

117TH CONGRESS
1ST SESSION

S. 255

To establish a \$120,000,000,000 Restaurant Revitalization Fund to provide structured relief to food service or drinking establishments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2021

Mr. WICKER (for himself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a \$120,000,000,000 Restaurant Revitalization Fund to provide structured relief to food service or drinking establishments, 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 “Real Economic Sup-
5 port That Acknowledges Unique Restaurant Assistance
6 Needed To Survive Act of 2021” or the “RES-
7 TAURANTS Act of 2021”.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

1 (1) AFFILIATED BUSINESS.—The term “affili-
 2 ated business” means a business in which an eligible
 3 entity has an equity or right to profit distributions
 4 of not less than 50 percent, or in which an eligible
 5 entity has the contractual authority to control the
 6 direction of the business, provided that such affili-
 7 ation shall be determined as of any arrangements or
 8 agreements in existence as of March 13, 2020.

9 (2) COVERED PERIOD.—The term “covered pe-
 10 riod” means the period beginning on February 15,
 11 2020 and ending on the date that is 8 months after
 12 the date of enactment of this Act.

13 (3) ELIGIBLE ENTITY.—The term “eligible enti-
 14 ty”—

15 (A) means a restaurant, food stand, food
 16 truck, food cart, caterer, saloon, inn, tavern,
 17 bar, lounge, brewpub, tasting room, taproom, li-
 18 censed facility or premise of a beverage alcohol
 19 producer where the public may taste, sample, or
 20 purchase products, or other similar place of
 21 business in which the public or patrons assem-
 22 ble for the primary purpose of being served food
 23 or drink;

1 (B) includes an entity described in sub-
 2 paragraph (A) that is located in an airport ter-
 3 minal; and

4 (C) does not include an entity described in
 5 subparagraph (A) that—

6 (i) is part of a State or local govern-
 7 ment facility, not including an airport; or

8 (ii) as of March 13, 2020, owns or op-
 9 erates (together with any affiliated busi-
 10 ness) more than 20 locations, regardless of
 11 whether those locations do business under
 12 the same or multiple names.

13 (4) FUND.—The term “Fund” means the Res-
 14 taurant Revitalization Fund established under sec-
 15 tion 3.

16 (5) PAYROLL COSTS.—The term “payroll costs”
 17 has the meaning given the term in section
 18 7(a)(36)(A) of the Small Business Act (15 U.S.C.
 19 636(a)(36)(A)).

20 (6) SECRETARY.—The term “Secretary” means
 21 the Secretary of the Treasury.

22 **SEC. 3. RESTAURANT REVITALIZATION FUND.**

23 (a) IN GENERAL.—There is established in the Treas-
 24 ury of the United States a fund to be known as the Res-
 25 taurant Revitalization Fund.

1 (b) APPROPRIATIONS.—

2 (1) IN GENERAL.—There is appropriated to the
3 Fund, out of amounts in the Treasury not otherwise
4 appropriated, \$120,000,000,000, to remain available
5 until the date that is 8 months after the date of en-
6 actment of this Act.

7 (2) REMAINDER TO TREASURY.—Any amounts
8 remaining in the Fund after the date that is 8
9 months after the date of enactment of this Act shall
10 be deposited in the general fund of the Treasury.

11 (c) USE OF FUNDS.—The Secretary shall use
12 amounts in the Fund to make grants described in section
13 4.

14 **SEC. 4. RESTAURANT REVITALIZATION GRANTS.**

15 (a) IN GENERAL.—The Secretary shall award grants
16 to eligible entities in the order in which applications are
17 received by the Secretary.

18 (b) REGISTRATION.—The Secretary shall register
19 each grant awarded under this section using the employer
20 identification number of the eligible entity.

21 (c) APPLICATION.—

22 (1) IN GENERAL.—An eligible entity desiring a
23 grant under this section shall submit to the Sec-
24 retary an application at such time, in such manner,

1 and containing such information as the Secretary
2 may require.

3 (2) CERTIFICATION.—An eligible entity apply-
4 ing for a grant under this section shall make a good
5 faith certification—

6 (A) that the uncertainty of current eco-
7 nomic conditions makes necessary the grant re-
8 quest to support the ongoing operations of the
9 eligible entity;

10 (B) acknowledging that funds will be used
11 to retain workers and maintain payroll or for
12 other allowable expenses described in subsection
13 (e) and not for any other purposes;

14 (C) that the eligible entity does not have
15 an application pending for a grant under para-
16 graph (36) or (37) of subsection (a) or sub-
17 section (b)(2) of section 7 of the Small Busi-
18 ness Act (15 U.S.C. 636) for the same purpose
19 and duplicative of amounts applied for or re-
20 ceived under this section; and

21 (D) that, during the covered period, the el-
22 igible entity has not received amounts under
23 paragraph (36) or (37) of subsection (a) or
24 subsection (b)(2) of section 7 of the Small
25 Business Act (15 U.S.C. 636) for the same pur-

1 pose and duplicative of amounts applied for or
2 received under this section.

