

Calendar No. 139

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
110-64 }

SMALL BUSINESS DISASTER RESPONSE AND LOAN IMPROVEMENTS ACT OF 2007

MAY 7, 2007.—Ordered to be printed

Mr. KERRY, from the Committee on Small Business and
Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 163]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 163) to improve the disaster loan program of the Small Business Administration, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

I. INTRODUCTION

The Gulf Coast hurricanes of 2005 exposed many deficiencies within the federal system for disaster response. The Small Business Administration's (SBA) disaster loan program, administered by the SBA Office of Disaster Assistance, is one of the primary government resources available to help homeowners and business owners rebuild their lives after a disaster strikes.

By all accounts, the SBA failed in its mission to respond quickly and effectively to victims' needs in the weeks and months following the hurricanes. In some instances, disaster victims waited three months or more for loans to be processed. Although SBA Administrator Steven Preston has made significant improvements to disaster loan processes, there are improvements that require legislative action to ensure that the SBA is prepared to handle future large-scale disasters. Many of the important changes made by Administrator Preston need to be written into law so this vital disaster response program does not default to administrative discretion in the future. In the 20 months following Hurricane Katrina, the Committee has held hearings and has offered numerous legislative proposals aimed at providing legislative fixes.

Immediately after Hurricane Katrina, Senators Kerry and Landrieu offered an amendment to the FY 2006 Commerce, Justice and Science appropriations bill to address the needs of Gulf Region small businesses and homeowners. This amendment was adapted and a subsequent bipartisan amendment was offered by then-Chair Snowe which passed the Senate by a vote of 96–0. Although the Senate unanimously supported the amendment, it was stripped out of the bill in Conference. Consequently, on September 19, 2005, Senator Snowe introduced a stand-alone bill, the “Small Business, Homeowners, and Renters Disaster Relief Act of 2005” (S. 1724), which was identical to the amendment.

On September 22, 2005, the Committee held the first of two hearings on the Gulf Coast hurricanes, entitled “The Impact of Hurricane Katrina on Small Businesses.” This hearing focused on the impacts of the hurricanes on small businesses, and provided the Committee with the opportunity to (1) receive a briefing on how the SBA responded to the Hurricane; (2) analyze the SBA’s immediate and long-term response plans; (3) receive feed-back on Hurricane Katrina-related small business legislation; and (4) investigate how Congress and the SBA could better assist victims of the Gulf Coast hurricanes and displaced small businesses. Witnesses at this hearing included representatives from the SBA, as well as several Gulf Coast business owners, such as John Rowland, owner of Southern Hospitality Systems, Inc. in Louisiana; Alta Baker, CEO of Safe Haven Enterprises in Jennings, Louisiana; Michele Sutton, owner of Fairway Ventures in Hammond, Louisiana; Richard Harris, owner of Harris Homes in Ocean Springs, Mississippi; and Timothy Swindall, Vice President of SWR, Inc. in Troy, Alabama. Mary Lynn Wilkerson, State Director of the Louisiana Small Business Development Center also testified.

The Committee held the second disaster hearing entitled, “Strengthening Hurricane Recovery Efforts for Small Businesses,” on November 8, 2005. The Committee received an update on the SBA’s response to the 2005 hurricanes, analyzed SBA’s disaster response in the two months following the initial disaster hearing, investigated the SBA’s long-term disaster response plans, and examined the Administration’s policy regarding prime and subcontracting opportunities for small businesses. Witnesses at this hearing included representatives from the SBA, the U.S. Army Corps of Engineers, the U.S. Department of Homeland Security, the Government Accountability Office, and the Office of the Governor of Louisiana. These hearings provided insight into the immediate needs of affected small businesses and laid a foundation for the Committee’s SBA disaster loan program reauthorization efforts. On September 30, 2005, Senators Snowe, Kerry, Landrieu, and Vitter introduced the “Small Business Hurricane Relief and Reconstruction Act of 2006” (S. 1807). Although this bill represented a bipartisan, comprehensive approach to hurricane relief, it stalled due to the Administration’s opposition. Many of the tools offered in S. 1807 are reflected in this bill. In addition, several provisions included in this bill originated from bills introduced during the 109th Congress, such as Senator Kerry’s bill, the “Small Business Disaster Loan Reauthorization and Improvements Act of 2006” (S. 3487), Senator Snowe and Senator Vitter’s bill, the “Small Business Partners in Reconstruction Act of 2006” (S. 2608), and Senator

Landrieu’s bill, the “Small Business Disaster Recovery Assistance Improvements Act of 2006” (S. 3664).

