

106TH CONGRESS
1ST SESSION

S. 348

To authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1999

Ms. SNOWE (for herself, Mr. TORRICELLI, Mr. GORTON, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, 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 “National Oilheat Re-
5 search Alliance Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) oilheat is an important commodity relied on
2 by approximately 30,000,000 Americans as an effi-
3 cient and economical energy source for commercial
4 and residential space and hot water heating;

5 (2) oilheat equipment operates at efficiencies
6 among the highest of any space heating energy
7 source, reducing fuel costs and making oilheat an ec-
8 onomical means of space heating;

9 (3) the production, distribution, and marketing
10 of oilheat and oilheat equipment plays a significant
11 role in the economy of the United States, accounting
12 for approximately \$12,900,000,000 in expenditures
13 annually and employing millions of Americans in all
14 aspects of the oilheat industry;

15 (4) only very limited Federal resources have
16 been made available for oilheat research, develop-
17 ment, safety, training, and education efforts, to the
18 detriment of both the oilheat industry and its
19 30,000,000 consumers; and

20 (5) the cooperative development, self-financing,
21 and implementation of a coordinated national oilheat
22 industry program of research and development,
23 training, and consumer education is necessary and
24 important for the welfare of the oilheat industry, the
25 general economy of the United States, and the mil-

1 lions of Americans that rely on oilheat for commer-
2 cial and residential space and hot water heating.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) **ALLIANCE.**—The term “Alliance” means a
6 national oilheat research alliance established under
7 section 4.

8 (2) **CONSUMER EDUCATION.**—The term “con-
9 sumer education” means the provision of informa-
10 tion to assist consumers and other persons in mak-
11 ing evaluations and decisions regarding oilheat and
12 other nonindustrial commercial or residential space
13 or hot water heating fuels.

14 (3) **EXCHANGE.**—The term “exchange” means
15 an agreement that—

16 (A) entitles each party or its customers to
17 receive oilheat from the other party; and

18 (B) requires only an insubstantial portion
19 of the volumes involved in the exchange to be
20 settled in cash or property other than the
21 oilheat.

22 (4) **INDUSTRY TRADE ASSOCIATION.**—The term
23 “industry trade association” means an organization
24 described in paragraph (3) or (6) of section 501(c)
25 of the Internal Revenue Code of 1986 that is exempt

1 from taxation under section 501(a) of that Code and
 2 is organized for the purpose of representing the
 3 oilheat industry.

4 (5) NO. 1 DISTILLATE.—The term “No. 1 dis-
 5 tillate” means fuel oil classified as No. 1 distillate
 6 by the American Society for Testing and Materials.

7 (6) NO. 2 DYED DISTILLATE.—The term “No.
 8 2 dyed distillate” means fuel oil classified as No. 2
 9 distillate by the American Society for Testing and
 10 Materials that is indelibly dyed in accordance with
 11 regulations prescribed by the Secretary of the Treas-
 12 ury under section 4082(a)(2) of the Internal Reve-
 13 nue Code of 1986.

14 (7) OILHEAT.—The term “oilheat” means—

15 (A) No. 1 distillate; and

16 (B) No. 2 dyed distillate;

17 that is used as a fuel for nonindustrial commercial
 18 or residential space or hot water heating.

19 (8) OILHEAT INDUSTRY.—

20 (A) IN GENERAL.—The term “oilheat in-
 21 dustry” means—

22 (i) persons in the production, trans-
 23 portation, or sale of oilheat; and

1 (ii) persons engaged in the manufac-
2 ture or distribution of oilheat utilization
3 equipment.

4 (B) EXCLUSION.—The term “oilheat in-
5 dustry” does not include ultimate consumers of
6 oilheat.

7 (9) PUBLIC MEMBER.—The term “public mem-
8 ber” means a member of the Alliance described in
9 section 5(c)(1)(F).

10 (10) QUALIFIED INDUSTRY ORGANIZATION.—
11 The term “qualified industry organization” means
12 the National Association for Oilheat Research and
13 Education or a successor organization.

14 (11) QUALIFIED STATE ASSOCIATION.—The
15 term “qualified State association” means the indus-
16 try trade association or other organization that the
17 qualified industry organization or the Alliance deter-
18 mines best represents retail marketers in a State.