3 (3) HOLD HARMLESS.—An eligible entity apply-
4 ing for a grant under this section shall not be ineli-
5 gible for a grant if the eligible entity is able to docu-
6 ment—

7 (A) an inability to rehire individuals who
8 were employees of the eligible entity on Feb-
9 ruary 15, 2020; and

10 (B) an inability to hire similarly qualified
11 employees for unfilled positions on or before the
12 date that is 8 months after the date of enact-
13 ment of this Act.

14 (4) PREVENTION OF WASTE, FRAUD, AND
15 ABUSE.—The Secretary may impose requirements on
16 applicants for the purpose of reducing waste, fraud,
17 and abuse in the application process for a grant
18 under this section in a manner that is not unduly
19 burdensome on applicants.

20 (d) PRIORITY IN AWARDING GRANTS.—During the
21 initial 14-day period in which the Secretary awards grants
22 under this section, the Secretary shall—

23 (1) prioritize awarding grants to marginalized
24 and underrepresented communities, with a focus on

1 women, veteran, and minority-owned and operated
 2 eligible entities; and

3 (2) only award grants to eligible entities with
 4 annual revenues of less than \$1,500,000 in 2019.

5 (e) GRANT AMOUNT.—

6 (1) AGGREGATE MAXIMUM AMOUNT.—The ag-
 7 gregate amount of grants made to an eligible entity
 8 and any affiliate businesses of the eligible entity
 9 under this section shall not exceed \$10,000,000.

10 (2) DETERMINATION OF GRANT AMOUNT.—

11 (A) IN GENERAL.—The amount of a grant
 12 made to an eligible entity under this section
 13 shall be equal to the revenues of the eligible en-
 14 tity during 2020 subtracted from the revenues
 15 of the eligible entity in 2019, if such sum is
 16 greater than zero.

17 (B) ELIGIBLE ENTITIES THAT WERE NOT
 18 OPEN ALL OF 2019.—In the case of an eligible
 19 entity that was not open during the entirety of
 20 2019, the amount of a grant made to the eligi-
 21 ble entity under this section shall be—

22 (i) equal to the difference between—

23 (I) the product obtained by mul-
 24 tiplying the average monthly revenue

1 of the eligible entity in 2019 by 12;
 2 and

3 (II) the product obtained by mul-
 4 tiplying the average monthly revenue
 5 of the eligible entity in 2020 by 12; or
 6 (ii) based on a formula determined by
 7 the Secretary.

8 (C) NEWLY-OPENED ELIGIBLE ENTI-
 9 TIES.—In the case of an eligible entity—

10 (i) that opened after January 1, 2020,
 11 the amount of a grant made to the eligible
 12 entity under this section shall be made
 13 based on actual expenses described in sub-
 14 section (f) incurred by the eligible entity
 15 minus any revenues received; or

16 (ii) that has not yet opened as of the
 17 date of application for a grant under this
 18 section but has verified expenses described
 19 in subsection (f) as of that date, the
 20 amount of a grant made to the eligible en-
 21 tity under this section shall be equal to
 22 those expenses.

23 (D) SICK LEAVE.—An eligible entity apply-
 24 ing for a grant under this section—

1 (i) may request an additional grant
2 amount based on the amount required to
3 provide 10 days of paid sick leave to each
4 employee of the eligible entity to—

5 (I) care for themselves or an im-
6 mediate family member who is ill; or

7 (II) provide care for children
8 when schools or childcare providers
9 are shut down due to COVID-19; and

10 (ii) shall, if provided a grant under
11 this section that includes an additional
12 amount for sick leave described in clause
13 (i), provide each employee of the entity
14 with such 10 days of paid sick leave.

15 (E) VERIFICATION.—An eligible entity
16 shall submit to the Secretary such revenue
17 verification documentation as the Secretary
18 may require to determine the amount of a grant
19 under this paragraph.

20 (3) NO DUPLICATION OF BENEFITS.—An award
21 granted under this section to an eligible entity that
22 received a loan under paragraph (36) or (37) of sec-
23 tion 7(a) of the Small Business Act (15 U.S.C.
24 636(a)) shall be reduced by the amount of that loan.

