

116TH CONGRESS  
2D SESSION

# S. 3840

To protect the continuity of the food supply chain of the United States  
in response to COVID–19, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Ms. STABENOW (for herself, Mr. LEAHY, Mr. BROWN, Ms. KLOBUCHAR, Mr. BENNET, Mrs. GILLIBRAND, Mr. CASEY, Ms. SMITH, Mr. DURBIN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To protect the continuity of the food supply chain of the  
United States in response to COVID–19, 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 “Food Supply Protec-  
5 tion Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVID–19 EMERGENCY.—The term  
9 “COVID–19 emergency” means the public health

1 emergency declared by the Secretary of Health and  
 2 Human Services under section 319 of the Public  
 3 Health Service Act (42 U.S.C. 247d) on January  
 4 31, 2020, with respect to COVID–19.

5 (2) DONATION PERIOD.—The term “donation  
 6 period” means the period—

7 (A) beginning on January 31, 2020; and

8 (B) ending on the later of—

9 (i) December 31, 2020; and

10 (ii) a date after December 31, 2020,  
 11 if there are remaining food surpluses relat-  
 12 ing to the COVID–19 emergency, as deter-  
 13 mined by the Secretary.

14 (3) SECRETARY.—The term “Secretary” means  
 15 the Secretary of Agriculture.

16 **SEC. 3. INFRASTRUCTURE GRANTS TO NONPROFIT FEED-**  
 17 **ING ORGANIZATIONS.**

18 (a) PURPOSES.—The purposes of this section are—

19 (1) to reduce food waste by supporting the dis-  
 20 tribution of perishable food that would otherwise go  
 21 to waste or be left unharvested;

22 (2) to provide food and meals to individuals in  
 23 need during the COVID–19 emergency;

24 (3) to improve the ability of food banks and  
 25 other nonprofit feeding organizations to process, re-

1 pack, store, or distribute perishable food in response  
2 to the COVID–19 emergency; and

3 (4) to facilitate partnerships with local and re-  
4 gional organizations to store, repack, prepare,  
5 process, or distribute food and meals.

6 (b) DEFINITIONS.—In this section:

7 (1) ELIGIBLE ORGANIZATION.—The term “eligi-  
8 ble organization” means an organization providing  
9 free food or meals during the donation period, in-  
10 cluding—

11 (A) a nonprofit organization, such as a  
12 food bank, a school, and an emergency feeding  
13 organization;

14 (B) a faith-based organization that distrib-  
15 utes food or meals, and any other similar pro-  
16 gram, as determined by the Secretary;

17 (C) a tribal organization that distributes  
18 food or meals;

19 (D) a child or adult care center; and

20 (E) any other similar feeding entity, as de-  
21 termined by the Secretary.

22 (2) SECRETARY.—The term “Secretary” means  
23 the Secretary, acting through the Administrator of  
24 the Food and Nutrition Service.

1           (3) TRIBAL ORGANIZATION.—The term “tribal  
2           organization” has the meaning given the term in  
3           section 4 of the Indian Self-Determination and Edu-  
4           cation Assistance Act (25 U.S.C. 5304).

5           (c) REIMBURSEMENT FOR STORAGE AND DISTRIBUTION OF PERISHABLE COMMODITIES.—

7           (1) ESTABLISHMENT.—Not later than 15 days  
8           after the date of enactment of this Act, the Sec-  
9           retary shall establish a program under which the  
10          Secretary shall reimburse costs incurred during the  
11          donation period by an eligible organization for the  
12          distribution and temporary storage of perishable  
13          commodities, without regard to the source of those  
14          commodities.

15          (2) REIMBURSEMENT RATE.—Under the pro-  
16          gram established under paragraph (1), the Secretary  
17          shall reimburse eligible organizations at a rate of  
18          \$0.10 per pound of perishable food stored and dis-  
19          tributed during the donation period.

20          (3) ADVANCE REIMBURSEMENT.—The Sec-  
21          retary shall provide an advance reimbursement to an  
22          eligible organization under paragraph (1) if the Sec-  
23          retary approves a plan submitted by the eligible or-  
24          ganization that—

1 (A) estimates the pounds of perishable  
2 food expected to be distributed during the sub-  
3 sequent 30 days; and

4 (B) demonstrates the ability of the eligible  
5 organization to accomplish that distribution.

6 (4) FUNDING.—Of the funds of the Commodity  
7 Credit Corporation, the Secretary shall use not more  
8 than \$500,000,000 to carry out this subsection, of  
9 which not more than 3 percent may be used for ad-  
10 ministrative expenses.

11 (d) GRANTS FOR INFRASTRUCTURE, EQUIPMENT,  
12 AND SUPPLIES.—

13 (1) ESTABLISHMENT.—Not later than 30 days  
14 after the date of enactment of this Act, the Sec-  
15 retary shall establish a program under which the  
16 Secretary shall award grants to eligible organiza-  
17 tions to improve, construct, rent, lease, or purchase  
18 infrastructure, equipment, and supplies that support  
19 the distribution of surplus perishable food or meals  
20 prepared with that food and the purposes described  
21 in subsection (a).