19 (12) RETAIL MARKETER.—The term “retail
20 marketer” means a person engaged primarily in the
21 sale of oilheat to ultimate consumers.

22 (13) SECRETARY.—The term “Secretary”
23 means the Secretary of Energy.

24 (14) WHOLESALE DISTRIBUTOR.—The term
25 “wholesale distributor” means a person that—

1 (A)(i) produces No. 1 distillate or No. 2
2 dyed distillate;

3 (ii) imports No. 1 distillate or No. 2 dyed
4 distillate; or

5 (iii) transports No. 1 distillate or No. 2
6 dyed distillate across State boundaries or
7 among local marketing areas; and

8 (B) sells the distillate to another person
9 that does not produce, import, or transport No.
10 1 distillate or No. 2 dyed distillate across State
11 boundaries or among local marketing areas.

12 **SEC. 4. REFERENDA.**

13 (a) CREATION OF PROGRAM.—

14 (1) IN GENERAL.—The oilheat industry,
15 through the qualified industry organization, may
16 conduct, at its own expense, a referendum among re-
17 tail marketers and wholesale distributors for the es-
18 tablishment of a national oilheat research alliance.

19 (2) REIMBURSEMENT OF COST.—The Alliance,
20 if established, shall reimburse the qualified industry
21 organization for the cost of accounting and docu-
22 mentation for the referendum.

23 (3) CONDUCT.—A referendum under paragraph
24 (1) shall be conducted by an independent auditing
25 firm.

1 (4) VOTING RIGHTS.—

2 (A) RETAIL MARKETERS.—Voting rights of
3 retail marketers in a referendum under para-
4 graph (1) shall be based on the volume of
5 oilheat sold in a State by each retail marketer
6 in the calendar year previous to the year in
7 which the referendum is conducted or in an-
8 other representative period.

9 (B) WHOLESALE DISTRIBUTORS.—Voting
10 rights of wholesale distributors in a referendum
11 under paragraph (1) shall be based on the vol-
12 ume of No. 1 distillate and No. 2 dyed distillate
13 sold in a State by each wholesale distributor in
14 the calendar year previous to the year in which
15 the referendum is conducted or in another rep-
16 resentative period, weighted by the ratio of the
17 total volume of No. 1 distillate and No. 2 dyed
18 distillate sold for nonindustrial commercial and
19 residential space and hot water heating in the
20 State to the total volume of No. 1 distillate and
21 No. 2 dyed distillate sold in that State.

22 (5) ESTABLISHMENT BY APPROVAL OF TWO-
23 THIRDS.—

24 (A) IN GENERAL.—Subject to subpara-
25 graph (B), on approval of persons representing

1 two-thirds of the total volume of oilheat voted
 2 in the retail marketer class and two-thirds of
 3 the total weighted volume of No. 1 distillate
 4 and No. 2 dyed distillate voted in the wholesale
 5 distributor class, the Alliance shall be estab-
 6 lished and shall be authorized to levy assess-
 7 ments under section 7.

8 (B) REQUIREMENT OF MAJORITY OF RE-
 9 TAIL MARKETERS.—Except as provided in sub-
 10 section (b), the oilheat industry in a State shall
 11 not participate in the Alliance if less than 50
 12 percent of the retail marketer vote in the State
 13 approves establishment of the Alliance.

14 (6) CERTIFICATION OF VOLUMES.—Each per-
 15 son voting in the referendum shall certify to the
 16 independent auditing firm the volume of oilheat, No.
 17 1 distillate, or No. 2 dyed distillate represented by
 18 the vote of the person.

19 (7) NOTIFICATION.—Not later than 90 days
 20 after the date of enactment of this Act, a qualified
 21 State association may notify the qualified industry
 22 organization in writing that a referendum under
 23 paragraph (1) will not be conducted in the State.

24 (b) SUBSEQUENT STATE PARTICIPATION.—The
 25 oilheat industry in a State that has not participated ini-

1 tially in the Alliance may subsequently elect to participate
2 by conducting a referendum under subsection (a).

