

108TH CONGRESS  
1ST SESSION

# S. 1192

To establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses.

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IN THE SENATE OF THE UNITED STATES

JUNE 5, 2003

Mr. DURBIN (for himself and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses.

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 “Consumer and Small  
5 Business Energy Commission Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) there have been several sharp increases  
2           since 1990 in the price of electricity, gasoline, home  
3           heating oil, natural gas, and propane in the United  
4           States;

5           (2) recent examples of such increases include—

6                   (A) unusually high gasoline prices that are  
7                   at least partly attributable to global politics;

8                   (B) electricity price spikes during the Cali-  
9                   fornia energy crisis of 2001; and

10                   (C) the Midwest gasoline price spikes in  
11                   spring 2001;

12           (3) shifts in energy regulation, including the al-  
13           lowance of greater flexibility in competition and  
14           trading, have affected price stability and consumers  
15           in ways that are not fully understood;

16           (4) price spikes undermine the ability of low-in-  
17           come families, the elderly, and small businesses (in-  
18           cluding farmers and other agricultural producers) to  
19           afford essential energy services and products;

20           (5) energy price spikes can exacerbate a weak  
21           economy by creating uncertainties that discourage  
22           investment, growth, and other activities that con-  
23           tribute to a strong economy;

1           (6) the Department of Energy has determined  
2           that the economy would be likely to perform better  
3           with stable or predictable energy prices;

4           (7) price spikes can be caused by many factors,  
5           including insufficient inventories, supply disruptions,  
6           refinery capacity limits, insufficient infrastructure,  
7           over-regulation or under-regulation, flawed deregula-  
8           tion, excessive consumption, over-reliance on foreign  
9           supplies, insufficient research and development of al-  
10          ternative energy sources, opportunistic behavior by  
11          energy companies, and abuses of market power;

12          (8) consumers and small businesses have few  
13          options other than to pay higher energy costs when  
14          prices spike, resulting in reduced investment and  
15          slower economic growth and job creation;

16          (9) the effect of price spikes, and possible re-  
17          sponses to price spikes, on consumers and small  
18          businesses should be examined; and

19          (10) studies have examined price spikes of spe-  
20          cific energy products in specific contexts or for spe-  
21          cific reasons, but no study has examined price spikes  
22          comprehensively with a focus on the impacts on con-  
23          sumers and small businesses.

24 **SEC. 3. DEFINITIONS.**

25          In this Act:

1           (1) COMMISSION.—The term “Commission”  
2 means the Consumer and Small Business Energy  
3 Commission established by section 4(a).

4           (2) CONSUMER ENERGY PRODUCT.—The term  
5 “consumer energy product” means—

- 6                   (A) electricity;
- 7                   (B) gasoline;
- 8                   (C) home heating oil;
- 9                   (D) natural gas; and
- 10                  (E) propane.

11           (3) CONSUMER GROUP FOCUSING ON ENERGY  
12 ISSUES.—The term “consumer group focusing on  
13 energy issues” means—

- 14                   (A) an organization that is a member of  
15 the National Association of State Utility Con-  
16 sumer Advocates;
- 17                   (B) a nongovernmental organization rep-  
18 resenting the interests of residential energy con-  
19 sumers; and
- 20                   (C) a nongovernmental organization that—
  - 21                           (i) receives not more than  $\frac{1}{4}$  of its
  - 22                           funding from energy industries; and
  - 23                           (ii) represent the interests of energy
  - 24                           consumers.

1           (4) ENERGY CONSUMER.—The term “energy  
2 consumer” means an individual or small business  
3 that purchases 1 or more consumer energy products.

4           (5) ENERGY INDUSTRY.—The term “energy in-  
5 dustry” means for-profit or not-for-profit entities in-  
6 volved in the generation, selling, or buying of any  
7 energy-producing fuel involved in the production or  
8 use of consumer energy products.

9           (6) EXECUTIVE COMMITTEE.—The term “Exec-  
10 utive Committee” means the executive committee of  
11 the Commission.

12           (7) SMALL BUSINESS.—The term “small busi-  
13 ness” has the meaning given the term “small busi-  
14 ness concern” in section 3(a) of the Small Business  
15 Act (15 U.S.C. 632(a)).

16 **SEC. 4. CONSUMER ENERGY COMMISSION.**

17           (a) ESTABLISHMENT.—There is established a com-  
18 mission to be known as the “Consumer and Small Busi-  
19 ness Energy Commission”.

20           (b) MEMBERSHIP.—

21           (1) IN GENERAL.—The Commission shall be  
22 comprised of 20 members.