22 (2) APPLICATIONS.—

23 (A) IN GENERAL.—To be eligible to receive  
24 a grant under paragraph (1), an eligible organi-  
25 zation shall submit to the Secretary an applica-

tion at such time, in such manner, and containing such information as the Secretary may require, including the information described in subparagraph (C).

(B) REVIEW AND SUBMISSION.—The Secretary shall approve or deny an application received under subparagraph (A)—

(i) not later than 30 days after the date of receipt of the application; and

(ii) in the case of an application for a grant amount of less than \$80,000 or an application that may be reviewed quickly otherwise, as determined by the Secretary, in accordance with the timeline in a fast-track review process established by the Secretary for such applications.

(C) SELECTION CRITERIA.—In determining whether to approve or deny an application of an eligible organization under subparagraph (B), the Secretary shall consider whether the eligible organization—

(i) to the extent practicable, will use local and regional food business and small and medium businesses to carry out activities under the grant;

1                   (ii) will divert perishable food that  
2                   would otherwise be wasted or unharvested;

3                   (iii) will develop innovative partner-  
4                   ships with institutions that have available,  
5                   underutilized cold storage, food prepara-  
6                   tion, or other existing resources or facili-  
7                   ties;

8                   (iv) will make investments in infra-  
9                   structure or equipment that have short- or  
10                  long-term value, have multiple uses, and  
11                  would improve preparedness for future  
12                  surges in donations of perishable foods;  
13                  and

14                  (v) demonstrates an ability to use the  
15                  grant for the purposes described in para-  
16                  graph (1).

17                  (3) USE OF FUNDS.—Activities carried out by  
18                  eligible organizations using grant funds awarded  
19                  under paragraph (1) may include the following:

20                       (A) Purchasing new or temporary pack-  
21                       aging materials and food labels.

22                       (B) Converting industrial-sized products to  
23                       consumer-sized products.

1 (C) Purchasing, renting, or leasing storage  
 2 or preparation space, cold storage, equipment,  
 3 or vehicles, trailers, or transportation services.

4 (D) Purchasing test kits, disinfectant,  
 5 sanitation systems, or hand washing stations.

6 (E) Training relating to—

7 (i) equipment purchased, rented, or  
 8 leased with the grant funds; and

9 (ii) new procedures established by the  
 10 eligible organization that are supported by  
 11 the grant funds.

12 (F) Purchasing and decontaminating per-  
 13 sonal protective equipment.

14 (G) Purchasing equipment and supplies to  
 15 facilitate food or meal distribution.

16 (4) OWNERSHIP OF INFRASTRUCTURE, EQUIP-  
 17 MENT, AND SUPPLIES.—Any infrastructure, equip-  
 18 ment, or supplies purchased by an eligible organiza-  
 19 tion using a grant awarded under paragraph (1)—

20 (A) shall be required to support the pur-  
 21 poses of the grant but need not be exclusively  
 22 used for those purposes;

23 (B) shall not have Federal property track-  
 24 ing and inventory requirements applied beyond  
 25 the end of the grant term; and

1 (C) shall remain under the ownership of  
2 the eligible organization for future use or pan-  
3 demic or food crisis preparedness.

4 (5) PUBLIC GRANT ANNOUNCEMENTS.—Not  
5 later than 10 days after the date on which a grant  
6 is awarded under paragraph (1), the Secretary shall  
7 publicly announce the grant on the website of the  
8 Food and Nutrition Service, including a summary of  
9 the activities funded by the grant and the projected  
10 volume of food or meal distribution supported by the  
11 grant.

12 (6) FUNDING.—Of the funds of the Commodity  
13 Credit Corporation, the Secretary shall use not more  
14 than \$500,000,000 to carry out this subsection, of  
15 which not more than 3 percent may be used for ad-  
16 ministrative expenses.

17 (e) OUTREACH.—The Secretary shall conduct out-  
18 reach to eligible organizations, including tribal organiza-  
19 tions, that serve underserved communities or have mini-  
20 mal or no participation in Federal programs to ensure that  
21 those organizations are informed of the programs estab-  
22 lished under this section.

23 (f) DUPLICATION AND RELATION TO OTHER PRO-  
24 GRAMS.—An eligible organization may not receive reim-  
25 bursements, payments, or grants from Federal sources for

1 activities carried out under this section in an amount that  
 2 exceeds 100 percent of the costs incurred by the eligible  
 3 organization in carrying out those activities.

4 (g) ADDITIONAL FUNDING.—In addition to the funds  
 5 used under subsections (c)(4) and (d)(6), of the funds of  
 6 the Commodity Credit Corporation, the Secretary shall  
 7 use such sums as are necessary to carry out this section.

8 **SEC. 4. FOOD PURCHASE PARTNERSHIPS.**

9 (a) DEFINITIONS.—In this section:

10 (1) ELIGIBLE FEEDING ORGANIZATION.—The  
 11 term “eligible feeding organization” means a public  
 12 or private nonprofit organization (including a tribal  
 13 organization (as defined in section 4 of the Indian  
 14 Self-Determination and Education Assistance Act  
 15 (25 U.S.C. 5304))), or a restaurant operating an  
 16 emergency feeding or food relief program, that dis-  
 17 tributes donated eligible food or meals prepared, at  
 18 least in part, from eligible food.

