

112TH CONGRESS  
1ST SESSION

# S. 949

To amend the National Oilheat Research Alliance Act of 2000 to reauthorize and improve that Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 2011

Mrs. SHAHEEN (for herself, Ms. SNOWE, Mr. REED, Mr. BURR, and Mr. SANDERS) 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 amend the National Oilheat Research Alliance Act of 2000 to reauthorize and improve that Act, 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 Reau-  
5 thorization Act of 2011”.

6 **SEC. 2. RENAMING OF NATIONAL OILHEAT RESEARCH AL-**  
7 **LIANCE ACT OF 2000.**

8 Section 701 of the National Oilheat Research Alli-  
9 ance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–

1 469) is amended by striking “National Oilheat Research  
 2 Alliance Act of 2000” and inserting “National Oilheat Re-  
 3 search, Consumer Education, and Efficiency Act of  
 4 2011”.

5 **SEC. 3. DEFINITION OF OILHEAT FUEL.**

6 Section 703 of the National Oilheat Research, Con-  
 7 sumer Education, and Efficiency Act of 2011 (42 U.S.C.  
 8 6201 note; Public Law 106–469) is amended—

9 (1) by redesignating paragraphs (3) through  
 10 (7) and (8) through (15) as paragraphs (4) through  
 11 (8) and (10) through (17), respectively;

12 (2) by inserting after paragraph (2) the fol-  
 13 lowing:

14 “(3) COST-EFFECTIVE.—The term ‘cost-effec-  
 15 tive’, with respect to a program or activity conducted  
 16 as part of the heating oil efficiency and upgrade pro-  
 17 gram under section 707(f)(3), means that the pro-  
 18 gram or activity meets a total resource cost test  
 19 under which—

20 “(A) the net present value of economic  
 21 benefits over the life of the program or activity,  
 22 including avoided supply and delivery costs and  
 23 deferred or avoided investments; is greater than

24 “(B) the net present value of the economic  
 25 costs over the life of the program or activity, in-

1 cluding program costs and incremental costs  
 2 borne by the energy consumer.”; and

3 (3) by inserting after paragraph (8) (as so re-  
 4 designated) the following:

5 “(9) OILHEAT FUEL.—The term ‘oilheat fuel’  
 6 means fuel that—

7 “(A) is—

8 “(i) No. 1 distillate;

9 “(ii) No. 2 dyed distillate;

10 “(iii) a liquid blended with No. 1 dis-  
 11 tillate or No. 2 dyed distillate; or

12 “(iv) a biobased liquid; and

13 “(B) is used as a fuel for nonindustrial  
 14 commercial or residential space or hot water  
 15 heating.”.

16 **SEC. 4. MEMBERSHIP.**

17 (a) SELECTION.—Section 705 of the National Oilheat  
 18 Research, Consumer Education, and Efficiency Act of  
 19 2011 (42 U.S.C. 6201 note; Public Law 106–469) is  
 20 amended by striking subsection (a) and inserting the fol-  
 21 lowing:

22 “(a) SELECTION.—

23 “(1) LIST.—

1           “(A) IN GENERAL.—The Alliance shall  
2           provide to the Secretary a list of qualified nomi-  
3           nees for membership in the Alliance.

4           “(B) REQUIREMENT.—Except as provided  
5           in subsection (c)(1)(C), members of the Alliance  
6           shall be representatives of the oilheat industry  
7           in a State, selected from a list of nominees sub-  
8           mitted by the qualified State association in the  
9           State.

10          “(2) VACANCIES.—A vacancy in the Alliance  
11          shall be filled in the same manner as the original se-  
12          lection.

13          “(3) SECRETARIAL ACTION.—

14               “(A) IN GENERAL.—The Secretary shall  
15               have 60 days to review nominees provided  
16               under paragraph (1).

17               “(B) FAILURE TO ACT.—If the Secretary  
18               takes no action during the 60-day period de-  
19               scribed in subparagraph (A), the nominees shall  
20               be considered to be members of the Alliance.”.