On August 2, 2006, the Committee unanimously passed a comprehensive SBA reauthorization bill that included a title on disaster response. This title, which represents the bipartisan priorities for the Committee, became the foundation for legislation introduced at the end of the 109th Congress, entitled “Small Business Disaster Response and Loan Improvements Act of 2006” (S. 4097). On January 4, 2007, Chairman Kerry, Ranking Member Snowe, and Senators Landrieu and Vitter introduced the “Small Business Disaster Response and Loan Improvements Act of 2007” (S. 163).

On March 29, 2007, the Committee met in executive session to consider an amendment offered by Chairman Kerry in the nature of a substitute to S. 163. The substitute amendment rearranged the provisions of the bill into four titles: (1) Disaster Planning and Response; (2) Disaster Lending; (3) Disaster Oversight; and (4) Emergency Emergency Loans. The amendment was adopted, as amended, and the Committee ordered the bill to be reported.

II. DESCRIPTION OF BILL

Title I—Disaster planning and response

Under regulations normally in place, only homeowners, renters, and for-profit businesses can apply for disaster loans. The bill extends the eligibility to non-profit institutions that was provided after the terrorist attacks of September 11, 2001. This provision was included in the Administration’s legislative package for 2008.

The bill also increases the maximum size of an SBA disaster loan from \$1.5 million per loan to \$2 million per loan. Currently, when providing a disaster loan for uninsured damage suffered by a disaster victim, the SBA can increase the loan amount by up to 20 percent of the uninsured portion of the borrower’s losses, so the borrower can invest in disaster mitigation technologies such as sea walls and storm shutters. The bill increases the amount that a borrower can borrow to spend on disaster mitigation. It would allow the SBA to increase the loan amount to 20 percent of the borrower’s total losses, rather than just 20 percent of the uninsured portion. This provision was suggested by the Administration in its proposal to rebuild the Gulf Coast region.

After a disaster, the SBA usually provides additional staff and funding to assist only the SBA’s disaster loan program. However, the Small Business Development Centers (SBDCs), resource partners of the SBA, have played a critical role in providing additional assistance and counseling to the victims of disaster areas. To assist the SBDCs disaster recovery efforts, the bill authorizes the Administrator to waive the \$100,000 maximum size for SBDC portability grants used for disaster response. In addition, SBDCs will be authorized to provide services to small businesses located outside the SBDC’s own home state if the small business concerns are located in a disaster area. The Committee also believes that SBDCs should be allowed to operate at disaster recovery sites, if permissible.

This bill also directs the SBA to create a contracting outreach program for small businesses located in or having a significant presence in designated disaster areas. Federal contracts and sub-contracts can provide critical assistance to small businesses located

in areas devastated by natural disasters in the form of solid business opportunities and prompt, steady pay. In addition, government procurement would open doors for many local small businesses to participate in the long-term reconstruction work necessary in these areas. While many small businesses would benefit from other forms of disaster assistance, many of them want to get back to work and into business again as soon as possible. Technical assistance and outreach through the SBA, the Procurement Technical Assistance Centers, the Federal Offices of Small and Disadvantaged Business Utilizations, and other organizations could prove invaluable to these firms.

In its proposal to rebuild the Gulf Coast region, the Administration proposed to increase the maximum size of SBA surety bonds to \$5 million, and provide the SBA with authority to increase the maximum size to \$10 million. Small businesses vying for government contracts need an increase in bonds to handle larger projects for disaster relief. The Committee included this recommendation in the bill.