19 (2) ELIGIBLE FOOD.—The term “eligible food”  
 20 means meat, poultry, eggs, fluid milk, dairy prod-  
 21 ucts, fruit, vegetables, seafood, and other unproc-  
 22 essed or minimally processed food that—

23 (A) is produced and processed in the  
 24 United States; and

1 (B) would otherwise be unharvested or sur-  
2 plus if not donated.

3 (3) FOOD VALUE.—The term “food value”—

4 (A) means the typical wholesale value of  
5 food being donated in a nonsurplus situation;  
6 and

7 (B) may be adjusted to reflect the typical  
8 premium associated with local food, organic  
9 food, or other premiums.

10 (4) INDIAN TRIBE.—The term “Indian Tribe”  
11 has the meaning given the term “Indian tribe” in  
12 section 4 of the Indian Self-Determination and Edu-  
13 cation Assistance Act (25 U.S.C. 5304).

14 (5) SECRETARY.—The term “Secretary” means  
15 the Secretary, acting through the Administrator of  
16 the Agricultural Marketing Service.

17 (6) STATE.—The term “State” means—

18 (A) each of the several States of the  
19 United States;

20 (B) the District of Columbia;

21 (C) the Commonwealth of Puerto Rico;

22 (D) the United States Virgin Islands;

23 (E) Guam;

24 (F) American Samoa; and

1 (G) the Commonwealth of the Northern  
2 Mariana Islands.

3 (b) ESTABLISHMENT; PURPOSES.—

4 (1) ESTABLISHMENT.—Not later than 15 days  
5 after the date of enactment of this Act, the Sec-  
6 retary shall establish—

7 (A) the State and Tribal surplus food pur-  
8 chase program in accordance with subsection  
9 (c); and

10 (B) the Federal surplus food reimburse-  
11 ment program in accordance with subsection  
12 (d).

13 (2) PURPOSES.—The purposes of the programs  
14 established under paragraph (1) shall be—

15 (A) to facilitate the purchase and donation  
16 of eligible food;

17 (B) to provide nutrition assistance to indi-  
18 viduals facing food insecurity;

19 (C) to encourage the use of available infra-  
20 structure and resources to respond to COVID-  
21 19-related food supply chain disruptions; and

22 (D) to reduce food waste.

23 (c) STATE AND TRIBAL SURPLUS FOOD PURCHASE  
24 PROGRAM.—

1           (1) IN GENERAL.—To advance the purposes de-  
2       scribed in subsection (b)(2), the Secretary shall  
3       carry out a State and Tribal surplus food purchase  
4       program, under which the Secretary shall provide  
5       funding to States and Indian Tribes to administer a  
6       grant or other reimbursement program to purchase  
7       surplus eligible food and distribute the food to eligi-  
8       ble feeding organizations.

9           (2) INSTRUCTIONS.—Not later than 15 days  
10      after the date of enactment of this Act, the Sec-  
11      retary shall provide instructions for States and In-  
12      dian Tribes seeking funding under this subsection.

13          (3) INITIAL APPLICATION.—

14           (A) IN GENERAL.—A State or Indian  
15      Tribe seeking funding under this subsection  
16      shall submit to the Secretary an initial applica-  
17      tion that—

18           (i) designates the one or more lead  
19      agencies of the State or Indian Tribe for  
20      administering the grant or other reim-  
21      bursement program; and

22           (ii) includes a plan for administering  
23      the grant or other reimbursement program  
24      in accordance with paragraph (4).

1 (B) JOINT APPLICATIONS.—Two or more  
2 States, Indian Tribes, or combinations of States  
3 and Indian Tribes—

4 (i) may jointly submit an initial appli-  
5 cation under subparagraph (A); and

6 (ii) shall be eligible to receive a com-  
7 bination of the amounts provided under  
8 the initial allocation under paragraph (5).

9 (4) STATE OR TRIBAL PLAN.—The State or  
10 Tribal plan described in paragraph (3)(A)(ii) shall  
11 include descriptions of—

12 (A) how the lead agencies of a State or In-  
13 dian Tribe, or a joint applicant under para-  
14 graph (3)(B), will—

15 (i) facilitate connecting producers of  
16 surplus eligible food with eligible feeding  
17 organizations; and

18 (ii) make available to individuals in-  
19 formation relating to how to access food or  
20 meals provided through the program under  
21 this subsection;

22 (B) mechanisms that eligible feeding orga-  
23 nizations will use to distribute food and meals  
24 under the program under this subsection;

1 (C) how the plan advances the purposes  
2 described in subsection (b)(2); and

3 (D) how innovative partnerships with orga-  
4 nizations serving at-risk populations or facilities  
5 that have unused capacity due to the COVID-  
6 19 emergency (including restaurants, hospi-  
7 tality companies, schools, senior centers, after-  
8 school programs, sports franchises or other en-  
9 terprises, distributors, and other public or pri-  
10 vate organizations) will be encouraged and sup-  
11 ported under the plan.

