

*John F. Kerry*  
Calendar No. \_\_\_\_\_

AMENDMENT NO. \_\_\_\_\_

29

Purpose: To establish a 4-year pilot program to provide emergency relief to small business concerns affected by a significant increase in the price of heating oil, natural gas, propane, gasoline, or kerosene, and for other purposes

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

**H.R. 6**

To e *change* AMENDMENT No. 0825 nd

By *for Kerry*

To: *H.R. 6*

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*10*

Page(s)

GPO: 2004 97-290(Mac)

AMENDMENT intended to be proposed by

Viz:

- 1 On page 208, after line 24, insert the following:
- 2 **SEC. 303. SMALL BUSINESS AND AGRICULTURAL PRO-**
- 3 **DUCER ENERGY EMERGENCY DISASTER**
- 4 **LOAN PROGRAM.**
- 5 (i) SMALL BUSINESS PRODUCER ENERGY EMER-
- 6 GENCY DISASTER LOAN PROGRAM.—

1           (1) DISASTER LOAN AUTHORITY.—Section 7(b)  
2 of the Small Business Act (15 U.S.C. 636(b)) is  
3 amended by inserting after paragraph (3) the fol-  
4 lowing:

5           “(4)(A) In this paragraph—

6           “(i) the term ‘base price index’ means the  
7 moving average of the closing unit price on the  
8 New York Mercantile Exchange for heating oil,  
9 natural gas, gasoline, or propane for the 10  
10 days, in each of the most recent 2 preceding  
11 years, which correspond to the trading days de-  
12 scribed in clause (ii);

13           “(ii) the term ‘current price index’ means  
14 the moving average of the closing unit price on  
15 the New York Mercantile Exchange, for the 10  
16 most recent trading days, for contracts to pur-  
17 chase heating oil, natural gas, gasoline, or pro-  
18 pane during the subsequent calendar month,  
19 commonly known as the ‘front month’; and

20           “(iii) the term ‘significant increase’  
21 means—

22           “(I) with respect to the price of heat-  
23 ing oil, natural gas, gasoline, or propane,  
24 any time the current price index exceeds

1 the base price index by not less than 40  
2 percent; and

3 “(II) with respect to the price of ker-  
4 osene, any increase which the Adminis-  
5 trator, in consultation with the Secretary  
6 of Energy, determines to be significant.

7 “(B) The Administration may make such loans,  
8 either directly or in cooperation with banks or other  
9 lending institutions through agreements to partici-  
10 pate on an immediate or deferred basis, to assist a  
11 small business concern that has suffered or that is  
12 likely to suffer substantial economic injury on or  
13 after January 1, 2005, as the result of a significant  
14 increase in the price of heating oil, natural gas, gas-  
15 oline, propane, or kerosene occurring on or after  
16 January 1, 2005.

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

20 “(D) No loan may be made under this para-  
21 graph, either directly or in cooperation with banks  
22 or other lending institutions through agreements to  
23 participate on an immediate or deferred basis, if the  
24 total amount outstanding and committed to the bor-  
25 rower under this subsection would exceed

1       \$1,500,000, unless such borrower constitutes a  
2       major source of employment in its surrounding area,  
3       as determined by the Administration, in which case  
4       the Administration, in its discretion, may waive the  
5       \$1,500,000 limitation.

6               “(E) For purposes of assistance under this  
7       paragraph—

8                       “(i) a declaration of a disaster area based  
9       on conditions specified in this paragraph shall  
10      be required, and shall be made by the President  
11      or the Administrator; or

12                      “(ii) if no declaration has been made pur-  
13      suant to clause (i), the Governor of a State in  
14      which a significant increase in the price of heat-  
15      ing oil, natural gas, gasoline, propane, or ker-  
16      osene has occurred may certify to the Adminis-  
17      tration that small business concerns have suf-  
18      fered economic injury as a result of such in-  
19      crease and are in need of financial assistance  
20      which is not otherwise available on reasonable  
21      terms in that State, and upon receipt of such  
22      certification, the Administration may make such  
23      loans as would have been available under this  
24      paragraph if a disaster declaration had been  
25      issued.

1           “(F) Notwithstanding any other provision of  
2 law, loans made under this paragraph may be used  
3 by a small business concern described in subpara-  
4 graph (B) to convert from the use of heating oil,  
5 natural gas, gasoline, propane, or kerosene to a re-  
6 newable or alternative energy source, including agri-  
7 culture and urban waste, geothermal energy, cogen-  
8 eration, solar energy, wind energy, or fuel cells.”.

9           (2) CONFORMING AMENDMENTS.—Section 3(k)  
10 of the Small Business Act (15 U.S.C. 632(k)) is  
11 amended—

12           (A) by inserting “, significant increase in  
13 the price of heating oil, natural gas, gasoline,  
14 propane, or kerosene” after “civil disorders”;  
15 and

16           (B) by inserting “other” before “eco-  
17 nomic”.

