

Calendar No. 21

107TH CONGRESS
1ST SESSION

S. 295

[Report No. 107-4]

To provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2001

Mr. KERRY (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JOHNSON, Mr. DOMENICI, Mr. LEVIN, Mr. WELLSTONE, Mr. JEFFORDS, Mr. HARKIN, Mr. SCHUMER, Mrs. CLINTON, Mr. KOHL, Mr. EDWARDS, Mr. LEAHY, Mr. BAUCUS, Ms. COLLINS, Mr. SMITH of New Hampshire, Mr. DODD, Mr. CHAFEE, Mr. BAYH, Mr. KENNEDY, Mr. INOUE, Mr. DASCHLE, Mr. BOND, Mr. REED, Mr. CORZINE, Mr. TORRICELLI, Mr. AKAKA, Ms. CANTWELL, Mrs. MURRAY, Mr. CLELAND, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Small Business

MARCH 21, 2001

Reported by Mr. BOND with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, 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 “Small Business Energy
5 Emergency Relief Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) a significant number of small businesses in
9 the United States use heating oil, natural gas, pro-
10 pane, or kerosene to heat their facilities and for
11 other purposes;

12 (2) a significant number of small businesses in
13 the United States sell, distribute, market, or other-
14 wise engage in commerce directly related to heating
15 oil, natural gas, propane, and kerosene; and

16 (3) sharp and significant increases in the price
17 of heating oil, natural gas, propane, or kerosene—

18 (A) disproportionately harm small busi-
19 nesses dependent on those fuels or that use,
20 sell, or distribute those fuels in the ordinary
21 course of their business; and can cause them
22 substantial economic injury;

23 (B) can negatively affect the national econ-
24 omy and regional economies;

1 (C) have occurred in the winters of 1983–
 2 1984, 1988–1989, 1996–1997, and 1999–2000;
 3 and

4 (D) can be caused by a host of factors, in-
 5 cluding global or regional supply difficulties,
 6 weather conditions, insufficient inventories, re-
 7 finery capacity, transportation, and competitive
 8 structures in the markets, causes that are often
 9 unforeseeable to those who own and operate
 10 small businesses.

11 **SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER**
 12 **LOAN PROGRAM.**

13 Section 7(b) of the Small Business Act (15 U.S.C.
 14 636(b)) is amended by inserting after paragraph (3) the
 15 following:

16 “(4)(A) In this paragraph—

17 “(i) the term ‘heating fuel’ means heating
 18 oil, natural gas, propane, and kerosene; and

19 “(ii) the term ‘sharp and significant in-
 20 crease’ shall have the meaning given that term
 21 by the Administrator, in consultation with the
 22 Secretary of Energy.

23 “(B) The Administration may make such dis-
 24 aster loans, including revolving lines of credit, either
 25 directly or in cooperation with banks or other lend-

1 ing institutions through agreements to participate on
2 an immediate or deferred basis, to assist a small
3 business concern that has suffered or that is likely
4 to suffer substantial economic injury as the result of
5 a sharp and significant increase in the price of heat-
6 ing fuel.

7 “(C) A small business concern described in sub-
8 paragraph (B) shall be eligible to apply for assist-
9 ance under this paragraph beginning on the date on
10 which the sharp and significant increase in heating
11 fuel cost occurs, as determined by the Administra-
12 tion, and ending 6 months after that date.

13 “(D) Any loan or guarantee extended pursuant
14 to this paragraph shall be made at the same interest
15 rate as economic injury loans under paragraph (2).

16 “(E) No loan may be made under this para-
17 graph, either directly or in cooperation with banks
18 or other lending institutions through agreements to
19 participate on an immediate or deferred basis, if the
20 total amount outstanding and committed to the bor-
21 rower under this subsection would exceed
22 \$1,500,000, unless such applicant constitutes a
23 major source of employment in its surrounding area,
24 as determined by the Administration, in which case

1 the Administration, in its discretion, may waive the
2 \$1,500,000 limitation.

3 “(F) For purposes of assistance under this
4 paragraph—

5 “(i) a declaration of a disaster area shall
6 be required, and shall be made by the President
7 or the Administrator; or

8 “(ii) if no declaration has been made pur-
9 suant to clause (i), the Governor of a State in
10 which a sharp and significant increase in the
11 price of heating fuel has occurred may certify
12 to the Administration that small business con-
13 cerns have suffered economic injury as a result
14 of such increase and are in need of financial as-
15 sistance which is not available on reasonable
16 terms in that State, and upon receipt of such
17 certification, the Administration may make such
18 loans as would have been available under this
19 paragraph if a disaster declaration had been
20 issued.”.

