

117TH CONGRESS
2D SESSION

S. 4282

To provide COVID relief for restaurants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19 (legislative day, MAY 17), 2022

Mr. PORTMAN introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To provide COVID relief for restaurants, 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 “Restaurant Relief
5 Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—RESTAURANT REVITALIZATION FUND REPLENISHMENT
AND IMPROVEMENTS

Sec. 101. Appropriation.
Sec. 102. Insufficient funding.
Sec. 103. Data transparency and customer service.

Sec. 104. Oversight and audits.

Sec. 105. Requirement of continuing operation.

TITLE II—EXTENSION OF SUSPENSION OF REBATE RULE

Sec. 201. Extension of moratorium on implementation of rule relating to eliminating the anti-kickback statute safe harbor protection for prescription drug rebates.

TITLE III—BUDGETARY EFFECTS

Sec. 301. Emergency designation.

1 **TITLE I—RESTAURANT REVITAL-**
 2 **IZATION FUND REPLENISH-**
 3 **MENT AND IMPROVEMENTS**

4 **SEC. 101. APPROPRIATION.**

5 Section 5003 of the American Rescue Plan Act of
 6 2021 (15 U.S.C. 9009c) is amended—

7 (1) in subsection (b)(2)—

8 (A) in subparagraph (A)—

9 (i) by striking “\$28,600,000,000” and
 10 inserting “\$68,600,000,000”; and

11 (ii) by inserting “, of which not more
 12 than \$250,000,000 shall be for administra-
 13 tive expenses to carry out this section and
 14 of which \$20,000,000 shall be for the In-
 15 spector General of the Small Business Ad-
 16 ministration for audits of grants under this
 17 section to investigate fraud and to identify
 18 improper payments and ineligible recipi-
 19 ents, and for other necessary expenses of

1 the Office of the Inspector General” before
2 the period at the end; and

3 (B) in subparagraph (B)(i)(II), by striking
4 “\$23,600,000,000” and inserting “any remain-
5 ing amounts not used for a purpose authorized
6 under subparagraph (A) or clause (i) of this
7 subparagraph”; and

8 (2) in subsection (c)—

9 (A) in paragraph (1), by striking “and
10 paragraph (3)”; and

11 (B) by striking paragraph (3).

12 **SEC. 102. INSUFFICIENT FUNDING.**

13 Section 5003 of the American Rescue Plan Act of
14 2021 (15 U.S.C. 9009c) is amended by adding at the end
15 the following:

16 “(d) INSUFFICIENT FUNDING.—

17 “(1) IN GENERAL.—If the Administrator deter-
18 mines that the amounts made available to carry out
19 this section are insufficient to make grants in the
20 amount provided in subsection (c)(4) to each eligible
21 entity that has submitted an application in accord-
22 ance with the program guidelines in effect on the
23 day before the date of enactment of this subsection,
24 but has not received an award as of such date, the

1 Administrator shall make grants with the available
2 amounts to each such eligible applicant—

3 “(A) such that the amount of the grant
4 that each such eligible entity would have other-
5 wise received under this section is reduced by
6 an equal percentage;

7 “(B) by establishing a maximum amount
8 for a grant made under this subsection to en-
9 sure that smaller eligible entities still receive
10 grants in the amounts provided under sub-
11 section (c)(4); or

12 “(C) by providing full awards in the
13 amounts provided under subsection (c)(4) below
14 a certain threshold (as the Administrator may
15 establish) and reducing grants above that
16 threshold by an equal percentage.

17 “(2) RESERVING FUNDS.—Nothing in para-
18 graph (1) shall prevent the Administrator from—

19 “(A) reserving funding for applicants that
20 may be determined to be eligible for a grant
21 under this section upon reconsideration; or

22 “(B) making partial awards to eligible en-
23 tities on a preliminary basis until the amount of
24 funding required to fund grants to all eligible

1 applicants is established, upon the completion
2 of the reconsideration process.”.