12 (5) INITIAL ALLOCATION.—

13 (A) IN GENERAL.—Of the funds of the  
14 Commodity Credit Corporation, the Secretary  
15 shall distribute \$1,000,000,000 to States and  
16 Indian Tribes under this subsection.

17 (B) MINIMUM ALLOCATION.—In distrib-  
18 uting amounts under subparagraph (A), the  
19 Secretary shall allocate not less than—

20 (i) \$5,000,000 for each State; and

21 (ii) \$200,000 for each Indian Tribe.

22 (C) FORMULA.—In allocating amounts  
23 under subparagraph (B), subject to the limita-  
24 tions described in that subparagraph, the Sec-  
25 retary shall allocate—

1 (i) 50 percent based on—

2 (I) in the case of States, the for-  
3 mula used to allocate among States  
4 the commodities and funding available  
5 under the emergency food assistance  
6 program established under the Emer-  
7 gency Food Assistance Act of 1983 (7  
8 U.S.C. 7501 et seq.), using the most  
9 current data available as of the date  
10 of enactment of this Act; and

11 (II) in the case of Indian Tribes,  
12 a formula determined by the Sec-  
13 retary, in consultation with Indian  
14 Tribes, that is based on poverty rates,  
15 unemployment rates, and rates of par-  
16 ticipation in Federal feeding pro-  
17 grams; and

18 (ii) 50 percent based on the market  
19 value of agricultural products sold within  
20 each State or Tribal area, including agri-  
21 cultural products produced by the members  
22 of each Indian Tribe or Tribal businesses  
23 or enterprises, weighted such that  $\frac{1}{4}$  of  
24 the amount under this clause is based on  
25 each of—

- 1 (I) dairy and eggs;
- 2 (II) meat and poultry;
- 3 (III) vegetables; and
- 4 (IV) fruit.

5 (6) REALLOCATION AND ADDITIONAL FUND-  
6 ING.—

7 (A) IN GENERAL.—The Secretary may—

- 8 (i) reallocate to States or Indian
- 9 Tribes described in subparagraph (B)
- 10 amounts initially allocated under this sub-
- 11 section to a State or Indian Tribe that—

12 (I) did not submit an application  
13 under paragraph (3); or

14 (II) did not use the full amount  
15 allocated to the State or Indian Tribe;  
16 and

- 17 (ii) distribute such sums as are nec-
- 18 essary of the funds of the Commodity
- 19 Credit Corporation in addition to the
- 20 amount made available under paragraph
- 21 (5)(A) to States or Indian Tribes described
- 22 in subparagraph (B).

23 (B) ADDITIONAL FUNDING.—The Sec-  
24 retary shall distribute amounts reallocated or

distributed under subparagraph (A) to States or Indian Tribes that—

(i) demonstrate additional need; or

(ii) have leveraged the amounts initially allocated to the State or Indian Tribe to form innovative partnerships described in paragraph (4)(D).

(7) ADMINISTRATION.—

(A) ADMINISTRATIVE EXPENSES.—A State or Indian Tribe receiving funding under this subsection may not use more than 8 percent for administrative expenses.

(B) NO DUPLICATION.—The combination of all purchases of eligible food or other reimbursements provided by a State or Indian Tribe for eligible food through a program under this subsection shall not exceed 100 percent of the food value of the eligible food.

(d) FEDERAL SURPLUS FOOD REIMBURSEMENT PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE EXPENSES.—The term “eligible expenses” means harvesting, processing, packaging, cold storage prior to delivery to the eligible feeding organization, meeting food safe-

1 ty requirements, repacking, meal preparation,  
 2 transportation, and related costs, as determined  
 3 by the Secretary.

4 (B) ELIGIBLE FOOD ORGANIZATION.—The  
 5 term “eligible food organization” means—

6 (i) a farming cooperative;

7 (ii) a farmers organization, food hub,  
 8 food distributor, majority-controlled pro-  
 9 ducer-based business venture (as defined in  
 10 section 210A(a) of the Agricultural Mar-  
 11 keting Act of 1946 (7 U.S.C. 1627c(a))),  
 12 or other food aggregator; and

13 (iii) a food processor.

14 (C) ELIGIBLE PARTNERSHIP.—The term  
 15 “eligible partnership” means a partnership be-  
 16 tween an eligible food organization and an eligi-  
 17 ble feeding organization (including any other  
 18 entity that provides necessary services for the  
 19 partnership that incurs eligible expenses) in  
 20 order to prevent food waste and distribute food  
 21 to individuals experiencing food insecurity.

22 (D) PARTICIPATING PARTNERSHIP.—The  
 23 term “participating partnership” means an eli-  
 24 gible partnership for which the Secretary has

1           approved a reimbursement and distribution plan  
2           under paragraph (3)(B).

3           (2) PROGRAM.—The Secretary shall carry out a  
4           Federal surplus food reimbursement program, under  
5           which the Secretary shall reimburse participating  
6           partnerships to facilitate the donation of surplus eli-  
7           gible food in accordance with this subsection.