21          (b) REPRESENTATION.—Section 705(b) of the Na-  
22          tional Oilheat Research, Consumer Education, and Effi-  
23          ciency Act of 2011 (42 U.S.C. 6201 note; Public Law  
24          106–469) is amended in the matter preceding paragraph

1 (1) by striking “qualified industry organization” and in-  
 2 serting “the Alliance”.

3 (c) NUMBER OF MEMBERS.—Section 705(c) of the  
 4 National Oilheat Research, Consumer Education, and Ef-  
 5 ficiency Act of 2011 (42 U.S.C. 6201 note; Public Law  
 6 106–469) is amended—

7 (1) by striking paragraph (1) and inserting the  
 8 following:

9 “(1) IN GENERAL.—The Alliance shall be com-  
 10 posed of the following members:

11 “(A) One member representing each State  
 12 participating in the Alliance.

13 “(B) Five representatives of retail market-  
 14 ers, of whom one shall be selected by each of  
 15 the qualified State associations of the 5 States  
 16 with the highest volume of annual oilheat fuel  
 17 sales.

18 “(C) Five additional representatives of re-  
 19 tail marketers.

20 “(D) Twenty-one representatives of whole-  
 21 sale distributors.

22 “(E) Six public members, who shall be rep-  
 23 resentatives of significant users of oilheat fuel,  
 24 the oilheat fuel research community, State en-  
 25 ergy officials, or other groups with expertise in

1 oilheat fuel, including consumer and low-income  
 2 advocacy groups.”; and

3 (2) in paragraph 2, by striking “the qualified  
 4 industry organization or”.

5 **SEC. 5. BIENNIAL BUDGETS.**

6 Section 706(e) of the National Oilheat Research,  
 7 Consumer Education, and Efficiency Act of 2011 (42  
 8 U.S.C. 6201 note; Public Law 106–469) is amended—

9 (1) by striking paragraph (1) and inserting the  
 10 following:

11 “(1) PUBLICATION OF PROPOSED BUDGET.—

12 Not later than August 1, 2011, and every 2 years  
 13 thereafter, the Alliance shall, in consultation with  
 14 the Secretary, develop and publish for public review  
 15 and comment a proposed biennial budget for the  
 16 next 2 calendar years, including the probable oper-  
 17 ating and planning costs of all programs, projects,  
 18 and contracts and other agreements.”; and

19 (2) by striking paragraph (4) and inserting the  
 20 following:

21 “(4) IMPLEMENTATION.—

22 “(A) IN GENERAL.—The Alliance shall not  
 23 implement a proposed budget until the expira-  
 24 tion of 60 days after submitting the proposed  
 25 budget to the Secretary.

1                   “(B) RECOMMENDATIONS FOR CHANGES  
2                   BY SECRETARY.—

3                   “(i) IN GENERAL.—The Secretary  
4                   may recommend to the Alliance changes to  
5                   the budget programs and activities of the  
6                   Alliance that the Secretary considers ap-  
7                   propriate.

8                   “(ii) RESPONSE BY ALLIANCE.—Not  
9                   later than 30 days after the receipt of any  
10                  recommendations made under clause (i),  
11                  the Alliance shall submit to the Secretary  
12                  a final budget for the next 2 calendar  
13                  years that incorporates or includes a de-  
14                  scription of the response of the Alliance to  
15                  any changes recommended under clause  
16                  (i).

17                  “(C) EFFECT OF DISAPPROVAL.—If the  
18                  Secretary disapproves a proposed budget of the  
19                  Alliance, the Alliance shall operate under the  
20                  terms and conditions of the previous budget.”.

21 **SEC. 6. DATA COLLECTION SYSTEM.**

22                  (a) IN GENERAL.—Section 706(f)(1)(A) of the Na-  
23                  tional Oilheat Research, Consumer Education, and Effi-  
24                  ciency Act of 2011 (42 U.S.C. 6201 note; Public Law  
25                  106–469) is amended by inserting “(including, to the

1 maximum extent practicable, a data collection process es-  
 2 tablished, in collaboration with the Secretary, to track  
 3 equipment, service, and related safety issues under this  
 4 title)” after “the Alliance”.