The Small Business Competitiveness Demonstration (Comp Demo) Program denies protections established within the Small Business Act known as set-asides to small businesses involved in construction and specialty trade contracting, refuse systems and related services, landscaping, pest control, non-nuclear ship repair, and architectural and engineering services, including surveying and mapping. Historically, small businesses have been the backbone of these industries, and these industries are in heavy demand for disaster recovery efforts. The Comp Demo Program, ostensibly a test program, denies federal agencies like the Department of Defense and nine other agencies the ability to do small business set-asides. Essentially, the Comp Demo Program reserves whole industries for big business. The bill terminates the application of the Small Business Comp Demo program.

Currently, the SBA cannot disburse disaster loans of more than \$10,000 without requiring collateral. This threshold is not indexed to inflation, and has remained level at \$10,000 since 1998. Prior to 1998, the amount was set at \$5,000 since the enactment of the Small Business Act in 1958. This bill would raise the level to \$14,000 to allow for homeowners and businesses to access additional capital without the need for collateral.

The federal response to Hurricane Katrina also demonstrated the need for greater coordination among responding agencies. Following the Gulf Coast hurricanes, the SBA staff and volunteers found limited resources in terms of lodging in and around the disaster areas. The difficulty in sharing records between the IRS and the SBA resulted in extended delays in the loan application process. Disaster assistance application periods differed from agency to agency, making the application process confusing and burdensome for victims.

This bill would enable FEMA, SBA, and other responding agencies to coordinate efforts in the aftermath of a disaster by making FEMA and SBA application periods consistent whenever possible. SBA and FEMA would be required to notify Congress 10 days prior to the date of a deadline for assistance so that the Committees may consider whether or not an extension is necessary. The bill directs the Administrator to utilize radio, television, print, and web-based

outlets to communicate information regarding available assistance under declared disasters. FEMA and SBA are directed to enter into an agreement that ensures adequate lodging and transportation for SBA employees and contractors whenever possible during disaster response. The bill also directs the SBA to develop a proactive marketing plan to make the public aware of potential disaster scenarios and what assistance is available through FEMA and SBA.

Effective disaster response requires a clear set of procedures to be followed. Inconsistencies in procedures can lead to ineffective governance and breakdowns in response. In the interest of ensuring that the SBA's regulations and procedures are consistent, the Committee directs the Administrator to conduct a study to determine whether the SBA's standard operating procedures are consistent with the agency's federal regulations for administering the disaster loan program.

The Committee also recognizes that in the event of a large scale disaster, the SBA needs resources in order to effectively manage the volume of loan applications. The bill provides for the SBA to contract with private contractors to process disaster loans in the event of a large scale disaster. The SBA is also authorized to contract with loss verification professionals. The Administrator is directed to work to the maximum extent practicable with the Commissioner of the Internal Revenue Service to ensure that all relevant tax records for disaster loan applicants are shared in an expedited manner.

The Committee is concerned that the SBA did not have a proactive, comprehensive disaster response plan in place in August 2005. The Committee was pleased to learn that since May 2006, the SBA has been developing a comprehensive disaster response plan and that the SBA provided a status report to the Committee on this plan on July 14, 2006. Since this status update, however, the SBA has not produced a comprehensive response plan to date. The Committee expects the SBA to build upon the lessons learned from its response to the 2005 Gulf Coast hurricanes, and to ensure that the agency is better prepared for future disasters.

The bill directs the SBA to submit to the Committee, along with the House Small Business Committee, the comprehensive disaster response plan of the Administration, along with a report detailing any updates or modifications made to the disaster response plan submitted July 14, 2006. To maintain this plan and to plan and coordinate appropriate response exercises, this bill creates a full-time disaster planning specialist position in the Office of Disaster Assistance. The plan shall include a description of how the Administrator intends to utilize district office personnel; a description of the disaster scalability model; a description of the structure of the agency-wide Disaster Oversight Council; a description of the Administrator's plans to coordinate disaster response with state and local officials; recommendations on how the Administrator can better coordinate response efforts with the Departments of Commerce and Agriculture; any surge plans with respect to loan processing and loss verification; the Administrator's findings and recommendations based on a review of the SBA response to the 2005 Gulf Coast hurricanes; and the Administration's plan for providing accommodations and necessary resources for disaster assistance personnel.