3 (c) TERMINATION OR SUSPENSION.—

4 (1) IN GENERAL.—On the initiative of the Alli-
5 ance or on petition to the Alliance by retail market-
6 ers and wholesale distributors representing 35 per-
7 cent of the volume of oilheat or weighted No. 1 dis-
8 tillate and No. 2 dyed distillate in each class, the Al-
9 liance shall, at its own expense, hold a referendum,
10 to be conducted by an independent auditing firm se-
11 lected by the Alliance, to determine whether the
12 oilheat industry favors termination or suspension of
13 the Alliance.

14 (2) VOLUME PERCENTAGES REQUIRED TO TER-
15 MINATE OR SUSPEND.—Termination or suspension
16 shall not take effect unless termination or suspen-
17 sion is approved by—

18 (A) persons representing more than one-
19 half of the total volume of oilheat voted in the
20 retail marketer class and more than one-half of
21 the total volume of weighted No. 1 distillate
22 and No. 2 dyed distillate voted in the wholesale
23 distributor class; or

1 (B) persons representing more than two-
2 thirds of the total volume of fuel voted in either
3 such class.

4 (d) CALCULATION OF OILHEAT SALES.—For the
5 purposes of this section and section 5, the volume of
6 oilheat sold annually in a State shall be determined on
7 the basis of information provided by the Energy Informa-
8 tion Administration with respect to a calendar year or
9 other representative period.

10 **SEC. 5. MEMBERSHIP.**

11 (a) SELECTION.—

12 (1) IN GENERAL.—Except as provided in sub-
13 section (c)(1)(C), the qualified industry organization
14 shall select members of the Alliance representing the
15 oilheat industry in a State from a list of nominees
16 submitted by the qualified State association in the
17 State.

18 (2) VACANCIES.—A vacancy in the Alliance
19 shall be filled in the same manner as the original se-
20 lection.

21 (b) REPRESENTATION.—In selecting members of the
22 Alliance, the qualified industry organization shall make
23 best efforts to select members that are representative of
24 the oilheat industry, including representation of—

1 (1) interstate and intrastate operators among
2 retail marketers;

3 (2) wholesale distributors of No. 1 distillate and
4 No. 2 dyed distillate;

5 (3) large and small companies among wholesale
6 distributors and retail marketers; and

7 (4) diverse geographic regions of the country.

8 (c) NUMBER OF MEMBERS.—

9 (1) IN GENERAL.—The membership of the Alli-
10 ance shall be as follows:

11 (A) One member representing each State
12 with oilheat sales in excess of 32,000,000 gal-
13 lons per year.

14 (B) If fewer than 24 States are rep-
15 resented under subparagraph (A), 1 member
16 representing each of the States with the highest
17 volume of annual oilheat sales, as necessary to
18 cause the total number of States represented
19 under subparagraph (A) and this subparagraph
20 to equal 24.

21 (C) 5 representatives of retail marketers, 1
22 each to be selected by the qualified State asso-
23 ciations of the 5 States with the highest volume
24 of annual oilheat sales.

1 (D) 5 additional representatives of retail
2 marketers.

3 (E) 21 representatives of wholesale dis-
4 tributors.

5 (F) 6 public members, who shall be rep-
6 resentatives of significant users of oilheat, the
7 oilheat research community, or other groups
8 knowledgeable about oilheat.

9 (2) FULL-TIME OWNERS OR EMPLOYEES.—

10 Other than the public members, Alliance members
11 shall be full-time owners or employees of members of
12 the oilheat industry, except that members described
13 in subparagraphs (C), (D), and (E) of paragraph (1)
14 may be employees of the qualified industry organiza-
15 tion or an industry trade association.

16 (d) COMPENSATION.—Alliance members shall receive
17 no compensation for their service, nor shall Alliance mem-
18 bers be reimbursed for expenses relating to their service,
19 except that public members, on request, may be reim-
20 bursed for reasonable expenses directly related to partici-
21 pation in meetings of the Alliance.

22 (e) TERMS.—

23 (1) IN GENERAL.—Subject to paragraph (4), a
24 member of the Alliance shall serve a term of 3 years,

1 except that a member filling an unexpired term may
2 serve a total of 7 consecutive years.

3 (2) TERM LIMIT.—A member may serve not
4 more than 2 full consecutive terms.

