contracting COVID-19

1 due to their essential work to keep the food sys-
 2 tem operational and reliable.

3 (D) Reducing the risk of zoonotic transfer
 4 of COVID–19 to livestock and wildlife and re-
 5 lated disease risks, including disease risks relat-
 6 ing to culling and carcass disposal.

7 (3) PREPARING FOR AND RESPONDING TO
 8 NEAR-TERM IMPACTS OF COVID–19.—

9 (A) Developing food safety, worker protec-
 10 tion, and sanitation protocols for food proc-
 11 essing plants and other entities requiring assist-
 12 ance to minimize the technical, logistical, and
 13 financial costs of bringing plants online and re-
 14 establishing continuity of operations.

15 (B) Providing technical, financial, and con-
 16 tracting assistance and direct support to enti-
 17 ties to implement the protocols described in
 18 subparagraph (A), including, at the discretion
 19 of the eligible entity—

20 (i) by providing amounts to carry out
 21 those protocols at no cost to the entities;
 22 and

23 (ii) for the cost of goods or services
 24 necessary to achieve the purposes described
 25 in that subparagraph.

(C) Implementing responses that address disruptions relating to, or exacerbated by, COVID-19 that—

(i) restore resiliency to the food system;

(ii) improve preparedness for future disruptions; and

(iii) reduce the impacts to the food supply chain and rural economy from supply chain disruptions.

(4) STABILIZING FARMS AND THE AGRICULTURE ECONOMY.—

(A) Stabilizing farm financials—

(i) to prevent the rapid liquidation of livestock herds or closure of farms; and

(ii) to address changes to planting decisions for the current and upcoming growing seasons that reflect current market distortions rather than longer-term predicted demand.

(B) Providing tools to address the behavioral and mental health of individuals who are engaged in farming, ranching, and other occupations relating to agriculture (within the meaning of section 7522(e)(1) of the Food,

1 Conservation, and Energy Act of 2008 (7
2 U.S.C. 5936(e)(1))).

3 (C) Facilitating and incentivizing partici-
4 pation in personalized and workshop-based farm
5 business plan counseling that promotes farm
6 and agribusiness decisions that increase the
7 economic resiliency, near-term financial sta-
8 bility, and ongoing operation of farms and rural
9 businesses.

10 (D) Facilitating and incentivizing partici-
11 pation in personalized and workshop-based farm
12 transition plan counseling that promotes—

13 (i) ongoing agricultural uses of the
14 farmland in transition; and

15 (ii) the long-term utilization and im-
16 provement of farm assets, including work-
17 ing forests, orchards, perennial and
18 multiyear crops, established conservation
19 practices, flood reduction, and watershed
20 restoration.

21 (E) Assisting with the costs of activities
22 that increase the economic diversification, resil-
23 iency, ecosystem services, and watershed res-
24 toration for farms on which the primary labor
25 is provided by the farm owner, renter, or an in-

1 dividual who is working to transition into the
 2 role as primary laborer, manager, and owner of
 3 the farm, such as through an apprenticeship.

4 (F) Providing retirement security options
 5 for farmers who commit to helping a new oper-
 6 ator transition onto their farm, specifically for
 7 farms on which—

8 (i) the primary labor is provided by
 9 the farm owner, renter, or an individual
 10 who is working to transition into the role
 11 as primary laborer, manager, and owner of
 12 the farm, such as through an apprentice-
 13 ship; and

14 (ii) the farmland ownership transition
 15 is economically feasible for a beginning
 16 farmer.

17 (G) Addressing urgent or essential needs
 18 of rural communities that support the long-term
 19 resiliency of the local economy and local quality
 20 of life.

21 (5) STATE COLLABORATION.—Collaborating
 22 and coordinating with other States or eligible enti-
 23 ties in other States—

1 (A) to address risks relating to COVID–19
2 to public health, the health of workers in the
3 food supply chain, and the health of livestock;

4 (B) to address regional and national sup-
5 ply chain issues;

6 (C) to minimize food supply chain disrup-
7 tions to consumers via retailers, food banks,
8 and other distribution methods;

9 (D) to stabilize agricultural markets;

10 (E) to improve market transparency; and

11 (F) for any of the purposes described in
12 paragraphs (1) through (4).

13 (h) DUTIES OF THE SECRETARY.—

14 (1) EXPEDITED PROVISION.—

15 (A) IN GENERAL.—The Secretary shall
16 carry out the Program in such manner as to
17 distribute aid to eligible entities under the Pro-
18 gram as expeditiously as practicable.

19 (B) PROCEDURE.—

20 (i) IN GENERAL.—Notwithstanding
21 any other provision of law, regulation, or
22 guidance relating to the implementation of
23 a grant program, the Secretary shall im-
24 plement the Program by publishing a no-
25 tice in the Federal Register.