In this report, the Committee also expects the SBA to provide information on how it plans to integrate and coordinate the response to a disaster with the technical assistance programs of the Administration, including the small business development centers. Furthermore, in light of the GAO's report entitled, "Actions Needed to Provide More Timely Disaster Assistance" (GAO-06-860), which details why the SBA struggled to provide timely assistance to homeowners affected by the Gulf Coast hurricanes, the Committee directs the SBA to detail how it plans to coordinate its efforts with the staff and resources of the Federal Housing Administration in the U.S. Department of Housing and Urban Development.

The SBA's centralized process for loan processing, disbursement, and customer service provides no clear point of access for disaster victims to communicate with SBA District Offices regarding their loan applications. This bill creates a disaster liaison to be staffed in each district office, who will be charged with case management and outreach to disaster victims as they proceed through the disaster loan process. Additionally, the bill provides for district offices to have the authority to process disaster loans in the event of a major disaster declaration.

Title I also establishes floors for disaster reserve staff as well as for full time disaster assistance staff. In testimony before the Small Business Committee of the House of Representatives, Administrator Preston expressed concern over whether staff levels would dip below levels that are appropriate during a period of fewer than average large scale disasters. This provision would require the SBA to report to the authorizing Committees whenever staffing levels dropped below 800 for full time staff and 750 for the disaster reserve corps, also referred to as disaster cadre.

Finally, Title I addresses the issue of the severe effects of minimal snowfall on the tourism industry. The provision requires the SBA to conduct a feasibility study on the ability of the Administrator to provide Economic Injury Disaster Loans to small businesses that depend on and are adversely affected by a lack of snow. This is a critical issue for the northern states across the country in areas where businesses rely on heavy snowfall to flourish. Small businesses in the tourism industry and those across the nation provide a significant return on investment, bringing jobs and revenue to the communities and states. It is critical that we think ahead, and equip these small businesses with the knowledge and tools to confront the challenges of tomorrow, so that they can create jobs and continue to strengthen our economy.

Title II—Disaster lending

The federal response to the 2005 Gulf Coast hurricanes demonstrated on a national stage the need for a reformed system of disaster response. Victims were unable to access the capital necessary to keep their businesses open in the aftermath, and homeowners found the SBA's disaster loan application process burdensome and slow. Six months after Katrina struck, 48 percent of all disaster loans still remained unprocessed. GAO reported that as of May 27, 2006, the average length of time for the SBA to process a disaster loan had reached 74 days, well-above the Agency's stated goal of 21 days. Although Administrator Preston has since taken demonstrable steps toward improving the efficiency of this pro-

gram, additional legislative steps are necessary to improve and expand access to capital for businesses and homeowners following a large scale disaster.

Certain disasters impact businesses beyond the geographic reach of a declared disaster area. Businesses across the Nation can be affected by a large-scale disaster that disrupts a region's economy. This was evident in the aftermath of the terrorist attacks of September 11, 2001, and was again an issue following the 2005 Gulf Coast hurricanes. As a result, this bill creates a new declaration of disaster, a Catastrophic National Disaster, that would be used to provide nationwide economic injury disaster loans to businesses outside of a disaster's geographic boundaries.

The Committee recognizes the need to provide affected businesses with immediate access to capital and technical assistance within the first 30 days following a disaster to ensure their full recovery.

The Committee is also concerned that the SBA's Gulf Opportunity (GO) Loan program, which was initiated in November 2005 to expedite small business financing to affected small businesses, only provided 222 GO Loans totaling \$19 million as of May 2006, demonstrating that GO Loans were not an effective tool for immediate, short term response.