5 (3) FORMER MEMBERS.—A former member of
6 the Alliance may be returned to the Alliance if the
7 member has not been a member for a period of 2
8 years.

9 (4) INITIAL APPOINTMENTS.—Initial appoint-
10 ments to the Alliance shall be for terms of 1, 2, and
11 3 years, as determined by the qualified industry or-
12 ganization, staggered to provide for the subsequent
13 selection of one-third of the members each year.

14 **SEC. 6. FUNCTIONS.**

15 (a) IN GENERAL.—

16 (1) PROGRAMS, PROJECTS; CONTRACTS AND
17 OTHER AGREEMENTS.—The Alliance—

18 (A) shall develop programs and projects
19 and enter into contracts or other agreements
20 with other persons and entities for implement-
21 ing this Act, including programs—

22 (i) to enhance consumer and employee
23 safety and training;

1 (ii) to provide for research, develop-
2 ment, and demonstration of clean and effi-
3 cient oilheat utilization equipment; and

4 (iii) for consumer education; and

5 (B) may provide for the payment of the
6 costs of carrying out subparagraph (A) with as-
7 sessments collected under section 7.

8 (2) COORDINATION.—The Alliance shall coordi-
9 nate its activities with industry trade associations
10 and other persons as appropriate to provide efficient
11 delivery of services and to avoid unnecessary dupli-
12 cation of activities.

13 (3) ACTIVITIES.—

14 (A) EXCLUSIONS.—Activities under clause
15 (i) or (ii) of paragraph (1)(A) shall not include
16 advertising, promotions, or consumer surveys in
17 support of advertising or promotions.

18 (B) RESEARCH, DEVELOPMENT, AND DEM-
19 ONSTRATION ACTIVITIES.—

20 (i) IN GENERAL.—Research, develop-
21 ment, and demonstration activities under
22 paragraph (1)(A)(ii) shall include—

23 (I) all activities incidental to re-
24 search, development, and demonstra-

1 tion of clean and efficient oilheat utili-
2 zation equipment; and

3 (II) the obtaining of patents, in-
4 cluding payment of attorney's fees for
5 making and perfecting a patent appli-
6 cation.

7 (ii) EXCLUDED ACTIVITIES.—Re-
8 search, development, and demonstration
9 activities under paragraph (1)(A)(ii) shall
10 not include research, development, and
11 demonstration of oilheat utilization equip-
12 ment with respect to which technically fea-
13 sible and commercially feasible operations
14 have been verified, except that funds may
15 be provided for improvements to existing
16 equipment until the technical feasibility
17 and commercial feasibility of the operation
18 of those improvements have been verified.

19 (b) PRIORITIES.—In the development of programs
20 and projects, the Alliance shall give priority to issues relat-
21 ing to—

- 22 (1) research, development, and demonstration;
23 (2) safety;
24 (3) consumer education; and
25 (4) training.

1 (c) ADMINISTRATION.—

2 (1) OFFICERS; COMMITTEES; BYLAWS.—The
3 Alliance—

4 (A) shall select from among its members a
5 chairperson and other officers as necessary;

6 (B) may establish and authorize commit-
7 tees and subcommittees of the Alliance to take
8 specific actions that the Alliance is authorized
9 to take; and

10 (C) shall adopt bylaws for the conduct of
11 business and the implementation of this Act.

12 (2) SOLICITATION OF OILHEAT INDUSTRY COM-
13 MENT AND RECOMMENDATIONS.—The Alliance shall
14 establish procedures for the solicitation of oilheat in-
15 dustry comment and recommendations on any sig-
16 nificant contracts and other agreements, programs,
17 and projects to be funded by the Alliance.

18 (3) ADVISORY COMMITTEES.—The Alliance may
19 establish advisory committees consisting of persons
20 other than Alliance members.

21 (4) VOTING.—Each member of the Alliance
22 shall have 1 vote in matters before the Alliance.

23 (d) ADMINISTRATIVE EXPENSES.—

24 (1) IN GENERAL.—The administrative expenses
25 of operating the Alliance (not including costs in-

1 curred in the collection of assessments under section
2 7) plus amounts paid under paragraph (2) shall not
3 exceed 7 percent of the amount of assessments col-
4 lected in any calendar year, except that during the
5 first year of operation of the Alliance such expenses
6 and amounts shall not exceed 10 percent of the
7 amount of assessments.

