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Senate Passes \$28.6 Billion in Restaurant Relief

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On March 6, 2021, the Senate passed President Joe Biden's \$1.9 trillion COVID-19 relief package known as the American Rescue Plan (ARP), including a \$28.6 billion fund to assist restaurants. The relief package now heads back to the House of Representatives, which is expected to approve the Senate's version of the legislation later this week. The bill will then become law when it is signed by President Biden.

Grants — Not Loans — Coming to Restaurants in Need

ARP includes the Restaurant Revitalization Fund, which would provide \$28.6 billion in debt-free relief for small and mid-sized restaurants. The Fund provides up to \$5 million in grants — not loans — for individual restaurants, caterers, breweries and tasting rooms or, alternatively, up to \$10 million for qualified restaurant groups, to help cover pandemic-related revenue losses. Restaurant businesses owned primarily by women, people of color, and veterans will be prioritized in the first three weeks of grant applications. One-fifth of the funding also is set aside specifically for small businesses, which are defined as those with less than \$500,000 in gross receipts in 2019.

Qualification

To qualify for a grant from the Fund, restaurants must not be part of an affiliated restaurant group with more than 20 locations or be a publicly traded entity. If qualified, restaurants can spend grants on:

- payroll and benefits up to \$100,000 a year per employee on an annualized basis

- mortgage and rent
- utilities
- maintenance
- supplies (including personal protective equipment (PPE) and cleaning products used to combat COVID-19)
- food and beverage
- operational expenses
- paid sick leave

Entities that receive grants can use the money for such expenses through December 31, 2021. The grants can be used in conjunction with any government disaster loans and employee retention tax credits that the grantee has received since the onset of the COVID-19 pandemic, one year ago. If a grantee received a PPP loan, the amount of such loan will be subtracted from the eligible grant total that the grantee receives from the Fund.

In addition, grants under this program are calculated differently than PPP loans. For established restaurants that opened in 2018 or earlier, grants are calculated by deducting the restaurant's 2020 revenue from its 2019 revenue, and then deducting any PPP loans received. For restaurants that opened in 2019, average 2019 monthly revenue is multiplied by 12. From that figure, subtract average 2020 monthly revenues multiplied by 12, and any PPP loans received. Restaurants that opened in 2020 are eligible to receive funding equal to the "eligible expenses incurred" less any PPP loans received. Restaurants that have not yet opened are also eligible and can receive "funding equal to eligible expenses incurred before the date of enactment."

Impact on New York Restaurants

Notably missing from the revised bill is the Raise the Wage Act offered by Sen. Bernie Sanders (I-VT) that would have increased the federal minimum wage to \$15.00 per hour and eliminated the tip credit. Because of the complicated rules of the Senate and the desire to avoid a potential filibuster by Republicans, the relief package had to include provisions related only to the budget. While Democrats had originally included the Raise the Wage Act in the initial version of the bill, Senate Parliamentarian Elizabeth MacDonough struck it down on the basis that it was a non-budgetary item and its inclusion would violate Senate rules.

ARP will provide much needed assistance to New York restaurants. While this bill certainly does not offset the industry's losses resulting from the pandemic, it endeavors to provide a lifeline to the industry as the country continues to reemerge from the economic devastation of the past year.

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