

Union Calendar No. 447

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3610**

[Report No. 105-787, Part I]

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**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.

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OCTOBER 7, 1998

Committee on Science discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1998

Mr. GREENWOOD (for himself, Mr. MANTON, Mr. PAXON, Mr. ENGEL, Mr. OXLEY, Mr. NORWOOD, Mr. SHIMKUS, Mr. STUPAK, Mr. BOEHLERT, Mr. SOLOMON, Mr. KING, Mrs. MCCARTHY of New York, Mr. HOLDEN, Mr. MCDADE, Mr. ANDREWS, Mrs. ROUKEMA, Mr. GEKAS, Mrs. KENNELLY of Connecticut, Mr. MCHALE, Mr. FRELINGHUYSEN, Mr. EHRlich, Mr. PAPPAS, Mr. WELDON of Pennsylvania, Mr. ACKERMAN, Mr. CARDIN, Mr. HOYER, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. GOODE, Mr. ROEMER, Mr. FOX of Pennsylvania, Mr. MEEKS of New York, Mr. BASS, and Mr. BALDACCI) introduced the following bill; which was referred to the Committee on Commerce

OCTOBER 6, 1998

Reported with an amendment and referred to the Committee on Science for a period ending not later than October 7, 1998, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 7, 1998

Additional sponsors: Mr. FORBES, Ms. FURSE, Mr. WEYGAND, Mr. ENGLISH of Pennsylvania, Mrs. MORELLA, Mr. KENNEDY of Massachusetts, Mr. GILCHREST, Mr. DAVIS of Virginia, Mr. MCGOVERN, Mr. NEY, Mr. McNULTY, Mr. KENNEDY of Rhode Island, Mr. PETERSON of Pennsylvania, Mr. COBURN, Ms. DELAURO, Mr. PICKETT, Mr. SXTON, Mr. BURR of North Carolina, Mr. MENENDEZ, Mr. HEFNER, Mr. HOBSON, Mr. TIERNEY, Mr. METCALF, Mr. DELAHUNT, Mr. TRAFICANT, Mr.

SAWYER, Mrs. MYRICK, Mr. KLINK, Mr. GEJDENSON, Mr. MANZULLO, Mr. ETHERIDGE, Mr. FRANKS of New Jersey, Mr. PITTS, Mr. WOLF, Mr. BUNNING, Mr. MALONEY of Connecticut, Mr. BOUCHER, Mr. WHITFIELD, Mr. SHAYS, Mr. WYNN, Mr. GOODLING, Mr. KANJORSKI, Ms. PRYCE of Ohio, Mr. LATOURETTE, Mr. PALLONE, Mr. PORTMAN, Mr. NETHERCUTT, Mrs. JOHNSON of Connecticut, Mr. SISISKY, Mr. MEEHAN, Mr. RANGEL, Mr. KLUG, Mr. BALLENGER, Mr. DOYLE, Mr. SCHUMER, Ms. CARSON, Mr. CAMP, Mr. LAZIO of New York, Mr. ROTHMAN, Mr. GOODLATTE, Mr. HULSHOF, Mr. GIBBONS, Mr. UPTON, Mr. ALLEN, Mr. PAYNE, Mr. PASCRELL, Mr. SMITH of New Jersey, Mr. PRICE of North Carolina, Mr. CUMMINGS, Mr. BAESLER, Mr. JONES, Mr. KIND, Mr. EHLERS, Mr. LEWIS of Kentucky, Mr. JOHNSON of Wisconsin, Mr. HINCHEY, Mr. TALENT, Mr. STRICKLAND, Mrs. CLAYTON, Mr. ROGERS, Mr. SHUSTER, Mr. MICA, Ms. STABENOW, Mr. BROWN of Ohio, Ms. HOOLEY of Oregon, Mr. SCOTT, Mr. GORDON, Mr. DEAL of Georgia, Mr. BARTLETT of Maryland, Mr. HASTERT, Mr. DEUTSCH, Mr. MCINTYRE, Mr. BATEMAN, Mr. GILMAN, Mr. ENSIGN, Mr. HALL of Ohio, and Mrs. LOWEY

OCTOBER 7, 1998

Committee on Science discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 31, 1998]

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## 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 1998”.*

1 **SEC. 2. FINDINGS.**

2 *The Congress finds that—*

3 *(1) oilheat is an important commodity relied*  
4 *upon by approximately 30,000,000 Americans annu-*  
5 *ally as an efficient and economical energy source for*  
6 *commercial and residential space and hot water heat-*  
7 *ing;*

8 *(2) oilheat equipment operates at efficiencies*  
9 *among the highest of any space heating energy source,*  
10 *reducing fuel costs and making oilheat an economical*  
11 *means of space heating;*

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

18 *(4) only very limited Federal resources have been*  
19 *made available for oilheat research, development, safe-*  
20 *ty, training, and education efforts, to the detriment of*  
21 *both the oilheat industry and its 30,000,000 consum-*  
22 *ers; and*

23 *(5) the cooperative development, self-financing,*  
24 *and implementation of a coordinated national oilheat*  
25 *industry program of research and development, train-*  
26 *ing, and consumer education is necessary and impor-*