8 (2) REIMBURSEMENT OF THE SECRETARY.—

9 (A) IN GENERAL.—The Alliance shall an-
10 nually reimburse the Secretary for costs in-
11 curred by the Federal Government relating to
12 the Alliance.

13 (B) LIMITATION.—Reimbursement under
14 subparagraph (A) for any calendar year shall
15 not exceed the amount that the Secretary deter-
16 mines is twice the average annual salary of 1
17 employee of the Department of Energy.

18 (e) BUDGET.—

19 (1) PUBLICATION OF PROPOSED BUDGET.—Be-
20 fore August 1 of each year, the Alliance shall pub-
21 lish for public review and comment a proposed budg-
22 et for the next calendar year, including the probable
23 costs of all programs, projects, and contracts and
24 other agreements.

1 (2) SUBMISSION TO THE SECRETARY AND CON-
2 GRESS.—After review and comment under para-
3 graph (1), the Alliance shall submit the proposed
4 budget to the Secretary and Congress.

5 (3) RECOMMENDATIONS BY THE SECRETARY.—
6 The Secretary may recommend for inclusion in the
7 budget programs and activities that the Secretary
8 considers appropriate.

9 (4) IMPLEMENTATION.—The Alliance shall not
10 implement a proposed budget until the expiration of
11 60 days after submitting the proposed budget to the
12 Secretary.

13 (f) RECORDS; AUDITS.—

14 (1) RECORDS.—The Alliance shall—

15 (A) keep records that clearly reflect all of
16 the acts and transactions of the Alliance; and

17 (B) make the records available to the pub-
18 lic.

19 (2) AUDITS.—

20 (A) IN GENERAL.—The records of the Alli-
21 ance (including fee assessment reports and ap-
22 plications for refunds under section 7(b)(4))
23 shall be audited by a certified public accountant
24 at least once each year and at such other times
25 as the Alliance may designate.

1 (B) AVAILABILITY OF AUDIT REPORTS.—

2 Copies of each audit report shall be provided to
3 the Secretary, the members of the Alliance, and
4 the qualified industry organization, and, on re-
5 quest, to other members of the oilheat industry.

6 (C) POLICIES AND PROCEDURES.—

7 (i) IN GENERAL.—The Alliance shall
8 establish policies and procedures for audit-
9 ing compliance with this Act.

10 (ii) CONFORMITY WITH GAAP.—The
11 policies and procedures established under
12 clause (i) shall conform with generally
13 accepted accounting principles.

14 (g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.—

15 (1) PUBLIC NOTICE.—The Alliance shall give at
16 least 30 days' public notice of each meeting of the
17 Alliance.

18 (2) MEETINGS OPEN TO THE PUBLIC.—Each
19 meeting of the Alliance shall be open to the public.

20 (3) MINUTES.—The minutes of each meeting of
21 the Alliance shall be made available to and readily
22 accessible by the public.

23 (h) ANNUAL REPORT.—Each year the Alliance shall
24 prepare and make publicly available a report that—

1 (1) includes a description of all programs,
2 projects, and contracts and other agreements under-
3 taken by the Alliance during the previous year and
4 those planned for the current year; and

5 (2) details the allocation of Alliance resources
6 for each such program and project.

7 **SEC. 7. ASSESSMENTS.**

8 (a) **RATE.**—The assessment rate shall be equal to
9 two-tenths-cent per gallon of No. 1 distillate and No. 2
10 dyed distillate.

11 (b) **COLLECTION RULES.**—

12 (1) **COLLECTION AT POINT OF SALE.**—The as-
13 sessment shall be collected at the point of sale of
14 No. 1 distillate and No. 2 dyed distillate by a whole-
15 sale distributor to a person other than a wholesale
16 distributor, including a sale made pursuant to an
17 exchange.

18 (2) **RESPONSIBILITY FOR PAYMENT.**—A whole-
19 sale distributor—

20 (A) shall be responsible for payment of an
21 assessment to the Alliance on a quarterly basis;
22 and

23 (B) shall provide to the Alliance certifi-
24 cation of the volume of fuel sold.