5 (b) TECHNICAL AMENDMENT.—Section 706(f)(2)(b)  
 6 of the National Oilheat Research, Consumer Education,  
 7 and Efficiency Act of 2011 (42 U.S.C. 6201 note; Public  
 8 Law 106–469) is amended by striking “the members of  
 9 the Alliance, and the qualified industry organization” and  
 10 inserting “and the members of the Alliance”.

11 **SEC. 7. BIENNIAL REPORTS BY SECRETARY.**

12 Section 706 of the National Oilheat Research, Con-  
 13 sumer Education, and Efficiency Act of 2011 (42 U.S.C.  
 14 6201 note; Public Law 106–469) is amended by adding  
 15 at the end the following:

16 “(i) BIENNIAL REPORTS BY SECRETARY.—Not later  
 17 than April 30, 2013, and every 2 years thereafter, the Sec-  
 18 retary shall submit to Congress a report containing—

19 “(1) a description of activities of the Alliance  
 20 relating to—

21 “(A) research, development, and dem-  
 22 onstration;

23 “(B) consumer education, safety and train-  
 24 ing; and

25 “(C) development of alternative fuels;



1           “(2) an evaluation of the consumer savings,  
2           cost-effectiveness of, efficiency gains, and the life-  
3           time and annual energy savings achieved by, energy  
4           efficiency programs carried out under this title; and

5           “(3) recommendations for more effectively  
6           achieving consumer savings, cost-effectiveness, and  
7           lifetime and annual energy savings through effi-  
8           ciency programs for home heating oil for residential  
9           or commercial purposes, including an estimate of—

10           “(A) the amount of investment required to  
11           implement all energy efficiency programs and  
12           heating system upgrades and modifications that  
13           are cost-effective;

14           “(B) the total amount of funds that con-  
15           sumers will save from the investments; and

16           “(C) the total number of jobs that will be  
17           created from the investments.”.

18 **SEC. 8. PAYMENT OF ASSESSMENTS.**

19           Section 707(b) of the National Oilheat Research,  
20           Consumer Education, and Efficiency Act of 2011 (42  
21           U.S.C. 6201 note; Public Law 106–469) is amended by  
22           adding at the end the following:

23           “(8) PROHIBITION ON PASS THROUGH.—None  
24           of the assessments collected under this title may be  
25           passed through or otherwise required to be paid by

1 the retail purchasers or ultimate consumers of  
2 oilheat.”.

3 **SEC. 9. FUNDS MADE AVAILABLE TO QUALIFIED STATE AS-**  
4 **SOCIATIONS.**

5 Section 707(e)(2) of the National Oilheat Research,  
6 Consumer Education, and Efficiency Act of 2011 (42  
7 U.S.C. 6201 note; Public Law 106–469) is amended by  
8 adding at the end the following:

9 “(B) SEPARATE ACCOUNTS.—As a condi-  
10 tion of receipt of funds made available to a  
11 qualified State association under this Act, the  
12 qualified State association shall deposit the  
13 funds in an account that is separate from other  
14 funds of the qualified State association.”.

15 **SEC. 10. USE OF ASSESSMENTS.**

16 Section 707 of the National Oilheat Research, Con-  
17 sumer Education, and Efficiency Act of 2011 (42 U.S.C.  
18 6201 note; Public Law 106–469) is amended by adding  
19 at the end the following:

20 “(f) USE OF ASSESSMENTS.—

21 “(1) IN GENERAL.—Notwithstanding any other  
22 provision of this title, the Secretary and the Alliance  
23 shall ensure that assessments collected for each cal-  
24 endar year under this title are allocated and used in  
25 accordance with this subsection.