8           (3) REIMBURSEMENT AND DISTRIBUTION  
9           PLANS.—

10           (A) IN GENERAL.—To be eligible to receive  
11           a reimbursement under this subsection, an eligi-  
12           ble partnership shall submit to the Secretary a  
13           reimbursement and distribution plan that—

14                   (i) describes the process that the eligi-  
15                   ble partnership will use to identify, obtain,  
16                   harvest, process, transport, temporarily  
17                   store, and distribute eligible food;

18                   (ii) includes an estimate of the quan-  
19                   tity and types of eligible food that the eli-  
20                   gible partnership will purchase and donate;

21                   (iii) describes the eligible expenses for  
22                   which the eligible partnership seeks to be  
23                   reimbursed; and

1 (iv) demonstrates experience to com-  
2 ply with the requirements of this sub-  
3 section.

4 (B) REVIEW AND APPROVAL.—On a rolling  
5 basis, the Secretary shall—

6 (i) review reimbursement and distribu-  
7 tion plans submitted under subparagraph  
8 (A); and

9 (ii) determine whether to approve or  
10 disapprove each of those reimbursement  
11 and distribution plans.

12 (4) REIMBURSEMENT.—

13 (A) IN GENERAL.—On receipt of appro-  
14 priate documentation under subparagraph (B),  
15 the Secretary shall reimburse a participating  
16 partnership or a member of a participating  
17 partnership that has incurred eligible expenses  
18 or donated eligible food on a regular basis for  
19 qualified expenses described in paragraph (5).

20 (B) DOCUMENTATION.—

21 (i) IN GENERAL.—A participating  
22 partnership shall submit to the Secretary  
23 such documentation as the Secretary may  
24 require to demonstrate the qualified ex-  
25 penses described in paragraph (5).

1 (ii) VERIFICATION.—The Secretary  
2 may verify the accuracy of documentation  
3 submitted under clause (i) by spot checks  
4 and audits.

5 (C) RETROACTIVE REIMBURSEMENT.—In  
6 providing reimbursements under subparagraph  
7 (A), the Secretary may provide reimbursements  
8 for qualified expenses described in paragraph  
9 (5)—

10 (i) incurred before the date on which  
11 the reimbursement and distribution plan  
12 for the applicable participating partnership  
13 was approved by the Secretary; and

14 (ii) relating to purchases and dona-  
15 tions made during the donation period.

16 (D) ADVANCE PAYMENT FOR ELIGIBLE EX-  
17 PENSES.—The Secretary shall provide an ad-  
18 vance payment on request of an eligible part-  
19 nership in an amount equal to the lesser of—

20 (i) 30 percent of the estimated eligible  
21 expenses of the eligible partnership during  
22 the donation period; and

23 (ii) \$1,000,000.

24 (5) QUALIFIED EXPENSES.—

25 (A) IN GENERAL.—

(i) AMOUNT.—Subject to subparagraphs (B) and (C), the amount of a reimbursement under paragraph (4) shall be an amount equal to the sum obtained by adding—

(I) subject to clause (ii), the eligible expenses of the eligible partnership during the donation period; and

(II) the food value of eligible food donated by the eligible partnership during the donation period.

(ii) LIMITATION.—The amount of eligible expenses described in clause (i)(I) shall not exceed 25 percent of the food value described in clause (i)(II).

(B) LIMITATION.—The amount of a reimbursement under paragraph (4)—

(i) shall not exceed the amount of eligible expenses that an eligible partnership incurred during the donation period; and

(ii) may be limited by the Secretary based on prevailing or typical costs for each type of eligible expense.

(C) NO DUPLICATION.—The combination of all payments or grants provided from all

1 Federal sources to eligible partnership or mem-  
 2 bers of an eligible partnership to reimburse for  
 3 eligible expenses or food value shall not exceed  
 4 100 percent of the eligible expenses or food  
 5 value.

6 (6) CLEARINGHOUSE FOR AVAILABLE FOOD.—

7 To support the program under this subsection, the  
 8 Secretary shall establish a clearinghouse to collect  
 9 information from—

10 (A) eligible food organizations that have el-  
 11 igible food to donate; and

12 (B) local and regional eligible feeding orga-  
 13 nizations that have capacity to receive or dis-  
 14 tribute additional eligible food.

15 (e) RELATIONSHIP TO OTHER PROGRAM.—Notwith-  
 16 standing any other provision of law, funding provided  
 17 under this section may be used to meet matching funds  
 18 or cost share requirements for any other Federal program.

19 (f) PROHIBITION ON RESALE OF PRODUCTS.—

20 (1) IN GENERAL.—An eligible feeding organiza-  
 21 tion that receives eligible food donated under this  
 22 section may not sell the eligible food back into a  
 23 commercial market.

24 (2) PROHIBITION ON FUTURE PARTICIPA-  
 25 TION.—An eligible feeding organization that the Sec-

1       retary determines has violated paragraph (1) shall  
2       not be eligible for any future participation in the  
3       programs established under this section.

4       (g) ADMINISTRATION.—

5           (1) IN GENERAL.—The Secretary shall publicize  
6       opportunities to participate in the programs estab-  
7       lished under this section.