For major disasters, State-administered bridge loan programs have served as an effective means of providing immediate capital to allow affected businesses to make repairs, make payroll, and continue operations. The Committee is aware of the problems the SBA faced in providing timely assistance to businesses impacted by the 2005 hurricanes, as well as the necessity for the SBA to have the ability to provide short-term assistance. The success of state-administered bridge loan programs are evidence that a short-term infusion of capital can save businesses and jobs. As a result, the bill requires the SBA to create an expedited disaster assistance business loan program for future disasters. This program is designed to provide businesses with expedited access to short-term loans while they wait for other forms of long-term assistance.

The bill also creates a Private Disaster Loan (PDL) program in which loans are made by private lenders who have applied for eligibility. Under the program, eligible businesses must be located in an area that was declared a disaster within the last 24 months. The business will not have to show a nexus between its need for a loan, and the disaster that occurred.

The maximum loan size is set at \$2 million. For businesses applying for PDLs of more than \$250,000, collateral is required. Loans of less than \$250,000 can be made without collateral, so long as the borrower otherwise qualifies and is approved by the bank. The maximum term of the loan is set at 25 years if collateral is involved and 15 years for uncollateralized loans.

The maximum guaranty of a PDL will be 85 percent, no matter the size of the loan. In addition, the SBA guaranty fee, which is 2 to 3.5 percent for regular 7(a) loans, will be zero. There will be a loan origination fee of 15 basis points per loan paid to lenders by the SBA using appropriated funds. The bill also provides that the size standard used to determine a PDL borrower's eligibility will be that which is currently used in the 7(a) program or that which is used in the 504 loan program. The acceptable uses of the

loan proceeds are the same as those applicable to current disaster loans approved under section 7(b).

The bill authorizes the program to receive federal appropriations, and such appropriations will be used to reduce the interest rate in the program by up to 3 percent. If sufficient appropriations are provided, the interest rates charged by banks will be subsidized so that they are reduced by 3 percent. If less appropriations are provided, the rates may only be reduced by 2 percent, 1.5 percent, zero, etc.

For documenting each loan, lenders would be allowed to use their own documents, subject to SBA approval, and applicants would be permitted to use an internet or electronic application process.

Title III—Disaster oversight

Included in this bill are provisions that direct the SBA to provide monthly reports to the House and Senate Committees on Small Business detailing disaster loan activity for the previous month, as well as weekly accounting reports during times of Presidentially-declared disasters. During the Gulf Coast response efforts, the SBA nearly ran out of funding to process loans. Congress had to step in twice to ensure sufficient funding was available so that disaster loans could continue to be processed and approved. The SBA has a responsibility to inform its oversight committees in a timely manner of any circumstances that may prevent the agency from providing assistance to victims.

In addition to these reports, the SBA is required to provide regular reports on the number of contracts that are going to small businesses in federally-declared disaster areas, as well as a report detailing the need for supplemental funding when necessary.

Finally, the SBA is directed to conduct a study of how the loan application process can be improved, including the viability of using alternative methods for assessing ability to repay a loan beyond a victim's credit rating. Too often, victims who otherwise would be eligible for an SBA loan are denied as a result of poor credit; however the process does not take into account the extraordinary circumstances under which the credit rating has gone down. The SBA's methods for assessing ability to repay should take these circumstances into account.

Title IV—Energy emergencies

This bill includes provisions which authorize the SBA Administrator to make economic injury disaster loans to small businesses that experience or are likely to experience economic injury as a result of a significant increase in the price of heating oil, natural gas, gasoline, propane, or kerosene. The bill defines a significant increase as an increase of more than 40 percent of the average price from the previous two years, taken over a period of ten days. The bill also authorizes the Secretary of Agriculture to make similar loans to small farms that are suffering similar economic injury. Both the Administrator and the Secretary are required to report to Congress on the effectiveness of the program.