3 **SEC. 103. DATA TRANSPARENCY AND CUSTOMER SERVICE.**

4 Section 5003 of the American Rescue Plan Act of
5 2021 (15 U.S.C. 9009e), as amended by section 102 of
6 this Act, is amended by adding at the end the following:

7 “(e) REPORTS.—The Administrator shall—

8 “(1) on a biweekly basis until the amounts
9 made available to carry out this section are fully ex-
10 pended, publish data that shows, for the period be-
11 ginning on the date on which the Administrator
12 began making grants under this section and ending
13 on the date on which the information is published—

14 “(A) with respect to applications for grants
15 under this section, the number of those applica-
16 tions—

17 “(i) that the Administrator has re-
18 ceived;

19 “(ii) that the Administrator has re-
20 viewed or is in the process of reviewing;
21 and

22 “(iii) with respect to which the Ad-
23 ministrator has made a decision; and

24 “(B) the number and dollar amount of
25 grants under this section—

1 “(i) that have been awarded; and

2 “(ii) that have been disbursed;

3 “(2) on a weekly basis until the amounts made
4 available to carry out this section are fully expended,
5 publish, with respect to the period beginning on the
6 date of enactment of this subsection and ending on
7 the date on which the information is published—

8 “(A) with respect to each eligible entity to
9 which a grant is made under this section—

10 “(i) the name of the eligible entity, in-
11 cluding the name or names under which
12 the eligible entity does business if that
13 name is different from the name of the eli-
14 gible entity; and

15 “(ii) the address of—

16 “(I) the eligible entity; and

17 “(II) the physical location or lo-
18 cations for the eligible entity listed on
19 the application, if different from the
20 address of the eligible entity;

21 “(B) the amount of each grant described
22 in subparagraph (A); and

23 “(C) the business category listed in sub-
24 section (a)(4)(A) to which the eligible entity be-
25 longs; and

1 “(3) with respect to an applicant that applies
2 for a grant under this section and is denied by the
3 Administrator—

4 “(A) make available to the applicant a
5 brief explanation identifying the reason why the
6 Administrator denied the application of the ap-
7 plicant, which shall include, where applicable, a
8 citation to the statutory, regulatory, or guid-
9 ance provision with which the applicant failed
10 to comply and that was the basis for the denial;
11 and

12 “(B) establish a reconsideration process
13 through which the applicant may—

14 “(i) submit to the Administrator addi-
15 tional information the applicant determines
16 to be relevant to whether the applicant is
17 eligible for the grant;

18 “(ii) challenge the decision of the Ad-
19 ministrator; and

20 “(iii) receive a second review of the
21 application submitted by the applicant.”.

22 **SEC. 104. OVERSIGHT AND AUDITS.**

23 Section 5003 of the American Rescue Plan Act of
24 2021 (15 U.S.C. 9009e), as amended by section 103 of
25 this Act, is amended by adding at the end the following:

1 “(f) OVERSIGHT AND AUDITS.—

2 “(1) IN GENERAL.—The Administrator shall in-
3 stitute an oversight and audit plan with respect to
4 eligible entities receiving grants under this section,
5 which shall include—

6 “(A) documentation requirements that are
7 consistent with the eligibility and other require-
8 ments under this section, including by requiring
9 an eligible entity that receives a grant under
10 this section to retain records that demonstrate
11 compliance with those requirements; and

12 “(B) reviews of the use, by eligible entities,
13 of grants made under this section to ensure
14 compliance with the requirements of this sec-
15 tion, which shall include—

16 “(i) the review and audit, by the Ad-
17 ministrator, of grants made under this sec-
18 tion; and

19 “(ii) in the case of fraud or other ma-
20 terial noncompliance with respect to a
21 grant made under this section—

22 “(I) a requirement that the appli-
23 cable eligible entity repay to the Ad-
24 ministrator the amount of the
25 misspent funds; or

1 “(II) the pursuit, by the Admin-
2 istrator, of legal action to collect the
3 misspent funds.