1 (4) LIMITATION.—An eligible entity may not re-
2 ceive more than 1 grant under this section.

3 (f) USE OF FUNDS.—

4 (1) IN GENERAL.—During the covered period,
5 an eligible entity that receives a grant under this
6 section may use the grant funds for the following ex-
7 penses incurred as a direct result of the COVID–19
8 pandemic:

9 (A) Payroll costs.

10 (B) Payments of principal or interest on
11 any mortgage obligation (which shall not in-
12 clude any prepayment of principal on a mort-
13 gage obligation).

14 (C) Rent payments, including rent under a
15 lease agreement (which shall not include any
16 prepayment of rent).

17 (D) Utilities.

18 (E) Maintenance expenses, including—

19 (i) construction to accommodate out-
20 door seating; and

21 (ii) walls, floors, deck surfaces, fur-
22 niture, fixtures, and equipment.

23 (F) Supplies, including protective equip-
24 ment and cleaning materials, as required by ap-
25 plicable public health departments.

1 (G) Food and beverage expenses that are
2 within the scope of the normal business practice
3 of the eligible entity before the covered period.

4 (H) Debt obligations to suppliers that were
5 incurred before the covered period.

6 (I) Operational expenses.

7 (J) Paid sick leave.

8 (K) Any other expenses that the Secretary
9 determines to be essential to maintaining the el-
10 igible entity.

11 (2) RETURNING FUNDS.—If an eligible entity
12 that receives a grant under this section permanently
13 ceases operations on or before the date that is 8
14 months after the date of enactment of this Act, the
15 eligible entity shall return to the Treasury any funds
16 that the eligible entity did not use for the allowable
17 expenses under paragraph (1).

18 (3) CONVERSION TO LOAN.—Any grant
19 amounts received by an eligible entity under this sec-
20 tion that are unused after the date that is 8 months
21 after the date of enactment of this Act shall be im-
22 mediately converted to a loan with—

23 (A) an interest rate of 1 percent; and

1 (B) a maturity date of 10 years beginning
 2 on the date that is 8 months after the date of
 3 enactment of this Act.

4 (g) TAXABILITY.—

5 (1) IN GENERAL.—For purposes of the Internal
 6 Revenue Code of 1986—

7 (A) the amount of a grant awarded to an
 8 eligible entity under this section shall be ex-
 9 cluded from the gross income of the eligible en-
 10 tity; and

11 (B) no deduction shall be denied or re-
 12 duced, no tax attribute shall be reduced, and no
 13 basis increase shall be denied, by reason of the
 14 exclusion from gross income provided by this
 15 subsection.

16 (2) EMPLOYEE RETENTION TAX CREDIT.—Pay-
 17 roll costs for which grant funds are used under this
 18 section shall not include qualified wages taken into
 19 account in determining the credit allowed under sec-
 20 tion 2301 of the CARES Act (Public Law 116–136),
 21 if the costs are used for different expenses.

22 (h) REGULATIONS.—Not later than 15 days after the
 23 date of enactment of this Act, the Secretary shall issue
 24 regulations to carry out this section without regard to the

1 notice and comment requirements under section 553 of
 2 title 5, United States Code.

3 (i) APPROPRIATIONS FOR STAFFING AND ADMINIS-
 4 TRATIVE EXPENSES.—

5 (1) IN GENERAL.—There is appropriated to the
 6 Secretary, out of amounts in the Treasury not other-
 7 wise appropriated, \$300,000,000, to remain avail-
 8 able until the date that is 8 months after the date
 9 of enactment of this Act, for staffing and adminis-
 10 trative expenses related to administering grants
 11 awarded under this section.

12 (2) SET ASIDE.—Of amounts appropriated
 13 under paragraph (1), \$60,000,000 shall be allocated
 14 for outreach to traditionally marginalized and under-
 15 represented communities, with a focus on women,
 16 veteran, and minority-owned and operated eligible
 17 entities, including the creation of a resource center
 18 targeted toward these communities.

19 (j) LIMITATION WITH RESPECT TO PRIVATE
 20 FUNDS.—

21 (1) DEFINITIONS.—In this subsection:

22 (A) AFFILIATE.—

23 (i) IN GENERAL.—The term “affil-
 24 iate” means, with respect to a person, any
 25 other person directly or indirectly control-

1 ling, controlled by, or under direct or indi-
 2 rect common control with the person.

3 (ii) CONTROL.—For purposes of
 4 clause (i), a person shall be deemed to con-
 5 trol another person if the person possesses,
 6 directly or indirectly, the power to direct or
 7 cause the direction of the management and
 8 policies of the other person, whether
 9 through the ownership of voting securities,
 10 by contract, or otherwise.