21 **SEC. 4. GUIDELINES.**

22 Not later than 30 days after the date of enactment
23 of this Act, the Administrator of the Small Business Ad-
24 ministration shall issue such guidelines as the Adminis-

1 ~~trator determines to be necessary to carry out this Act~~
 2 ~~and the amendments made by this Act.~~

3 **SEC. 5. EFFECTIVE DATE.**

4 The amendments made by this Act shall apply to eco-
 5 nomic injury suffered or likely to be suffered as the result
 6 of sharp and significant increases in the price of heating
 7 fuel occurring on or after November 1, 2000.

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Small Business and*
 10 *Farm Energy Emergency Relief Act of 2001”.*

11 **SEC. 2. FINDINGS.**

12 *The Congress finds that—*

13 *(1) a significant number of small businesses in*
 14 *the United States, non-farm as well as agricultural*
 15 *producers, use heating oil, natural gas, propane, ker-*
 16 *osene, or electricity to heat their facilities and for*
 17 *other purposes;*

18 *(2) a significant number of small businesses in*
 19 *the United States sell, distribute, market, or otherwise*
 20 *engage in commerce directly related to heating oil,*
 21 *natural gas, propane, and kerosene; and*

22 *(3) sharp and significant increases in the price*
 23 *of heating oil, natural gas, propane, or kerosene—*

24 *(A) disproportionately harm small busi-*
 25 *nesses dependent on those fuels or that use, sell,*

1 or distribute those fuels in the ordinary course of
 2 their business, and can cause them substantial
 3 economic injury;

4 (B) can negatively affect the national econ-
 5 omy and regional economies;

6 (C) have occurred in the winters of 1983–
 7 1984, 1988–1989, 1996–1997, and 1999–2000;
 8 and

9 (D) can be caused by a host of factors, in-
 10 cluding global or regional supply difficulties,
 11 weather conditions, insufficient inventories, re-
 12 finery capacity, transportation, and competitive
 13 structures in the markets, causes that are often
 14 unforeseeable to those who own and operate small
 15 businesses.

16 **SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER**
 17 **LOAN PROGRAM.**

18 (a) *IN GENERAL.*—Section 7(b) of the Small Business
 19 Act (15 U.S.C. 636(b)) is amended by inserting after para-
 20 graph (3) the following:

21 “(4)(A) In this paragraph—

22 “(i) the term ‘heating fuel’ means heating
 23 oil, natural gas, propane, or kerosene; and

24 “(ii) the term ‘sharp and significant in-
 25 crease’ shall have the meaning given that term

1 *by the Administrator, in consultation with the*
2 *Secretary of Energy.*

3 “(B) *The Administration may make such loans,*
4 *either directly or in cooperation with banks or other*
5 *lending institutions through agreements to participate*
6 *on an immediate or deferred basis, to assist a small*
7 *business concern that has suffered or that is likely to*
8 *suffer substantial economic injury as the result of a*
9 *sharp and significant increase in the price of heating*
10 *fuel or electricity.*

11 “(C) *Any loan or guarantee extended pursuant*
12 *to this paragraph shall be made at the same interest*
13 *rate as economic injury loans under paragraph (2).*

14 “(D) *No loan may be made under this para-*
15 *graph, either directly or in cooperation with banks or*
16 *other lending institutions through agreements to par-*
17 *ticipate on an immediate or deferred basis, if the*
18 *total amount outstanding and committed to the bor-*
19 *rower under this subsection would exceed \$1,500,000,*
20 *unless such applicant constitutes a major source of*
21 *employment in its surrounding area, as determined*
22 *by the Administration, in which case the Administra-*
23 *tion, in its discretion, may waive the \$1,500,000 lim-*
24 *itation.*

1 “(E) For purposes of assistance under this
2 paragraph—

3 “(i) a declaration of a disaster area based
4 on conditions specified in this paragraph shall
5 be required, and shall be made by the President
6 or the Administrator; or

7 “(ii) if no declaration has been made pursu-
8 ant to clause (i), the Governor of a State in
9 which a sharp and significant increase in the
10 price of heating fuel or electricity has occurred
11 may certify to the Administration that small
12 business concerns have suffered economic injury
13 as a result of such increase and are in need of
14 financial assistance which is not available on
15 reasonable terms in that State, and upon receipt
16 of such certification, the Administration may
17 make such loans as would have been available
18 under this paragraph if a disaster declaration
19 had been issued.

20 “(F) Notwithstanding any other provision of
21 law, loans made under this paragraph may be used
22 by a small business concern described in subpara-
23 graph (B) to convert from the use of heating fuel or
24 electricity to a renewable or alternative energy source,

1 including agriculture and urban waste, geothermal
2 energy, solar energy, wind energy, and fuel cells.”.

3 (b) *CONFORMING AMENDMENTS RELATING TO HEAT-*
4 *ING FUEL AND ELECTRICITY.*—Section 3(k) of the Small
5 *Business Act (15 U.S.C. 632(k))* is amended—

6 (1) by inserting “, sharp and significant in-
7 creases in the price of heating fuel or electricity” after
8 “civil disorders”; and

9 (2) by inserting “other” before “economic”.