1 (ii) PAPERWORK REDUCTION.—The
2 administration of the Program shall be
3 made without regard to chapter 35 of title
4 44, United States Code (commonly known
5 as the “Paperwork Reduction Act”).

6 (2) GUIDANCE; REPORTING REQUIREMENTS.—
7 Not later than 14 days after the date of enactment
8 of this Act, the Secretary shall issue guidance to eli-
9 gible entities on carrying out the Program, includ-
10 ing—

11 (A) clear guidance on use of aid received
12 by eligible entities under the Program;

13 (B) direction on accounting and informa-
14 tion eligible entities should track for reporting
15 described in subparagraph (C); and

16 (C) preliminary guidance on reporting re-
17 quirements, which shall be finalized and made
18 publicly available not later than 45 days after
19 the date of enactment of this Act.

20 (3) COORDINATION OF ASSISTANCE.—The Sec-
21 retary, in coordination with the Administrator of the
22 Economic Research Service and the Director of the
23 National Institute of Food and Agriculture, and in
24 collaboration with other entities that the Secretary
25 determines to be relevant to the purposes of the Pro-

1 gram, shall provide technical assistance (and, in the
2 case of subparagraph (D), financial assistance) to
3 and coordination among eligible entities and other
4 recipients of aid under the Program, including—

5 (A) the provision of regular, and not less
6 frequently than semi-monthly, public updates
7 with information and technical assistance rel-
8 evant to evolving needs in the food supply chain
9 and rural economy, including—

10 (i) economic data that are useful to
11 stakeholders, including tracking and anal-
12 yses of supply chain and agricultural mar-
13 ket trends and abnormalities;

14 (ii) information on how aid under the
15 Program is being used by eligible entities
16 and other recipients of the aid for the pur-
17 pose of sharing best practices and effective
18 models for the use of the aid to address
19 issues in the food supply chain and rural
20 economy; and

21 (iii) the most current and best avail-
22 able information relating to COVID-19,
23 presented in a manner relevant and appli-
24 cable to farm and food businesses and de-

1 veloped in response to the requests of those
2 businesses, as appropriate;

3 (B) the ongoing collection of information
4 on farm-related indicators of economic resil-
5 iency and stressors, including—

6 (i) analyses of trends in food product
7 demand, food supply chain resiliency, and
8 processing continuity of operations;

9 (ii) analyses of strength, robustness,
10 and impacts of efforts to modify standard
11 operating procedures among entities in the
12 farm and food supply chains to minimize
13 supply chain disruptions and business clo-
14 sures during and related to COVID–19 re-
15 sponse; and

16 (iii) data collection and analyses of
17 the economic impacts of COVID–19 on
18 farmers and farmer-serving businesses;

19 (C) the development of technical assistance
20 to address the impacts of COVID–19, including
21 through actions informed by the data and anal-
22 yses developed under subparagraphs (A) and
23 (B), by responding to requests for assistance,
24 and proactively addressing emerging trends, for

the purpose of minimizing the impact of farm
and food supply chain disruptions on—

(i) consumer supplies of food; and

(ii) the solvency of farm businesses,
farm-related businesses, and rural busi-
nesses critical to rural communities;

(D) the provision of technical assistance
and financial assistance to implement the best
practices and effective models described in sub-
paragraph (A)(ii); and

(E) carrying out other activities, as identi-
fied by the Secretary, in consultation with
stakeholders, as priorities for—

(i) reducing the impact of COVID–19;

(ii) protecting the safety of agricul-
tural workers or producers; and

(iii) strengthening the economic sta-
bility, viability, and resiliency of farm and
food businesses.

(4) COORDINATION OF FEDERAL AGENCIES.—

The Secretary of Agriculture shall—

(A) monitor urgent and emerging issues in
the agriculture economy and food supply chain
relating to COVID–19; and

1 (B) coordinate with other Federal agencies
2 the activities of which may be affected by or
3 may affect the issues described in subparagraph
4 (A) for the purpose of expeditiously addressing
5 those issues.

6 (i) FUNDING.—

7 (1) IN GENERAL.—There is appropriated to the
8 Secretary of Agriculture, out of amounts in the
9 Treasury not otherwise appropriated,
10 \$1,000,000,000 to carry out the Program, to remain
11 available until expended.

12 (2) ADMINISTRATION.—The Secretary of Agri-
13 culture may use not more than 3 percent of the
14 amounts made available to carry out the Program
15 for a fiscal year for administrative expenses, which
16 shall be prioritized for carrying out paragraphs (3)
17 and (4) of subsection (h).

○