This four-year pilot program will allow small businesses and small farms to access the critical capital necessary to sustain abnormally high energy prices. In addition, loans may be used by borrowers to convert from the use of heating fuel to a reusable or re-

newable energy source. The Committee believes that energy economic injury disaster loans are necessary for the sustainability of small, energy-dependent businesses and farms during periods of increased cost, and that this program will not only allow small businesses to remain open, but will encourage them to seek alternative energy sources and to reduce their dependence on conventional ones.

These provisions are from the Small Business and Farm Energy Emergency Relief Act S. 269, introduced by Senator Kerry in February of 2005. The bill has passed the Senate on two separate occasions, as S. 295 in the 107th Congress and as an amendment to the Energy Policy Act of 2005, although it was later dropped in conference. The proposal has received bipartisan support on both occasions.

III. COMMITTEE VOTE

In compliance with rule XXVI(7)(b) of the Standing Rules of the Senate, the following votes were recorded on March 29, 2007.

A motion by Chairman Kerry to adopt the following substitute amendment, as offered by Chairman Kerry, which passed by voice vote.

Chairman Kerry's amendment reorganized S. 163 into four titles: (1) Disaster Planning and Response; (2) Disaster Lending; (3) Disaster Oversight; and (4) Energy Emergency Loans. The amendment also made small changes to existing provisions at the request of the Small Business Administration, and added four additional sections (sections 113–116) to Title I.

A motion by the Chair to adopt the Small Business Disaster Response and Loan Improvements Act of 2007, as amended, was approved by a voice vote.

IV. COST ESTIMATE

In compliance with rule XXVI(11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office.

May 1, 2007.

Hon. JOHN F. KERRY,
*Chair, Committee on Small Business and Entrepreneurship, U.S.
Senate, Washington, DC.*

DEAR MR. CHAIR: The Congressional Budget Office has prepared the enclosed cost estimate for S. 163, the Small Business Disaster Response and Loan Improvements Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

PETER R. ORSZAG.

Enclosure.

Summary: S. 163 would amend the existing disaster loan program of the Small Business Administration (SBA), as well as authorize several new loan programs for small businesses. The bill would:

- Make economic injury loans available to nonprofit organizations;
- Increase the maximum loan that can be made for hazard mitigation purposes;
- Authorize SBA to contract with private entities to process loans and verify losses;
- Establish an immediate assistance program; and
- Guarantee certain private loans made to small businesses in response to a disaster.

Moreover, the bill would create two new direct loan programs for small businesses and agricultural producers suffering economic injury as a result of increased energy prices. CBO estimates that implementing S. 163 would cost \$265 million over the 2008–2012 period, subject to the appropriation of the necessary funds. Enacting the bill would not affect direct spending or revenues.

S. 163 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on State, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget functions 350 (agriculture) and 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Disaster Loan Guarantees:					
Estimated Authorization Level	34	35	35	37	38
Estimated Outlays	20	31	35	36	37
Energy Emergency Loans to Nonfarm Businesses:					
Estimated Authorization Level	13	13	13	14	6
Estimated Outlays	8	12	13	13	10
Disaster Loans to Private Nonprofit Organizations:					
Estimated Authorization Level	3	3	3	3	3
Estimated Outlays	2	3	3	3	3
Agricultural Producer Emergency Loans:					
Estimated Authorization Level	3	3	3	3	0
Estimated Outlays	2	3	3	3	1
Other Provisions Affecting SBA:					
Estimated Authorization Level	6	5	5	5	5
Estimated Outlays	4	5	5	5	5
Total Proposed Changes:					
Estimated Authorization Level	59	59	59	62	52
Estimated Outlays	36	54	59	60	56

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted before the end of fiscal year 2007, that the necessary amounts will be appropriated for each year, and that spending will follow historical patterns for current and similar programs.