10 **SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.**

11 (a) *IN GENERAL.*—Section 321(a) of the Consolidated
12 *Farm and Rural Development Act (7 U.S.C. 1961(a))* is
13 *amended—*

14 (1) *in the first sentence—*

15 (A) by striking “operations have” and in-
16 serting “operations (i) have”; and

17 (B) by inserting before “: Provided,” the fol-
18 lowing: “, or (ii)(I) are owned or operated by
19 such an applicant that is also a small business
20 concern (as defined in section 3 of the Small
21 Business Act (15 U.S.C. 632)), and (II) have
22 suffered or are likely to suffer substantial eco-
23 nomic injury on or after June 1, 2000, as the re-
24 sult of a sharp and significant increase in en-
25 ergy costs or input costs from energy sources oc-

1 *curren*g on or after June 1, 2000, in connection
 2 *with an energy emergency declared by the Presi-*
 3 *dent or the Secretary”;*

4 *(2) in the third sentence, by inserting before the*
 5 *period at the end the following: “or by an energy*
 6 *emergency declared by the President or the Sec-*
 7 *retary”;* and

8 *(3) in the fourth sentence—*

9 *(A) by inserting “or energy emergency”*
 10 *after “natural disaster” each place it appears;*
 11 *and*

12 *(B) by inserting “or declaration” after*
 13 *“emergency designation”.*

14 *(b) FUNDING.—Funds available on the date of enact-*
 15 *ment of this Act for emergency loans under subtitle C of*
 16 *the Consolidated Farm and Rural Development Act (7*
 17 *U.S.C. 1961 et seq.) made to meet the needs resulting from*
 18 *natural disasters shall be available to carry out the amend-*
 19 *ments made by subsection (a).*

20 **SEC. 5. GUIDELINES.**

21 *Not later than 30 days after the date of enactment of*
 22 *this Act, the Administrator of the Small Business Adminis-*
 23 *tration and the Secretary of Agriculture shall each issue*
 24 *such guidelines as the Administrator and the Secretary, as*

1 *applicable, determines to be necessary to carry out this Act*
 2 *and the amendments made by this Act.*

3 **SEC. 6. REPORTS.**

4 (a) *SMALL BUSINESS*.—Not later than 18 months after
 5 the date of final publication by the Administrator of the
 6 Small Business Administration of the guidelines issued
 7 under section 5, the Administrator shall submit to the Com-
 8 mittee on Small Business of the Senate and the Committee
 9 on Small Business of the House of Representatives, a report
 10 on the effectiveness of the program established under section
 11 7(b)(4) of the Small Business Act, as added by this Act,
 12 including—

13 (1) *the number of small businesses that applied*
 14 *to participate in the program and the number of*
 15 *those that received loans under the program;*

16 (2) *the dollar value of those loans;*

17 (3) *the States in which the small business con-*
 18 *cerns that participated in the program are located;*

19 (4) *the type of heating fuel or energy that caused*
 20 *the sharp and significant increase in the cost for the*
 21 *participating small business concerns; and*

22 (5) *recommendations for improvements to the*
 23 *program, if any.*

24 (b) *AGRICULTURE*.—Not later than 18 months after
 25 the date of final publication by the Secretary of Agriculture

1 *of the guidelines issued under section 5, the Secretary shall*
 2 *submit to the Committees on Small Business and Agri-*
 3 *culture, Nutrition, and Forestry of the Senate and the Com-*
 4 *mittees on Small Business and Agriculture of the House*
 5 *of Representatives, a report on the effectiveness of loans*
 6 *made available as a result of the amendments made by sec-*
 7 *tion 4, together with recommendations for improvements to*
 8 *the loans, if any.*

9 **SEC. 7. EFFECTIVE DATE.**

10 (a) *SMALL BUSINESS.*—*The amendments made by this*
 11 *Act shall apply during the 2-year period beginning on the*
 12 *date of final publication of guidelines under section 5 by*
 13 *the Administrator, with respect to assistance under section*
 14 *7(b)(4) of the Small Business Act (15 U.S.C. 636(b)), as*
 15 *added by this Act, to economic injury suffered or likely to*
 16 *be suffered as the result of—*

17 (1) *sharp and significant increases in the price*
 18 *of heating fuel occurring on or after November 1,*
 19 *2000; or*

20 (2) *sharp and significant increases in the price*
 21 *of electricity occurring on or after June 1, 2000.*

22 (b) *AGRICULTURE.*—*The amendments made by section*
 23 *4 shall apply during the 2-year period beginning on the*
 24 *date of final publication of guidelines under section 5 by*
 25 *the Secretary of Agriculture.*

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A BILL

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Reported with an amendment