18           (b) AGRICULTURAL PRODUCER EMERGENCY  
19 LOANS.—

20           (1) IN GENERAL.—Section 321(a) of the Con-  
21 solidated Farm and Rural Development Act (7  
22 U.S.C. 1961(a)) is amended—

23           (A) in the first sentence—

24           (i) by striking “operations have” and  
25 inserting “operations (i) have”; and

1 (ii) by inserting before “: *Provided*,”  
2 the following: “, or (ii)(I) are owned or op-  
3 erated by such an applicant that is also a  
4 small business concern (as defined in sec-  
5 tion 3 of the Small Business Act (15  
6 U.S.C. 632)), and (II) have suffered or are  
7 likely to suffer substantial economic injury  
8 on or after January 1, 2005, as the result  
9 of a significant increase in energy costs or  
10 input costs from energy sources occurring  
11 on or after January 1, 2005, in connection  
12 with an energy emergency declared by the  
13 President or the Secretary”;

14 (B) in the third sentence, by inserting be-  
15 fore the period at the end the following: “or by  
16 an energy emergency declared by the President  
17 or the Secretary”; and

18 (C) in the fourth sentence—

19 (i) by inserting “or energy emer-  
20 geney” after “natural disaster” each place  
21 that term appears; and

22 (ii) by inserting “or declaration” after  
23 “emergency designation”.

24 (2) FUNDING.—Funds available on the date of  
25 enactment of this Act for emergency loans under

1 subtitle C of the Consolidated Farm and Rural De-  
2 velopment Act (7 U.S.C. 1961 et seq.) shall be avail-  
3 able to carry out the amendments made by subpara-  
4 graph (A) to meet the needs resulting from natural  
5 disasters.

6 (c) GUIDELINES AND RULEMAKING.—

7 (1) GUIDELINES.—Not later than 30 days after  
8 the date of enactment of this Act, the Administrator  
9 of the Small Business Administration and the Sec-  
10 retary of Agriculture shall each issue guidelines to  
11 carry out this section and the amendments made by  
12 this section, which guidelines shall become effective  
13 on the date of their issuance.

14 (2) RULEMAKING.—Not later than 30 days  
15 after the date of enactment of this Act, the Adminis-  
16 trator of the Small Business Administration, after  
17 consultation with the Secretary of Energy, shall pro-  
18 nounce regulations specifying the method for deter-  
19 mining a significant increase in the price of kerosene  
20 under section 7(b)(4)(A)(iii)(II) of the Small Busi-  
21 ness Act (15 U.S.C. 636(b)(4)(A)(iii)(II)), as added  
22 by this section.

23 (d) REPORTS.—

24 (1) SMALL BUSINESS ADMINISTRATION.—Not  
25 later than 12 months after the date on which the

1 Administrator of the Small Business Administration  
2 issues guidelines under subsection (c)(1), and annu-  
3 ally thereafter, the Administrator shall submit to the  
4 Committee on Small Business and Entrepreneurship  
5 of the Senate and the Committee on Small Business  
6 of the House of Representatives, a report on the ef-  
7 fectiveness of the assistance made available under  
8 section 7(b)(4) of the Small Business Act, as added  
9 by this section, including—

10 (A) the number of small business concerns  
11 that applied for a loan under such section  
12 7(b)(4) and the number of those that received  
13 such loans;

14 (B) the dollar value of those loans;

15 (C) the States in which the small business  
16 concerns that received such loans are located;

17 (D) the type of energy that caused the sig-  
18 nificant increase in the cost for the partici-  
19 pating small business concerns; and

20 (E) recommendations for ways to improve  
21 the assistance provided under such section  
22 7(b)(4), if any.

23 (2) DEPARTMENT OF AGRICULTURE.—Not later  
24 than 12 months after the date on which the Sec-  
25 retary of Agriculture issues guidelines under sub-



1 section (e)(1), and annually thereafter, the Secretary  
2 shall submit to the Committee on Small Business  
3 and Entrepreneurship and the Committee on Agri-  
4 culture, Nutrition, and Forestry of the Senate and  
5 to the Committee on Small Business and the Com-  
6 mittee on Agriculture of the House of Representa-  
7 tives, a report that—

8 (A) describes the effectiveness of the as-  
9 sistance made available under section 321(a) of  
10 the Consolidated Farm and Rural Development  
11 Act (7 U.S.C. 1961(a)), as amended by this  
12 section; and

13 (B) contains recommendations for ways to  
14 improve the assistance provided under such sec-  
15 tion 321(a).

16 (e) EFFECTIVE DATE.—

17 (1) SMALL BUSINESS.—The amendments made  
18 by subsection (a) shall apply during the 4-year pe-  
19 riod beginning on the earlier of the date on which  
20 guidelines are published by the Administrator of the  
21 Small Business Administration under subsection  
22 (e)(1) or 30 days after the date of enactment of this  
23 Act, with respect to assistance under section 7(b)(4)  
24 of the Small Business Act, as added by this section.

1           (2) AGRICULTURE.—The amendments made by  
2 subsection (b) shall apply during the 4-year period  
3 beginning on the earlier of the date on which guide-  
4 lines are published by the Secretary of Agriculture  
5 under subsection (c)(1) or 30 days after the date of  
6 enactment of this Act, with respect to assistance  
7 under section 321(a) of the Consolidated Farm and  
8 Rural Development Act (7 U.S.C. 1961(a)), as  
9 amended by this section.