The budgetary impact of the bill on SBA's credit programs is measured in terms of projected subsidy costs. Under the Federal Credit Reform Act, such subsidy costs are estimated and recorded on the budget on a present value basis. S. 163 does not specify an explicit loan level authorization for either the subsidy or the administrative costs for the amendments it would make to SBA's disaster loan program or for the new direct loan and loan guarantee programs authorized by the bill; CBO estimated those amounts using historical information about the demand for disaster loans and the past performance of SBA's disaster loan program.

Disaster loan guarantees

Section 202 would establish a new loan guarantee program for small businesses located in an area affected by a disaster. Under the proposal, a small business could apply directly to a qualified private lender for a disaster loan instead of applying to SBA, as under current law. The limit on individual loans would be \$2 million and the federal government would guarantee up to 85 percent of the loan. In addition, the federal government would be authorized to pay a fee to the lenders for each loan originated under the program and to provide an interest rate subsidy of up to 3 percent.

CBO expects that demand for the new loan guarantee program would come from businesses that could otherwise obtain a loan from the private market. Assuming the maximum interest subsidy allowable under the bill, such borrowers would likely receive more favorable terms under the new loan guarantee program than currently offered by SBA or a private lender. (Businesses determined by SBA to be unable to obtain credit in the private market, however, would continue to receive more favorable terms under SBA's direct loan program and thus would not likely participate in the new guarantee program.)

CBO estimates that the federal government would guarantee about \$100 million per year in loans under this new program. Included in this estimate is \$50 million in loans to businesses that would otherwise borrow through SBA's direct loan program under current law. As such, the cost of those loan guarantees would be the marginal cost of subsidizing a loan guarantee rather than a direct SBA loan. In addition, our estimate includes about \$50 million in loans to small businesses that would not have elected to obtain financing through SBA under current law. The additional cost for SBA to guarantee those loans, therefore, would equal the full subsidy cost of the new guarantees.

Assuming that SBA would guarantee 85 percent (the maximum guarantee level authorized) of these loans and would subsidize the interest rate at the maximum allowable level under the bill, CBO estimates that the subsidy rate for this new loan program would be 30 percent. As such, CBO estimates that implementing this new loan guarantee program would cost \$20 million in 2008 and about \$160 million over the 2008–2012 period for subsidy costs and administration.

Energy emergency loans to nonfarm businesses

Section 402 would authorize the SBA to provide loans up to \$1.5 million to each small business that has suffered substantial economic injury as the result of increases in the price of heating fuel since October 2004. Small businesses could use loan proceeds to convert heating systems from heating fuel to renewable or alternative energy sources. Under the bill, the authority to make such loans would expire after four years.

The SBA disbursed an average of 1,300 Economic Injury Disaster Loans (EIDLs) per year over the 2003–2005 period (2006 was excluded due to abnormalities resulting from loans made to areas affected by Hurricanes Katrina, Rita, and Wilma), with each loan averaging about \$75,000. CBO estimates that demand for the energy emergency loan program would increase the number of EIDLs by 40 percent. In addition, CBO expects that loans made to busi-

nesses with higher energy costs would be more risky than loans made under the regular disaster program. As such, CBO estimates that the subsidy rate associated with this program would be 20 percent (the estimated subsidy rate for the regular disaster program is 16 percent in 2008). Based on these parameters, CBO estimates that implementing this loan program would cost \$8 million in 2008 and \$56 million over the 2008–2012 period for subsidy and administrative costs.

Disaster loans to private nonprofit organizations

Section 101 would expand SBA’s EIDL program to include private, nonprofit organizations. Under current law, nonprofits may apply to SBA for physical damage disaster loans, but are not eligible to apply for economic injury loans. Based on the historical volume of physical disaster loans made to nonprofits and of EIDLs made to small businesses, CBO estimates that implementing this provision would cost \$2 million in 2008 and \$14 million over the 2008–2012 period for the subsidy costs of such loans and for administrative expenses.

Agricultural producer emergency loans

Section 403 would amend an existing credit program administered by the Farm Service Agency of the USDA. The bill would expand eligibility for the emergency loan program to allow loans to producers with losses resulting from increased energy costs for the next four years. The Administration currently estimates that this program has a subsidy rate of 12 percent. In 2006, loan volume was \$52 million. CBO estimates the proposed legislation would increase the volume of lending under the program by \$25 million a year, with estimated subsidy outlays of \$12 million over the 2008–2012 period.