8           (2) ADMINISTRATIVE EXPENSES.—The Sec-  
9       retary may use for administrative expenses not more  
10      than 3 percent of the funds made available to carry  
11      out this section.

12          (3) OUTREACH.—The Secretary shall ensure  
13      that farmers and ranchers who are minorities,  
14      women, young, or veterans, and any eligible feeding  
15      organizations that serve those farmers and ranchers  
16      or food insecure populations, are informed of oppor-  
17      tunities through the programs under this section.

18      (h) REVIEWS.—The Secretary shall conduct appro-  
19      priate reviews or audits to ensure the integrity of the pro-  
20      grams established under this section.

21      (i) REPORTS.—

22          (1) STATE AND TRIBAL SURPLUS FOOD PUR-  
23      CHASE PROGRAM.—Every 30 days, the Secretary  
24      shall submit to the Committee on Agriculture, Nutri-  
25      tion, and Forestry of the Senate and the Committee

1 on Agriculture of the House of Representatives a re-  
2 port describing, with respect to the State and Tribal  
3 surplus food purchase program under subsection  
4 (c)—

5 (A) the funding made available to States  
6 and Indian Tribes; and

7 (B) a summary of the reviews or audits  
8 conducted by the Secretary under subsection  
9 (h), including a description of—

10 (i) each review or audit conducted;

11 and

12 (ii) the findings of each review or  
13 audit conducted.

14 (2) FEDERAL SURPLUS FOOD REIMBURSEMENT  
15 PROGRAM.—Every 30 days, the Secretary shall sub-  
16 mit to the Committee on Agriculture, Nutrition, and  
17 Forestry of the Senate and the Committee on Agri-  
18 culture of the House of Representatives a report de-  
19 scribing, with respect to the Federal surplus food re-  
20 imbursement program under subsection (d)—

21 (A) payments made under that program—

22 (i) by participating partnership (as  
23 defined in subsection (d)(1)); and

24 (ii) by State; and

1 (B) a summary of the reviews or audits  
 2 conducted by the Secretary under subsection  
 3 (h), including a description of—

4 (i) each review or audit conducted;  
 5 and

6 (ii) the findings of each review or  
 7 audit conducted.

8 (j) FUNDING.—In addition to the funds made avail-  
 9 able under paragraphs (5)(A) and (6)(A)(ii) of subsection  
 10 (c), of the funds of the Commodity Credit Corporation,  
 11 the Secretary shall use such sums as are necessary to  
 12 carry out this section.

13 **SEC. 5. FOOD SUPPLY CHAIN GRANTS AND LOANS.**

14 (a) DEFINITIONS.—In this section:

15 (1) CUSTOM ESTABLISHMENT.—The term “cus-  
 16 tom establishment” means a very small or custom  
 17 establishment that is exempt from inspection re-  
 18 quirements under the Federal Meat Inspection Act  
 19 (21 U.S.C. 601 et seq.) pursuant to section 23 of  
 20 that Act (21 U.S.C. 623).

21 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
 22 ty” means—

23 (A) a small or midsize food processor or  
 24 distributor (including a manufacturer, food hub,  
 25 custom establishment, business cooperative, and

1 food service provider) with fewer than 1,500  
2 employees;

3 (B) a sole proprietor food business;

4 (C) a producer, an agricultural producer  
5 group, a producer cooperative, or a majority-  
6 controlled producer-based business venture (as  
7 defined in section 210A(a) of the Agricultural  
8 Marketing Act of 1946 (7 U.S.C. 1627c(a)));

9 (D) a farmers market;

10 (E) a farm labor contractor or farm work-  
11 er organization; and

12 (F) such other similar entities, as deter-  
13 mined by the Secretary.

14 (b) ESTABLISHMENT.—

15 (1) IN GENERAL.—The Secretary shall establish  
16 a program to provide temporary assistance to eligi-  
17 ble entities to address and respond to the COVID-  
18 19 emergency within the food supply chain through  
19 the provision of grants under subsection (d), direct  
20 loans under subsection (e), and guaranteed loans in  
21 accordance with subsection (f) to eligible entities in  
22 accordance with this section.

23 (2) MULTIPLE FINANCING TOOLS.—An eligible  
24 entity may receive not more than 1 grant, 1 direct  
25 loan, and 1 guaranteed loan under this section.

1       (c) PURPOSE AND USES OF ASSISTANCE.—An eligi-  
2 ble entity that receives a grant, direct loan, or guaranteed  
3 loan under this section shall use the amounts received  
4 under the grant, direct loan, or guaranteed loan for the  
5 purpose of responding to the COVID–19 emergency by  
6 building flexibility into the food supply chain and  
7 incentivizing creative economic solutions to strengthen the  
8 farm economy and agricultural communities, protect work-  
9 ers, and minimize food waste through any of the following  
10 uses:

11           (1) Retooling processing lines.

12           (2) Purchasing packaging materials and food  
13 labels.

14           (3) Developing new food products to meet a  
15 change in demand.

16           (4) Converting industrial-sized products to con-  
17 sumer-sized products.

18           (5) Upgrading technology, software, and com-  
19 puters.

