

110TH CONGRESS
2D SESSION

S. 2553

To modify certain fees applicable under the Small Business Act for 2008, to make an emergency appropriation for certain small business programs, and to amend the Internal Revenue Code of 1986 to provide increased expensing for 2008, to provide a 5-year carryback for certain net operating losses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2008

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To modify certain fees applicable under the Small Business Act for 2008, to make an emergency appropriation for certain small business programs, and to amend the Internal Revenue Code of 1986 to provide increased expensing for 2008, to provide a 5-year carryback for certain net operating losses, 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 Stim-
5 ulus Act of 2008”.

1 **SEC. 2. ECONOMIC STIMULUS FOR SMALL BUSINESS CON-**
 2 **CERNS.**

3 (a) IN GENERAL.—For fiscal year 2008, and to the
 4 extent the cost of such reduction in fees are offset by ap-
 5 propriations—

6 (1) the Administrator shall, in lieu of the fee
 7 otherwise applicable under section 7(a)(23)(A) of the
 8 Small Business Act (15 U.S.C. 636(a)(23)(A)), col-
 9 lect an annual fee in an amount equal to .25 percent
 10 of the outstanding balance of the deferred participa-
 11 tion share of a loan made under section 7(a) of the
 12 Small Business Act (15 U.S.C. 636(a)) to a small
 13 business concern; and

14 (2) with respect to each loan guaranteed under
 15 section 7(a) of the Small Business Act (15 U.S.C.
 16 636(a)), the Administrator shall—

17 (A) in lieu of the fee otherwise applicable
 18 under section 7(a)(18)(A) of the Small Busi-
 19 ness Act (15 U.S.C. 636(a)(18)(A)), collect a
 20 guarantee fee in an amount equal to—

21 (i) 1 percent of the deferred participa-
 22 tion share of a total loan amount that is
 23 not more than \$150,000;

24 (ii) 2.5 percent of the deferred partici-
 25 pation share of a total loan amount that is

1 more than \$150,000, and not more than
2 \$700,000; and

3 (iii) 3 percent of the deferred partici-
4 pation share of a total loan amount that is
5 more than \$700,000; and

6 (B) in lieu of the fee otherwise applicable
7 under section 7(a)(18)(A)(iv) of the Small
8 Business Act (15 U.S.C. 636(a)(18)(A)(iv)),
9 collect no fee.

10 (b) APPROPRIATION.—

11 (1) IN GENERAL.—There are appropriated, out
12 of any money in the Treasury not otherwise appro-
13 priated, for the fiscal year ending September 30,
14 2008—

15 (A) \$150,000,000 for the “Business Loans
16 Program Account” of the Administration, for
17 loan subsidies and for loan modifications for
18 loans to small business concerns authorized
19 under subsection (a), to remain available until
20 expended;

21 (B) \$2,000,000 for the “Business Loans
22 Program Account” of the Administration, for
23 direct loans under the Microloan Program
24 under section 7(m) of the Small Business Act

1 (15 U.S.C. 636(m)), to remain available until
2 expended; and

3 (C) \$10,000,000 for the “Salaries and Ex-
4 penses Account” of the Administration, for
5 marketing, management, and technical assist-
6 ance under section 7(m)(4) of the Small Busi-
7 ness Act (15 U.S.C. 636(m)(4)) by inter-
8 mediaries that make microloans under the
9 Microloan Program, to remain available until
10 expended.

11 (2) EMERGENCY DESIGNATION.—The amounts
12 provided under this subsection are designated as an
13 emergency requirement pursuant to section 204 of
14 S. Con. Res. 21 (110th Congress).

15 (c) BUDGETARY TREATMENT OF LOANS AND
16 FINANCINGS.—Assistance made available under any loan
17 made or approved by the Administration under section
18 7(a) of the Small Business Act (15 U.S.C. 636(a)) during
19 fiscal year 2008, shall be treated as separate programs
20 of the Administration for purposes of the Federal Credit
21 Reform Act of 1990 (2 U.S.C. 661 et seq.) only.

22 (d) DEFINITIONS.—In this section—

23 (1) the terms “Administration” and “Adminis-
24 trator” means the Small Business Administration
25 and the Administrator thereof, respectively; and

1 (2) the term “small business concern” has the
2 same meaning as in section 3 of the Small Business
3 Act (15 U.S.C. 632).

4 **SEC. 3. INCREASED EXPENSING FOR SMALL BUSINESSES.**

5 (a) IN GENERAL.—Subsection (b) of section 179 of
6 the Internal Revenue Code of 1986 is amended by adding
7 at the end the following new paragraph:

8 “(7) SPECIAL RULES FOR 2008.—In the case of
9 any taxable year beginning in 2008, this subsection
10 shall be applied—

11 “(A) by substituting ‘\$200,000’ for
12 ‘\$25,000 (\$125,000 in the case of taxable years
13 beginning after 2006 and before 2011)’ in para-
14 graph (1), and

15 “(B) by substituting ‘\$800,000’ for
16 ‘\$200,000 (\$500,000 in the case of taxable
17 years beginning after 2006 and before 2011)’.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 2007.

1 **SEC. 4. CARRYBACK OF CERTAIN NET OPERATING LOSSES**
 2 **ALLOWED FOR 5 YEARS; TEMPORARY SUS-**
 3 **PENSION OF 90 PERCENT AMT LIMIT.**

4 (a) IN GENERAL.—Subparagraph (H) of section
 5 172(b)(1) of the Internal Revenue Code of 1986 is amend-
 6 ed—

7 (1) by inserting “5-YEAR CARRYBACK OF CER-
 8 TAIN LOSSES.—” after “(H)”, and

9 (2) by striking “or 2002” and inserting “,
 10 2002, 2007, or 2008”.

11 (b) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT
 12 ON CERTAIN NOL CARRYBACKS.—Subclause (I) of sec-
 13 tion 56(d)(1)(A)(ii) of the Internal Revenue Code of 1986
 14 is amended—

15 (1) by striking “or 2002” and inserting “,
 16 2002, 2007, or 2008”, and

17 (2) by striking “and 2002” and inserting “,
 18 2002, 2007, or 2008”.

19 (c) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as provided in para-
 21 graph (2), the amendments made by this section
 22 shall apply to net operating losses for taxable years
 23 ending after December 31, 2006.

24 (2) ELECTION.—In the case of a net operating
 25 loss for a taxable year ending during 2007 or
 26 2008—

1 (A) any election made under section
2 172(b)(3) of the Internal Revenue Code of
3 1986 may (notwithstanding such section) be re-
4 voked before November 1, 2008, and

5 (B) any election made under section 172(j)
6 of such Code shall (notwithstanding such sec-
7 tion) be treated as timely made if made before
8 November 1, 2008.

○