Business expedited disaster assistance program

Section 204 would direct SBA to establish a short-term loan program for small businesses affected by a disaster. Loans made under this new program would be for less than 180 days and could be used to pay employees, make repairs, purchase inventory, or cover other necessary costs until such time that the business is able to obtain funding through insurance claims or other federal assistance. Such loans would carry an interest rate of up to one percent above the prime interest rate charged by a private lender and could be refinanced using any subsequent assistance provided by SBA. CBO expects that demand for other SBA loans would not be significantly diminished by this new authority, although additional risk would be incurred for borrowers that receive a short-term loan and are later denied a traditional disaster loan. SBA expects that because that situation is not likely to occur often, CBO estimates that this program would have a negligible cost over the next five years.

Disaster mitigation loans

Section 102 would authorize SBA to make or guarantee loans for disaster mitigation up to a maximum of 20 percent of the assessed damage to a home or business. Currently, SBA offers direct loans for disaster mitigation purposes up to a maximum of 20 percent of an approved disaster loan. In some cases, SBA will make a disaster

loan for less than the assessed damage due to factors such as reimbursements from other sources. Thus, S. 163 would increase the maximum amount of a disaster mitigation loan by 20 percent of the difference between assessed damages and the approved loan amount. The demand for such loans tends to be relatively small, and CBO estimates that implementing this provision would have a negligible effect on the federal budget over the next five years.

Contracting for disaster loan processing and verification

Section 111 would authorize SBA to enter into agreements with private contractors and lenders to process and verify losses for disaster loans during major or catastrophic disasters. For this work, SBA would pay a fee for each loan processed or loss verified. Assuming a minimal difference in the fee paid by SBA and the administrative expense that the government would otherwise incur, CBO estimates that implementing this provision would have a negligible effect on the federal budget.

Catastrophic national disaster loan program

Section 201 would require the Department of Homeland Security, the Federal Emergency Management Agency, and SBA to establish a threshold for determining when an event would be deemed a catastrophic national disaster. Upon such a declaration, the SBA would be authorized under the bill to offer economic injury loans to small businesses nationwide that were adversely affected by the catastrophe. The terms of this loan program would be identical to the terms of the EIDL program under current law. SBA implemented a similar program following the terrorist attacks of September 2001. More than \$500 million in economic injury loans were disbursed nationwide at a subsidy rate of about 25 percent. Nonetheless, CBO cannot estimate the additional cost of this new loan program because CBO cannot predict the timing and severity of future disasters, nor what final criteria would be used to determine such an event. Over the next five years, we expect that the program would probably have a negligible cost because such disasters are rare.

Other provisions affecting SBA

Based on information from SBA, CBO estimates that implementing other provisions of S. 163 would require appropriations totaling \$26 million over the next five years. That amount includes:

- \$15 million to hire a full-time disaster planning specialist and other staff necessary to maintain the levels specified in the bill and to fulfill additional reporting requirements;
- \$5 million to increase the maximum surety bond that SBA may guarantee for small businesses performing recovery work following a disaster who cannot obtain surety bonds in the private market;
- \$5 million to establish a contracting outreach and technical assistance program for small businesses located in disaster areas; and
- \$1 million to develop and execute simulation exercises to test the effectiveness of the disaster response plan.

Those estimates are based on information from SBA regarding costs of existing or similar programs. Based on historical spending

patterns, CBO estimates that fully funding those activities would cost \$4 million in 2008 and \$24 million over the next five years, assuming appropriation of the necessary amounts.

Intergovernmental and private-sector impact: S. 163 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on State, local, or tribal governments.

Estimate prepared by: Federal costs: SBA—Daniel Hoople; USDA—Greg Hitz. Impact on State, local, and tribal governments: Melissa Merrell. Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

