

2021 Regular Session

SENATE BILL NO. 228

BY SENATOR JACKSON AND REPRESENTATIVES TRAVIS JOHNSON, JONES
AND THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING. Creates the Louisiana Agricultural Recovery Fund and Program. (gov
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1 AN ACT

2 To enact R.S. 3:286, relative to special funds; to create the Louisiana Agricultural Recovery

3 Fund as a special fund in the state treasury; to provide for the Louisiana Agricultural

4 Recovery Program relative to the use of the monies in the fund; to provide relative

5 to the allocation, use, and disbursement of monies in the fund; to provide relative to

6 the powers and duties of the Louisiana Agricultural Finance Authority; to provide

7 for legislative intent; to provide for an effective date; and to provide for related

8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 3:286 is hereby enacted to read as follows:

11 **§286. Louisiana Agricultural Recovery Fund and Louisiana Agricultural**

12 **Recovery Program**

13 **A. It is the intent of the Legislature to provide economic support to**

14 **Louisiana farmers by using a portion of the monies received from Louisiana's**

15 **allocation from the American Rescue Plan Act for responding to the COVID-19**

16 **public health emergency, to offset revenue losses, bolster economic recovery, and**

17 **to provide premium pay for essential workers. The legislature desires that the**

1 state use a portion of the American Rescue Plan Act monies in the amount of
2 two hundred million dollars for the Louisiana Agricultural Recovery Program
3 for economic support for eligible farmers to be administered by the Louisiana
4 Agricultural Finance Authority, all as established in this Section.

5 B. Definitions

6 For the purposes of this Section the following terms shall have the
7 following meanings:

8 (1) "American Rescue Plan Act" shall mean the American Rescue Plan
9 Act of 2021, enacted by Congress on March 11, 2021.

10 (2) "COVID-19" shall mean the Coronavirus disease 2019.

11 (3) "Economic support" shall mean to offset revenue losses, bolster
12 economic recovery, and to provide premium pay for essential workers. If the
13 United States Department of the Treasury releases guidance that allows the
14 American Recovery Plan Act monies to be used for natural catastrophes that
15 affected Louisiana commercial farmers such as the tornado damage in 2019,
16 hurricane damage in 2020, or winter weather in 2021, then assistance to eligible
17 farmers negatively affected by the natural catastrophes shall be included in the
18 definition of "economic support".

19 (4) "Eligible worker" shall mean those workers needed to maintain
20 continuity of operations of essential critical infrastructure sectors and
21 additional sectors as the governor of the state may designate as critical to
22 protect the health and well-being of the residents of the state.

23 (5) "Farmer" shall mean only those Louisiana persons occupationally
24 engaged in producing food or agricultural commodities for sale. The term
25 "farmer" is limited to those persons, partnerships, or corporations regularly
26 engaged in the commercial production for the sale of vegetables, fruits, crops,
27 livestock, poultry, and other food or agricultural products that report farm
28 income and expenses on a federal Schedule F or similar federal tax form,
29 including but not limited to 1065, 1120, and 1120S filed by a person assigned a

1 North American Industry Classification System (NAICS) Code beginning with
2 11; provided, however, that if the United States Department of Commerce
3 releases guidance that limits or expands the definition of "farmer", the
4 Louisiana Agricultural Finance Authority shall enact an emergency rule to
5 ensure that the definition of "farmer" complies with the treasury guidance.

6 (6) "Louisiana Agricultural Finance Authority" or "LAFA" shall mean
7 the Louisiana Agricultural Finance Authority created in Title 3 of the Louisiana
8 Revised Statutes of 1950.

9 (7) "Minority business enterprise" shall mean a small business organized
10 by a Louisiana resident for profit or non-profit performing a commercially
11 useful function which is at least fifty percent owned by one or more minority
12 individuals, women, or veterans, who also control and operate the business. In
13 addition to the requirements of this Paragraph, if more than one person owns
14 the enterprise, at least fifty percent of the owners must be resident citizens of
15 the state. For the purposes of this Paragraph, "control" means exercising the
16 power to make policy decisions and "operate" means being actively involved in
17 the day-to-day management of the business.