1 (3) NO OWNERSHIP INTEREST.—A person that
2 has no ownership interest in No. 1 distillate or No.
3 2 dyed distillate shall not be responsible for payment
4 of an assessment under this section.

5 (4) FAILURE TO RECEIVE PAYMENT.—

6 (A) REFUND.—A wholesale distributor
7 that does not receive payments from a pur-
8 chaser for No. 1 distillate or No. 2 dyed dis-
9 tillate within 1 year of the date of sale may
10 apply for a refund from the Alliance of the as-
11 sessment paid.

12 (B) AMOUNT.—The amount of a refund
13 shall not exceed the amount of the assessment
14 levied on the No. 1 distillate or No. 2 dyed dis-
15 tillate for which payment was not received.

16 (5) IMPORTATION AFTER POINT OF SALE.—The
17 owner of No. 1 distillate or No. 2 dyed distillate im-
18 ported after the point of sale—

19 (A) shall be responsible for payment of the
20 assessment to the Alliance at the point at which
21 the product enters the United States; and

22 (B) shall provide to the Alliance certifi-
23 cation of the volume of fuel imported.

24 (6) LATE PAYMENT CHARGE.—The Alliance
25 may establish a late payment charge and rate of in-

1 terest to be imposed on any person who fails to
2 remit or pay to the Alliance any amount due under
3 this Act.

4 (7) ALTERNATIVE COLLECTION RULES.—The
5 Alliance may establish, or approve a request of the
6 oilheat industry in a State for, an alternative means
7 of collecting the assessment if another means is de-
8 termined to be more efficient or more effective.

9 (c) SALE FOR USE OTHER THAN AS OILHEAT.—No.
10 1 distillate and No. 2 dyed distillate sold for uses other
11 than as oilheat are excluded from the assessment.

12 (d) INVESTMENT OF FUNDS.—Pending disbursement
13 under a program, project, or contract or other agreement
14 the Alliance may invest funds collected through assess-
15 ments, and any other funds received by the Alliance,
16 only—

17 (1) in obligations of the United States or any
18 agency of the United States;

19 (2) in general obligations of any State or any
20 political subdivision of a State;

21 (3) in any interest-bearing account or certifi-
22 cate of deposit of a bank that is a member of the
23 Federal Reserve System; or

24 (4) in obligations fully guaranteed as to prin-
25 cipal and interest by the United States.

1 (e) STATE, LOCAL, AND REGIONAL PROGRAMS.—

2 (1) COORDINATION.—The Alliance shall estab-
3 lish a program coordinating the operation of the Al-
4 liance with the operator of any similar State, local,
5 or regional program created under State law (includ-
6 ing a regulation), or similar entity.

7 (2) FUNDS MADE AVAILABLE TO QUALIFIED
8 STATE ASSOCIATIONS.—

9 (A) IN GENERAL.—

10 (i) BASE AMOUNT.—The Alliance
11 shall make available to the qualified State
12 association of each State an amount equal
13 to 15 percent of the amount of assess-
14 ments collected in the State.

15 (ii) ADDITIONAL AMOUNT.—

16 (I) IN GENERAL.—A qualified
17 State association may request that the
18 Alliance provide to the association any
19 portion of the remaining 85 percent of
20 the amount of assessments collected
21 in the State.

22 (II) REQUEST REQUIREMENTS.—

23 A request under this clause shall—

24 (aa) specify the amount of
25 funds requested;

1 (bb) describe in detail the
2 specific uses for which the re-
3 quested funds are sought;

4 (cc) include a commitment
5 to comply with this Act in using
6 the requested funds; and

7 (dd) be made publicly avail-
8 able.

9 (III) DIRECT BENEFIT.—The Al-
10 liance shall not provide any funds in
11 response to a request under this
12 clause unless the Alliance determines
13 that the funds will be used to directly
14 benefit the oilheat industry.

15 (IV) MONITORING; TERMS, CON-
16 DITIONS, AND REPORTING REQUIRE-
17 MENTS.—The Alliance shall—

18 (aa) monitor the use of
19 funds provided under this clause;
20 and

21 (bb) impose whatever terms,
22 conditions, and reporting require-
23 ments that the Alliance considers
24 necessary to ensure compliance
25 with this Act.