20           (6) Purchasing temporary space or holding  
21 pens, dry or cold storage, equipment, or transpor-  
22 tation services or equipment.

23           (7) Developing and disseminating educational  
24 materials relating to COVID–19 protective meas-  
25 ures.

1           (8) Purchasing test kits or equipment to screen  
 2           the body temperature of employees for the presence  
 3           of COVID–19, disinfectant, sanitation systems, or  
 4           hand washing stations.

5           (9) Purchasing and decontaminating personal  
 6           protective equipment.

7           (10) Providing other measures to protect work-  
 8           ers against, or aid in preventing the spread of,  
 9           COVID–19.

10          (11) In the case of a grant under subsection  
 11          (d), repaying—

12                 (A) a direct loan made under subsection  
 13                 (e); or

14                 (B) a loan guaranteed in accordance with  
 15                 subsection (f).

16          (d) GRANTS.—

17                 (1) APPLICATIONS.—

18                         (A) IN GENERAL.—An eligible entity desir-  
 19                         ing to receive a grant under this subsection  
 20                         shall submit to the Secretary an application in  
 21                         accordance with an application process estab-  
 22                         lished by the Secretary.

23                         (B) SIMPLIFIED APPLICATION PROCESS.—

24                         In establishing the application process under  
 25                         subparagraph (A), the Secretary shall establish

1 a simplified, separate application process for eli-  
2 gible entities requesting less than \$100,000 in  
3 grants.

4 (2) REQUIREMENT.—Subject to paragraphs (3)  
5 and (4), the Secretary shall provide grants under  
6 this subsection in the order in which the Secretary  
7 receives applications submitted in accordance with  
8 paragraph (1).

9 (3) PRIORITY.—The Secretary shall give pri-  
10 ority to applications submitted under paragraph (1)  
11 that include, at least in part, the use of the grant  
12 amount for purchases described in paragraphs (8)  
13 and (9) of subsection (c).

14 (4) RESERVATION.—Of the amount made avail-  
15 able for grants under this section, 10 percent shall  
16 be reserved for grants provided to beginning, vet-  
17 eran, or socially disadvantaged farmers, ranchers, or  
18 businesses.

19 (5) MAXIMUM AMOUNT.—The amount of a  
20 grant under this subsection shall be not more than  
21 \$1,000,000.

22 (e) RAPID RESPONSE DIRECT LOANS.—

23 (1) APPLICATIONS.—An eligible entity desiring  
24 to receive a direct loan under this subsection shall  
25 submit to the Secretary an application in accordance

1 with an application process established by the Sec-  
2 retary in accordance with this subsection.

3 (2) PROVISION OF AMOUNTS.—Subject to para-  
4 graph (3), not later than 3 business days after the  
5 date on which the Secretary receives an application  
6 in accordance with paragraph (1), the Secretary  
7 shall provide the amount under the applicable direct  
8 loan to the applicable eligible entity.

9 (3) VERIFICATION; REQUIREMENTS.—

10 (A) VERIFICATION.—Before providing  
11 amounts under paragraph (2), the Secretary  
12 shall verify that the applicant is an eligible enti-  
13 ty by accepting a self-certification from the ap-  
14 plicant under penalty of perjury pursuant to  
15 section 1746 of title 28, United States Code.

16 (B) BASIS OF APPROVAL.—The Secretary  
17 may approve an applicant for a direct loan  
18 under this subsection based solely on—

19 (i) the credit score of the applicant; or

20 (ii) the verification under subpara-  
21 graph (A).

22 (C) UNDERWRITING REQUIREMENTS.—The  
23 Secretary shall not require an applicant for a  
24 direct loan under this subsection—

1 (i) to submit a tax return or a tax re-  
 2 turn transcript for approval; or

3 (ii) to provide collateral or a personal  
 4 guarantee.

5 (D) INTEREST RATE.—The interest rate  
 6 for a direct loan under this subsection shall be  
 7 2.375 percent.

8 (E) FEE WAIVER.—Any otherwise applica-  
 9 ble fees shall not be required for a direct loan  
 10 under this subsection.

11 (4) CERTAIN APPLICANTS.—To the extent prac-  
 12 ticable, notwithstanding paragraph (3)(B)(i), the  
 13 Secretary shall accept applicants with lower credit  
 14 scores, as necessary to ensure that eligible entities  
 15 that are socially disadvantaged, small businesses, or  
 16 located in underserved communities that have a high  
 17 poverty rate have an opportunity to receive a direct  
 18 loan under this subsection.

19 (5) MAXIMUM AMOUNT.—The amount of a di-  
 20 rect loan under this subsection shall be not more  
 21 than \$50,000.

22 (f) GUARANTEED LOANS.—

23 (1) IN GENERAL.—The Secretary may guar-  
 24 antee a loan under subsections (a)(2)(A) and (g) of  
 25 section 310B of the Consolidated Farm and Rural

1 Development Act (7 U.S.C. 1932) to an eligible enti-  
2 ty that verifies that the amounts under the loan will  
3 be used for—

4 (A) the purpose described in subsection  
5 (c); and

6 (B) any of the uses described in para-  
7 graphs (1) through (10) of that subsection.