18 (8) "Premium pay" shall mean an amount of up to thirteen dollars per
19 hour that is paid to an eligible worker, in addition to wages or remuneration the
20 eligible worker otherwise received for all work performed by the eligible worker
21 during the COVID-19 public health emergency. Such amount shall not exceed
22 \$25,000 with respect to any single eligible worker.

23 (9) "Recovery Fund" shall mean the Louisiana Agricultural Recovery
24 Fund.

25 (10) "Recovery Program" shall mean the Louisiana Agricultural
26 Recovery Program.

27 (11) "State" shall mean the state of Louisiana.

28 C. Louisiana Agricultural Recovery Fund

29 (1) There is hereby created in the state treasury, as a special fund, the

1 Louisiana Agricultural Recovery Fund to provide economic support to eligible
2 Louisiana farmers for costs incurred in connection with COVID-19 and for
3 those purposes which are eligible under the United States Department of the
4 Treasury guidance on the use of Coronavirus State and Local Fiscal Recovery
5 Funds allocated to the state pursuant to the American Rescue Plan Act.
6 Expenses disallowed by the American Rescue Plan Act or any guidance or
7 regulation issued by the United States Department of the Treasury shall not be
8 an eligible expense.

9 (2) Pursuant to legislative appropriation, the treasurer is hereby
10 authorized and directed to transfer to the Recovery Fund the amount of two
11 hundred million dollars in federal funding from the first funds received by the
12 state from the American Rescue Plan Act. The monies in the Recovery Fund
13 shall be invested in the same manner as monies in the state general fund.
14 Interest earned on the investment of monies in the Recovery Fund shall be
15 deposited in and credited to the Recovery Fund. Except as provided in this
16 Section and as applicable under federal guidelines, unexpended and
17 unencumbered monies in the Recovery Fund shall remain in the Recovery Fund
18 until November 30, 2024, at which time any unexpended and unobligated funds
19 shall be returned to the state treasury to either be used for permissible purposes
20 under the American Rescue Plan Act or returned to the United States treasury.
21 Monies in the Recovery Fund shall be appropriated and used solely as provided
22 in this Section.

23 (3) Up to five percent of the monies initially deposited in the Recovery
24 Fund shall be appropriated to the Louisiana Agricultural Finance Authority for
25 use in Fiscal Years 2021, 2022, 2023, and 2024 to develop procedures for the
26 administration of and for the costs of administering the Recovery Program.
27 Such expenses may include costs for the Louisiana Agriculture Finance
28 Authority and the legislative auditor for work performed in the execution of the
29 program. Notwithstanding any provision of law to the contrary, the Louisiana

1 Agricultural Finance Authority may enter into a consulting services contract as
2 an emergency procurement, to expedite the distribution of the funds
3 appropriated for the Recovery Program. The cost of such contract shall be an
4 administrative expense of the Recovery Program.

5 (4) All remaining monies in the Recovery Fund, after providing for
6 administrative expenses, shall be appropriated for eligible farmers to offset
7 revenue losses, bolster economic recovery for farmers, and to provide premium
8 pay for essential farm workers that submit applications pursuant to this
9 Section.

10 D. Louisiana Agricultural Recovery Program

11 (1) There is hereby created the Louisiana Agricultural Recovery
12 Program to be administered by the Louisiana Agricultural Finance Authority,
13 in accordance with the provisions of this Section.

14 (2) No later than July 1, 2021, the Louisiana Agricultural Finance
15 Authority shall announce the date the program shall begin. Notice of the
16 Recovery Program shall be published on the webpages of the Louisiana
17 Department of Agriculture and in statewide news outlets at least ten days prior
18 to the beginning of the program.

19 (3) In no event shall any grant exceed twenty-five thousand dollars.

20 (4) Notwithstanding any provision of this Section to the contrary, the
21 Louisiana Agricultural Finance Authority shall ensure that within the first sixty
22 days of the Recovery Program no less than \$25,000,000 in economic support,
23 exclusive of administrative expenses, shall be awarded to minority business
24 enterprises.