1 **SEC. 8. COMPLIANCE.**

2 (a) IN GENERAL.—The Alliance may bring a civil ac-
3 tion in United States district court to compel payment of
4 an assessment under section 7.

5 (b) COSTS.—A successful action for compliance under
6 this section may also require payment by the defendant
7 of the costs incurred by the Alliance in bringing the action.

8 **SEC. 9. LOBBYING RESTRICTIONS.**

9 No funds derived from assessments under section 7
10 collected by the Alliance shall be used to influence legisla-
11 tion or elections, except that the Alliance may use such
12 funds to formulate and submit to the Secretary rec-
13 ommendations for amendments to this Act or other laws
14 that would further the purposes of this Act.

15 **SEC. 10. DISCLOSURE.**

16 Any consumer education activity undertaken with
17 funds provided by the Alliance shall include a statement
18 that the activities were supported, in whole or in part, by
19 the Alliance.

20 **SEC. 11. VIOLATIONS.**

21 (a) PROHIBITION.—It shall be unlawful for any per-
22 son to conduct a consumer education activity, undertaken
23 with funds derived from assessments collected by the Alli-
24 ance under section 7, that includes—

25 (1) a reference to a private brand name;

1 (2) a false or unwarranted claim on behalf of
2 oilheat or related products; or

3 (3) a reference with respect to the attributes or
4 use of any competing product.

5 (b) COMPLAINTS.—

6 (1) IN GENERAL.—A public utility that is ag-
7 grieved by a violation described in subsection (a)
8 may file a complaint with the Alliance.

9 (2) TRANSMITTAL TO QUALIFIED STATE ASSO-
10 CIATION.—A complaint shall be transmitted concur-
11 rently to any qualified State association undertaking
12 the consumer education activity with respect to
13 which the complaint is made.

14 (3) CESSATION OF ACTIVITIES.—On receipt of
15 a complaint under this subsection, the Alliance, and
16 any qualified State association undertaking the con-
17 sumer education activity with respect to which the
18 complaint is made, shall cease that consumer edu-
19 cation activity until—

20 (A) the complaint is withdrawn; or

21 (B) a court determines that the conduct of
22 the activity complained of does not constitute a
23 violation of subsection (a).

24 (c) RESOLUTION BY PARTIES.—

1 (1) IN GENERAL.—Not later than 10 days after
2 a complaint is filed and transmitted under sub-
3 section (b), the complaining party, the Alliance, and
4 any qualified State association undertaking the con-
5 sumer education activity with respect to which the
6 complaint is made shall meet to attempt to resolve
7 the complaint.

8 (2) WITHDRAWAL OF COMPLAINT.—If the
9 issues in dispute are resolved in those discussions,
10 the complaining party shall withdraw its complaint.

11 (d) JUDICIAL REVIEW.—

12 (1) IN GENERAL.—A public utility filing a com-
13 plaint under this section, the Alliance, a qualified
14 State association undertaking the consumer edu-
15 cation activity with respect to which a complaint
16 under this section is made, or any person aggrieved
17 by a violation of subsection (a) may seek appropriate
18 relief in United States district court.

19 (2) RELIEF.—A public utility filing a complaint
20 under this section shall be entitled to temporary and
21 injunctive relief enjoining the consumer education
22 activity with respect to which a complaint under this
23 section is made until—

24 (A) the complaint is withdrawn; or

1 (B) the court has determined that the con-
2 sumer education activity complained of does not
3 constitute a violation of subsection (a).

4 (e) ATTORNEY'S FEES.—

5 (1) MERITORIOUS CASE.—In a case in Federal
6 court in which the court grants a public utility in-
7 junctive relief under subsection (d), the public utility
8 shall be entitled to recover an attorney's fee from
9 the Alliance and any qualified State association un-
10 dertaking the consumer education activity with re-
11 spect to which a complaint under this section is
12 made.

13 (2) NONMERITORIOUS CASE.—In any case
14 under subsection (d) in which the court determines
15 a complaint under subsection (b) to be frivolous and
16 without merit, the prevailing party shall be entitled
17 to recover an attorney's fee.

18 **SEC. 12. SUNSET.**

19 This Act shall cease to be effective as of the date that
20 is 4 years after the date on which the Alliance is estab-
21 lished.

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