4 “(2) SUBMISSION OF PLAN.—Not later than 30
5 days after the date of enactment of this subsection,
6 the Administrator shall submit to the Committee on
7 Small Business and Entrepreneurship of the Senate
8 and the Committee on Small Business of the House
9 of Representatives the plan required under para-
10 graph (1), which shall describe—

11 “(A) the policies and procedures of the Ad-
12 ministrator for conducting oversight and audits
13 of grants made under this section; and

14 “(B) the metrics that the Administrator
15 will use to determine which grants made under
16 this section will be audited under that plan.

17 “(3) REPORTS.—Not later than 60 days after
18 the date of enactment of this subsection, and once
19 every 30 days thereafter until the date that is 180
20 days after the date on which all amounts made avail-
21 able to carry out this section have been fully ex-
22 pended, and upon request thereafter, the Adminis-
23 trator shall submit to the Committee on Small Busi-
24 ness and Entrepreneurship of the Senate and the
25 Committee on Small Business of the House of Rep-

1 representatives a report on the oversight and audit ac-
2 tivities of the Administrator under this subsection,
3 which shall include—

4 “(A) the total number of grants approved
5 and disbursed under this section;

6 “(B) the total amount of each grant re-
7 ceived by each eligible entity;

8 “(C) the number of active investigations
9 and audits of grants made under this section;

10 “(D) the number of completed reviews and
11 audits of grants made under this section, in-
12 cluding a description of—

13 “(i) any findings of fraud or other
14 material noncompliance with the require-
15 ments of this section;

16 “(ii) questionable costs identified by
17 the Administrator; and

18 “(iii) the total amount recouped from
19 ineligible recipients; and

20 “(E) a description of any substantial
21 changes made to the plan required under para-
22 graph (1).

23 “(4) RETROACTIVE APPLICATION.—This sub-
24 section shall apply to grants and decisions made

1 under this section before, on, or after the date of en-
 2 actment of this subsection.”.

3 **SEC. 105. REQUIREMENT OF CONTINUING OPERATION.**

4 For any application for a grant under section 5003
 5 of the American Rescue Plan Act of 2021 (15 U.S.C.
 6 9009c) that is pending on the date of enactment of this
 7 Act or for which the applicant has received an award no-
 8 tice but the Administrator of the Small Business Adminis-
 9 tration has not disbursed amounts under the grant, the
 10 Administrator may not disburse amounts under the grant
 11 unless the applicant submits a statement to the Adminis-
 12 trator indicating the applicant is still operating, or intends
 13 to reopen not later than 180 days after the date on which
 14 the statement is submitted, the applicable place of busi-
 15 ness.

16 **TITLE II—EXTENSION OF**
 17 **SUSPENSION OF REBATE RULE**

18 **SEC. 201. EXTENSION OF MORATORIUM ON IMPLEMENTA-**
 19 **TION OF RULE RELATING TO ELIMINATING**
 20 **THE ANTI-KICKBACK STATUTE SAFE HARBOR**
 21 **PROTECTION FOR PRESCRIPTION DRUG RE-**
 22 **BATES.**

23 Section 90006 of division I of the Infrastructure In-
 24 vestment and Jobs Act (42 U.S.C. 1320a–7b note) is

1 amended by striking “January 1, 2026” and inserting
2 “January 1, 2028”.

3 **TITLE III—BUDGETARY EFFECTS**

4 **SEC. 301. EMERGENCY DESIGNATION.**

5 (a) IN GENERAL.—The amounts provided under the
6 this Act and the amendments made by this Act are des-
7 ignated as an emergency requirement pursuant to section
8 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2
9 U.S.C. 933(g)).

10 (b) HOUSE AND SENATE.—This Act and the amend-
11 ments made by this Act are designated as an emergency
12 requirement pursuant to subsections (a) and (b) of section
13 4001 of S. Con. Res. 14 (117th Congress), the concurrent
14 resolution on the budget for fiscal year 2022.

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