8 (2) REQUIREMENTS.—Notwithstanding any  
9 otherwise applicable requirements under subsections  
10 (a)(2)(A) and (g) of section 310B of the Consoli-  
11 dated Farm and Rural Development Act (7 U.S.C.  
12 1932), the following provisions shall apply to guar-  
13 anteed loans under this subsection:

14 (A) NONAPPLICABILITY OF RURAL RE-  
15 QUIREMENTS.—The Secretary shall guarantee  
16 loans under this subsection without regard to  
17 any requirement under any other provision of  
18 law that an eligible entity be located in, or  
19 serve, a rural area.

20 (B) 1-TIME FEE.—Notwithstanding section  
21 310B(g)(5) of the Consolidated Farm and  
22 Rural Development Act (7 U.S.C. 1932(g)(5)),  
23 the Secretary may assess a 1-time fee for a  
24 guaranteed loan under this subsection in an

1 amount that does not exceed 1 percent of the  
2 guaranteed principal portion of the loan.

3 (C) MAXIMUM AMOUNT.—The amount of a  
4 loan guarantee under this subsection shall be  
5 not more than—

6 (i) 100 percent of the amount of a  
7 loan that is not more than \$5,000,000;  
8 and

9 (ii) 90 percent of the amount of a  
10 loan that is more than \$5,000,000 and not  
11 more than \$25,000,000.

12 (D) LIMITATION.—The Secretary shall not  
13 guarantee a loan under this subsection that is  
14 more than \$25,000,000.

15 (E) INTEREST RATE.—The interest rate  
16 for a loan guaranteed under this subsection  
17 shall be not more than 4 percent.

18 (F) OTHER FEES.—Except as provided in  
19 subparagraph (B), the Secretary shall waive  
20 any otherwise applicable fees for a loan guaran-  
21 teed under this subsection, including—

22 (i) an initial guarantee fee (other than  
23 the fee described in subparagraph (B))  
24 that is paid at the time the loan note guar-  
25 antee is issued;

- 1 (ii) an annual renewal fee on the out-
- 2 standing balance of a loan guarantee; and
- 3 (iii) any customary borrower or lender
- 4 fees.

5 (G) WORKING CAPITAL LOANS.—In the  
 6 case of a guaranteed loan under this subsection  
 7 for the financing of working capital—

- 8 (i) the Secretary shall waive any oth-
- 9 erwise applicable collateral requirements;
- 10 and

- 11 (ii) the maximum term of the loan
- 12 shall be 10 years.

13 (H) UNDERWRITING REQUIREMENTS.—  
 14 The Secretary shall waive the following under-  
 15 writing requirements for loans guaranteed  
 16 under this subsection:

- 17 (i) Any required feasibility studies by
- 18 independent consultants.

- 19 (ii) Any requirements for applicants
- 20 to provide a tangible balance sheet equity
- 21 position of 10 percent or more for existing
- 22 businesses at loan closing or project com-
- 23 pletion.

24 (g) TECHNICAL ASSISTANCE GRANTS.—The Sec-  
 25 retary shall award competitive grants to land-grant col-

1 leges and universities, local offices of the Cooperative Ex-  
 2 tension System, State departments of agriculture, and  
 3 other technical service providers to provide to eligible enti-  
 4 ties technical assistance, rapid training, and outreach to  
 5 develop new food products or adjust business models to  
 6 respond to the COVID–19 emergency.

7 (h) EXPIRATION OF AUTHORITY.—The authority of  
 8 the Secretary to provide a grant, direct loan, or guaran-  
 9 teed loan under this section shall remain available until  
 10 the date on which the COVID–19 emergency is lifted.

11 (i) FUNDING.—

12 (1) IN GENERAL.—Of the funds of the Com-  
 13 modity Credit Corporation, the Secretary shall use  
 14 \$5,500,000,000 to carry out this section.

15 (2) GRANTS.—Of the amount made available  
 16 under paragraph (1), the Secretary shall use  
 17 \$2,000,000,000 to provide grants under subsection  
 18 (d).

19 (3) RAPID RESPONSE DIRECT LOANS.—Of the  
 20 amount made available under paragraph (1), the  
 21 Secretary shall use \$1,000,000,000 to provide direct  
 22 loans under subsection (e).

23 (4) GUARANTEED LOANS.—Of the amount  
 24 made available under paragraph (1), the Secretary

1       shall use \$2,500,000,000 to guarantee loans under  
2       subsection (f).

3           (5) TECHNICAL ASSISTANCE GRANTS.—Of the  
4       amount made available under paragraph (2), the  
5       Secretary shall use 5 percent to carry out subsection  
6       (g).

7   **SEC. 6. ADMINISTRATION.**

8       (a) IN GENERAL.—The administration of this Act,  
9       including the promulgation of regulations to carry out this  
10      Act, shall be without regard to—

11           (1) the notice and comment provisions of sec-  
12      tion 553 of title 5, United States Code; and

13           (2) chapter 35 of title 44, United States Code.

14       (b) AUTHORITIES.—The authorities in this Act are  
15      in addition to other authorities of, and amounts adminis-  
16      tered by, the Secretary.

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