23           (2) APPOINTMENTS BY THE SENATE AND  
24 HOUSE OF REPRESENTATIVES.—The majority leader  
25 and minority leader of the Senate and the Speaker

1 and minority leader of the House of Representatives  
2 shall each appoint 4 members, of whom—

3 (A) 2 shall represent consumer groups fo-  
4 cusing on energy issues;

5 (B) 1 shall represent small businesses; and

6 (C) 1 shall represent the energy industry.

7 (3) APPOINTMENTS BY THE PRESIDENT.—The  
8 President shall appoint 1 member from each of—

9 (A) the Energy Information Administra-  
10 tion of the Department of Energy;

11 (B) the Federal Energy Regulatory Com-  
12 mission;

13 (C) the Federal Trade Commission; and

14 (D) the Commodities Future Trading  
15 Commission.

16 (4) DATE OF APPOINTMENTS.—The appoint-  
17 ment of a member of the Commission shall be made  
18 not later than 30 days after the date of enactment  
19 of this Act.

20 (c) TERM.—A member shall be appointed for the life  
21 of the Commission.

22 (d) INITIAL MEETING.—The Commission shall hold  
23 the initial meeting of the Commission not later than the  
24 earlier of—

1           (1) the date that is 30 days after the date on  
2           which all members of the Commission have been ap-  
3           pointed; or

4           (2) the date that is 90 days after the date of  
5           enactment of this Act, regardless of whether all  
6           members have been appointed.

7           (e) CHAIRPERSON AND VICE CHAIRPERSON.—The  
8           Commission shall select a Chairperson and Vice Chair-  
9           person from among the members of the Commission, ex-  
10          cluding the members appointed under subparagraphs (B),  
11          (C), and (D) of subsection (b)(3).

12          (f) EXECUTIVE COMMITTEE.—The Commission shall  
13          have an executive committee comprised of all members of  
14          the Commission except the members appointed under sub-  
15          paragraphs (B), (C), and (D) of subsection (b)(3).

16          (g) INFORMATION AND ADMINISTRATIVE EX-  
17          PENSES.—The Federal agencies specified in subsection  
18          (b)(3) shall provide the Commission such information and  
19          pay such administrative expenses as the Commission re-  
20          quires to carry out this section, consistent with the re-  
21          quirements and guidelines of the Federal Advisory Com-  
22          mission Act (5 U.S.C. App.).

23          (h) DUTIES.—

24                 (1) STUDY.—

1           (A) IN GENERAL.—The Commission shall  
2           conduct a nationwide study of significant price  
3           spikes in major United States consumer energy  
4           products since 1990.

5           (B) MATTERS TO BE STUDIED BY THE  
6           COMMISSION.—In conducting the study, the  
7           Commission shall—

8                   (i) focus on the causes of the price  
9                   spikes, including insufficient inventories,  
10                  supply disruptions, refinery capacity limits,  
11                  insufficient infrastructure, any over-regula-  
12                  tion or under-regulation, flawed deregula-  
13                  tion, excessive consumption, over-reliance  
14                  on foreign supplies, insufficient research  
15                  and development of alternative energy  
16                  sources, opportunistic behavior by energy  
17                  companies, and abuses of market power;

18                   (ii) examine the effects of price spikes  
19                   on consumers and small businesses;

20                   (iii) investigate market concentration,  
21                   opportunities for misuse of market power,  
22                   and any other relevant market failures;  
23                   and

24                   (iv) consider—

1 (I) proposals for administrative  
2 actions to mitigate price spikes affect-  
3 ing consumers and small businesses;

4 (II) proposals for legislative ac-  
5 tion; and

6 (III) proposals for voluntary ac-  
7 tions by energy consumers and the en-  
8 ergy industry.

9 (2) REPORT.—Not later than 270 days after  
10 the date of enactment of this Act, the Executive  
11 Committee shall submit to Congress a report that  
12 contains—

13 (A) a detailed statement of the findings  
14 and conclusions of the Commission; and

15 (B) recommendations for legislation, ad-  
16 ministrative actions, and voluntary actions by  
17 energy consumers and the energy industry to  
18 protect consumers from future price spikes in  
19 consumer energy products, including a rec-  
20 ommendation on whether energy consumers  
21 need an advocate on energy issues within the  
22 Federal Government.

23 (i) TERMINATION.—

1           (1) DEFINITION OF LEGISLATIVE DAY.—In this  
2 subsection, the term “legislative day” means a day  
3 on which both Houses of Congress are in session.

4           (2) DATE OF TERMINATION.—The Commission  
5 shall terminate on the date that is 30 legislative  
6 days after the date of submission of the report  
7 under subsection (h)(2).

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