1           “(2) RESEARCH, DEVELOPMENT, AND DEM-  
2       ONSTRATION.—

3           “(A) IN GENERAL.—The Alliance shall en-  
4       sure that not less than 40 percent of the assess-  
5       ments collected for each calendar year under  
6       this title are used by qualified State associa-  
7       tions or the Alliance to conduct research, devel-  
8       opment, and demonstration activities relating to  
9       oilheat, including—

10           “(i) the development of energy-effi-  
11       cient heating systems and biofuel heating  
12       oil blends; and

13           “(ii) the transition and facilitation of  
14       the entry of energy efficient heating sys-  
15       tems and biofuels into the marketplace.

16           “(B) PRIORITIES.—The Alliance shall co-  
17       ordinate with the Secretary to develop priorities  
18       for the use of assessments under this para-  
19       graph.

20           “(C) PLAN.—The Alliance shall develop a  
21       coordinated research plan to carry out research  
22       programs and activities under this section.

23           “(D) DOCUMENTATION.—The Alliance  
24       shall document activities conducted under this  
25       paragraph using a transparent process and pro-

1           cedures developed in coordination with the Sec-  
2           retary.

3           “(3) HEATING OIL EFFICIENCY AND UPGRADE  
4           PROGRAM.—

5                   “(A) IN GENERAL.—The Alliance shall en-  
6           sure that not less than 20 percent of the assess-  
7           ments collected for each calendar year under  
8           this title are used by qualified State associa-  
9           tions or the Alliance to carry out programs to  
10          assist consumers—

11                   “(i) to make cost-effective upgrades to  
12           more fuel efficient heating oil systems or  
13           otherwise make cost-effective modifications  
14           to an existing heating system to improve  
15           the efficiency of the system; or

16                   “(ii) to improve energy efficiency or  
17           reduce energy consumption through cost-  
18           effective energy efficiency programs for  
19           consumers.

20           “(B) PLAN.—The Alliance shall—

21                   “(i) develop a coordinated heating oil  
22           efficiency and upgrade plan with States to  
23           carry out cost-effective efficiency programs  
24           and activities under this section;

1 “(ii) to the maximum extent prac-  
 2 ticable, coordinate, develop, and implement  
 3 the programs and activities of the Alliance  
 4 in conjunction with existing State energy  
 5 efficiency program administrators; and

6 “(iii) submit the plan to the Sec-  
 7 retary.

8 “(C) ADMINISTRATION.—

9 “(i) IN GENERAL.—In carrying out  
 10 this paragraph, the Alliance shall, to the  
 11 maximum extent practicable, ensure that  
 12 heating system conversion assistance is co-  
 13 ordinated with, and developed after con-  
 14 sultation with, persons or organizations re-  
 15 sponsible for administering—

16 “(I) the low-income home energy  
 17 assistance program established under  
 18 the Low-Income Home Energy Assist-  
 19 ance Act of 1981 (42 U.S.C. 8621 et  
 20 seq.);

21 “(II) the Weatherization Assist-  
 22 ance Program for Low-Income Per-  
 23 sons established under part A of title  
 24 IV of the Energy Conservation and

1                   Production Act (42 U.S.C. 6861 et  
2                   seq.); or

3                   “(III) other energy efficiency  
4                   programs administered by the State  
5                   or other parties in the State.

6                   “(ii) DISTRIBUTION OF FUNDS.—The  
7                   Alliance shall ensure that funds distributed  
8                   to carry out this paragraph are—

9                   “(I) distributed equitably to  
10                  States based on the proportional con-  
11                  tributions of the States through col-  
12                  lected assessments;

13                  “(II) used to supplement (and  
14                  not supplant) State or alternative  
15                  sources of funding for energy effi-  
16                  ciency programs; and

17                  “(III) used only to carry out this  
18                  paragraph.