11 (B) EXECUTIVE.—The term “executive”
 12 means—

13 (i) any individual who serves as execu-
 14 tive or director of a person, including the
 15 principal executive officer, principal finan-
 16 cial officer, comptroller or principal ac-
 17 counting officer; and

18 (ii) an executive officer, as defined in
 19 section 230.405 of title 17, Code of Fed-
 20 eral Regulations.

21 (C) PRIVATE FUND.—The term “private
 22 fund” means an issuer that would be an invest-
 23 ment company, as defined in the Investment
 24 Company Act of 1940 (15 U.S.C. 80a–1 et

1 seq.), but for paragraph (1) or (7) of section
2 3(c) of that Act (15 U.S.C. 80a–3(c)).

3 (2) ANTI-EVASION.—No company in which a
4 private fund holds an ownership interest that has,
5 directly or indirectly, received amounts under this
6 section may pay any distributions, dividends, con-
7 sulting fees, advisory fees, interest payments, or any
8 other fees, expenses, or charges in excess of 10 per-
9 cent of the net operating profits of the company op-
10 erating profits for the calendar year ending Decem-
11 ber 31, 2021 (and for each successive year until the
12 covered period has ended and all loans created under
13 this section have been repaid), to—

14 (A) a person registered as an investment
15 adviser under the Investment Advisers Act of
16 1940 (15 U.S.C. 80b–1 et seq.) who advises a
17 private fund;

18 (B) any affiliate of such adviser;

19 (C) any executive of such adviser or affil-
20 iate; or

21 (D) any employee, consultant, or other per-
22 son with a contractual relationship to provide
23 services for or on behalf of such adviser or affil-
24 iate.

25 (k) DEMOGRAPHIC DATA AND TRANSPARENCY.—

1 (1) DEMOGRAPHIC DATA.—In establishing an
2 application process for carrying out this section, the
3 Secretary shall include a voluntary request for cer-
4 tain demographic data with respect to the majority
5 ownership of eligible entities, including race, eth-
6 nicity, gender, and veteran status.

7 (2) MONTHLY REPORTS.—Not later than the
8 end of the first month in which initial grants are
9 disbursed under this section, and every month there-
10 after until the date on which the last grant has been
11 disbursed under this section, the Secretary shall sub-
12 mit to the Committee on Banking, Housing, and
13 Urban Affairs of the Senate and the Committee on
14 Financial Services of the House of Representatives
15 a report providing the number and dollar amount of
16 grants approved for or disbursed to all eligible enti-
17 ties, including—

18 (A) a list of eligible entities with the grant
19 amount received by each eligible entity; and

20 (B) a breakout of the number and dollar
21 amount of grants by State, congressional dis-
22 trict, demographics (including race, ethnicity,
23 gender, and veteran status), and business type.

24 (3) QUARTERLY REPORTS.—Not later than the
25 end of the first quarter beginning after the date of

1 enactment of this Act, and every subsequent quarter
2 until the last grant that was converted to a loan
3 under this section is repaid, the Secretary shall sub-
4 mit to the Committee on Banking, Housing, and
5 Urban Affairs of the Senate and the Committee on
6 Financial Services of the House of Representatives
7 a report on—

8 (A) the number and dollar amount of
9 grants approved for or disbursed to all eligible
10 entities, including a breakout of grants by
11 State, congressional district, demographics (in-
12 cluding race, ethnicity, gender, and veteran sta-
13 tus), and business type; and

14 (B) the number and dollar amount of
15 grants that converted to loans under this sec-
16 tion, including a breakout of outstanding loans
17 by State, congressional district, demographics
18 (including race, ethnicity, gender, and veteran
19 status), and business type.

20 (4) DATA TRANSPARENCY.—Not later than 30
21 days after the date of enactment of this Act, the
22 Secretary shall make available on a publicly available
23 website in a standardized and downloadable format,
24 and update on a monthly basis, any data contained
25 in a report submitted under this subsection.

1 **SEC. 5. EMERGENCY DESIGNATION.**

2 (a) IN GENERAL.—The amounts provided by this Act
3 are designated as an emergency requirement pursuant to
4 section 4(g) of the Statutory Pay-As-You-Go Act of 2010
5 (2 U.S.C. 933(g)).

6 (b) DESIGNATION IN SENATE.—In the Senate, this
7 Act is designated as an emergency requirement pursuant
8 to section 4112(a) of H. Con. Res. 71 (115th Congress),
9 the concurrent resolution on the budget for fiscal year
10 2018.

○