25 (5) Each recipient of a grant shall provide a certification, on a form
26 developed by the Louisiana Agricultural Finance Authority, signed by the
27 eligible farmer that the proposed use of the funds are consistent with the
28 American Rescue Plan Act. The certification shall also provide that the business
29 shall hold the state harmless and indemnify the state in the event that payments

1 were misappropriated, converted, or spent for any purpose other than those
2 authorized by and in accordance with the American Rescue Plan Act as
3 determined by any executive, administrative, or judicial body of competent
4 jurisdiction.

5 (6) Within thirty calendar days after receiving a submission pursuant to
6 this Section, the Louisiana Agricultural Finance Authority shall review and, if
7 the grant is eligible under the provisions of this Section, the American Rescue
8 Plan Act, guidance by the United States Department of the Treasury, and the
9 procedures developed by the Louisiana Agricultural Finance Authority, the
10 Louisiana Agricultural Finance Authority may approve the grant. Funds
11 appropriated for verified claims shall be disbursed by the Louisiana
12 Agricultural Finance Authority within five days of the approval.

13 (7) Any claims for expenses which cannot be reviewed and paid by LAFA
14 on or before November 30, 2024, shall be ineligible for payment pursuant to the
15 provisions of the American Rescue Plan Act.

16 (8) Only application forms prepared by LAFA for this purpose may be
17 used.

18 (9) Each applicant for a grant shall submit all of the following documents
19 to LAFA:

20 (a) The completed application form signed by the eligible employee, or
21 the agricultural producer, if a sole proprietorship. If the agricultural producer
22 is not a sole proprietorship then the application form must be signed by all
23 owners unless an applicant has more than ten owners.

24 (b) Proof of identity of the signer of the application. A government issued
25 photo identification must be presented.

26 (c) Proof of address of the farm. One or more of the following may be
27 used as proof of address:

28 (i) Copy of a utility bill.

29 (ii) Louisiana tax return from the previous year.

1 **(iii) Lease agreement.**

2 **(iv) Map.**

3 **(v) Title to the land.**

4 **(vi) USDA Farm Service Administration certification.**

5 **(d) Proof of ownership of the farm. Tax returns with appropriate**
6 **schedules must be presented.**

7 **(e) Proof of national objection. One or more of the following may be used**
8 **as proof of employees:**

9 **(i) Federal form 941.**

10 **(ii) Labor Market Information form.**

11 **(iii) Louisiana unemployment tax records.**

12 **(iv) Internal payroll register.**

13 **(f) Proof of revenue. Tax returns with appropriate schedules must be**
14 **presented.**

15 **(g) Proof of economic loss. A completed crop loss calculator must be**
16 **presented if the application is submitted by an agricultural producer.**

17 **E. Duties of the legislative auditor**

18 **For purposes of this Section, the legislative auditor may review all**
19 **applications for compliance with the provisions of the programs established in**
20 **this Section. The Louisiana Agricultural Finance Authority shall be responsible**
21 **for providing the legislative auditor with all claims and necessary**
22 **documentation to carry out his review. The legislative auditor shall report any**
23 **findings to the Legislative Audit Advisory Council and the Joint Legislative**
24 **Committee on the Budget.**

25 Section 2. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

Proposed law authorizes LAFA to ensure that within the first 60 days of the Recovery Program no less than \$25,000,000 in economic support, exclusive of administrative expenses, shall be awarded to minority business enterprises.

Proposed law requires each recipient of a grant shall provide a certification signed by the eligible farmer that the proposed use of the funds are consistent with the American Rescue Plan Act. The certification shall also provide that the business shall hold the state harmless and indemnify the state in the event that payments were misappropriated, converted, or spent for any purpose other than those authorized by and in accordance with the American Rescue Plan Act.

Proposed law provides that within thirty calendar days after receiving a submission, LAFA shall review and, if the grant is eligible, LAFA may approve the grant. Funds appropriated for verified claims shall be disbursed by LAFA within five days of the approval.

Proposed law provides for the duties of the legislative auditor.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 3:286)