19                  “(4) CONSUMER EDUCATION, SAFETY, AND  
20                  TRAINING.—The Alliance shall ensure that not more  
21                  than 35 percent of the assessments collected for  
22                  each calendar year under this title are used—

23                  “(A) to conduct consumer education activi-  
24                  ties relating to oilheat, including providing in-  
25                  formation to consumers on—

1 “(i) energy conservation strategies;

2 “(ii) safety;

3 “(iii) new technologies that reduce  
4 consumption or improve safety and com-  
5 fort;

6 “(iv) the use of biofuels blends; and

7 “(v) Federal, State, and local pro-  
8 grams designed to assist oilheat con-  
9 sumers;

10 “(B) to conduct worker safety and training  
11 activities relating to oilheat, including energy  
12 efficiency training (including classes to obtain  
13 Building Performance Institute or Residential  
14 Energy Services Network certification); or

15 “(C) to carry out other activities rec-  
16 ommended by the Secretary.

17 “(5) ADMINISTRATIVE COSTS.—The Alliance  
18 shall ensure that not more than 5 percent of the as-  
19 sessments collected for each calendar year under this  
20 title are used for overhead or administrative costs.

21 “(6) REPORTS.—

22 “(A) IN GENERAL.—Each qualified State  
23 association or the Alliance shall prepare a bian-  
24 nual report detailing the development and ad-

1           ministration of this section, and yearly expendi-  
2           tures under this section.

3           “(B) CONTENTS.—Each report shall in-  
4           clude—

5                   “(i) a description of the use of pro-  
6                   ceeds under this section, including a de-  
7                   scription of—

8                           “(I) advancements made in en-  
9                           ergy-efficient heating systems and  
10                          biofuel heating oil blends; and

11                          “(II) heating system upgrades  
12                          and modifications and energy effi-  
13                          ciency programs funded under this  
14                          section; and

15                   “(ii) a demonstration of the consumer  
16                   savings, cost-effectiveness of, and the life-  
17                   time and annual energy savings achieved  
18                   by heating system upgrades and modifica-  
19                   tions and energy efficiency programs fund-  
20                   ed through this section.

21           “(C) AVAILABILITY.—

22                   “(i) IN GENERAL.—Each report, and  
23                   any subsequent changes to the report, de-  
24                   scribed in subparagraph (A) shall be made



publically available, with notice of availability provided to the Secretary.

“(ii) PUBLIC AVAILABILITY.—The Secretary shall make the reports prepared under this paragraph available to the public, including by publishing the reports on the Internet.

“(D) VERIFICATION.—

“(i) IN GENERAL.—The Alliance shall ensure that an independent third-party reviews each report described in subparagraph (A), and verifies the accuracy of the report, biennially.

“(ii) COUNCILS.—If a State has a stakeholder efficiency oversight council, the council shall be the entity that reviews and verifies the report of the State association or Alliance for the State under clause (i).”.

**SEC. 11. MARKET SURVEY AND CONSUMER PROTECTION.**

The National Oilheat Research, Consumer Education, and Efficiency Act of 2011 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking section 708.

**SEC. 12. LOBBYING RESTRICTIONS.**

Section 710 of the National Oilheat Research, Consumer Education, and Efficiency Act of 2011 (42 U.S.C.

1 6201 note; Public Law 106–469) is amended by inserting  
 2 “or to lobby” after “elections”.

3 **SEC. 13. NONCOMPLIANCE.**

4 Section 712 of the National Oilheat Research, Con-  
 5 sumer Education, and Efficiency Act of 2011 (42 U.S.C.  
 6 6201 note; Public Law 106–469) is amended by adding  
 7 at the end the following:

8 “(g) NONCOMPLIANCE.—If the Alliance, a qualified  
 9 State association, or any other entity or person violates  
 10 this Act, the Secretary may impose a fine or take other  
 11 appropriate action to ensure compliance with this Act, in-  
 12 cluding referral to an appropriate law enforcement author-  
 13 ity.”.

14 **SEC. 14. SUNSET.**

15 Section 713 of the National Oilheat Research, Con-  
 16 sumer Education, and Efficiency Act of 2011 (42 U.S.C.  
 17 6201 note; Public Law 106–469) is amended by striking  
 18 “9 years” and inserting “19 years”.