1        *tant for the welfare of the oilheat industry, including*  
2        *wholesale distributors and retail marketers, as well as*  
3        *for the general economy of the United States and the*  
4        *millions of Americans who rely on oilheat for com-*  
5        *mercial and residential space and hot water heating.*

6        **SEC. 3. DEFINITIONS.**

7        *For the purposes of this Act—*

8                (1) *the term “Alliance” means a National*  
9        *Oilheat Research Alliance created pursuant to section*  
10        *4 of this Act;*

11                (2) *the term “consumer education” means the*  
12        *provision of information that will assist consumers*  
13        *and other persons in making evaluations and deci-*  
14        *sions regarding oilheat and other nonindustrial com-*  
15        *mercial or residential space or hot water heating*  
16        *fuels;*

17                (3) *the term “exchange” means an agreement*  
18        *that entitles each party or its customers to receive*  
19        *product from the other party and requires only an in-*  
20        *substantial portion of the volumes involved in the ex-*  
21        *change to be settled in cash or property other than the*  
22        *product;*

23                (4) *the term “industry” means those persons in-*  
24        *volved in the production, transportation, and sale of*  
25        *oilheat, and in the manufacture and distribution of*

1 *oilheat utilization equipment, in the United States,*  
2 *but such term does not include the ultimate consumers*  
3 *of oilheat;*

4 (5) *the term “industry trade association” means*  
5 *an organization exempt from tax, under section*  
6 *501(c) (3) or (6) of the Internal Revenue Code of*  
7 *1986, representing participants in the industry;*

8 (6) *the term “No. 1 distillate” means fuel oil*  
9 *classified as No. 1 distillate by the American Society*  
10 *for Testing and Materials;*

11 (7) *the term “No. 2 dyed distillate” means fuel*  
12 *oil classified as No. 2 distillate by the American Soci-*  
13 *ety for Testing and Materials which is indelibly dyed*  
14 *in accordance with regulations prescribed by the Sec-*  
15 *retary of the Treasury pursuant to section 4082(a)(2)*  
16 *of the Internal Revenue Code of 1986;*

17 (8) *the term “oilheat” means—*

18 (A) *No. 1 distillate; or*

19 (B) *No. 2 dyed distillate,*

20 *which is used as a fuel for nonindustrial commercial*  
21 *or residential space or hot water heating;*

22 (9) *the term “public member” means a member*  
23 *of the Alliance described in section 5(c)(6);*

1           (10) the term “qualified industry organization”  
2           means the National Association for Oilheat Research  
3           and Education or a successor organization;

4           (11) the term “qualified State association”  
5           means the industry trade association or other organi-  
6           zation that the qualified industry organization, or,  
7           after its establishment under this Act, the Alliance,  
8           determines best represents retail marketers in a State;

9           (12) the term “retail marketer” means a person  
10          engaged primarily in the sale of oilheat to the ulti-  
11          mate consumer;

12          (13) the term “Secretary” means the Secretary of  
13          Energy; and

14          (14) the term “wholesale distributor” means a  
15          person who—

16                 (A) produces;

17                 (B) imports; or

18                 (C) transports across State boundaries and  
19          among local marketing areas, and

20          No. 1 distillate or No. 2 dyed distillate, and sells such  
21          distillate to another person who does not produce, im-  
22          port, or transport distillates as described in this  
23          paragraph.

1 **SEC. 4. REFERENDA.**

2       (a) *CREATION OF PROGRAM.*—*The industry, through*  
3 *the qualified industry organization, may conduct, at its*  
4 *own expense, a referendum among retail marketers and*  
5 *wholesale distributors for the creation of a National Oilheat*  
6 *Research Alliance. The Alliance, if established, shall reim-*  
7 *burse the qualified industry organization for the cost of ref-*  
8 *erendum accounting and documentation. Such referendum*  
9 *shall be conducted by an independent auditing firm. Voting*  
10 *rights of a retail marketer in such referendum shall be based*  
11 *on the volume of oilheat sold in a State by the retail mar-*  
12 *keter in the previous calendar year or other representative*  
13 *period. Voting rights of a wholesale distributor in such ref-*  
14 *erendum shall be based on the volume of No. 1 distillate*  
15 *and No. 2 dyed distillate sold in a State by the wholesale*  
16 *distributor in the previous calendar year or other represent-*  
17 *ative period, weighted by the ratio of the total volume of*  
18 *No. 1 distillate and No. 2 dyed distillate sold for nonindus-*  
19 *trial commercial and residential space and hot water heat-*  
20 *ing in that State to the total volume of No. 1 distillate and*  
21 *No. 2 dyed distillate sold in that State. Upon approval of*  
22 *those persons representing two-thirds of the total volume of*  
23 *oilheat voted in the retail marketer class and two-thirds of*  
24 *the total weighted volume of No. 1 distillate and No. 2 dyed*  
25 *distillate voted in the wholesale distributor class, the Alli-*  
26 *ance shall be established, and shall be authorized to levy*

1 assessments in accordance with section 6. All persons voting  
2 in the referendum shall certify to the independent auditing  
3 firm the volume of oilheat, No. 1 distillate, or No. 2 dyed  
4 distillate represented by their vote. Except as provided in  
5 subsection (b), a State shall not participate in the Alliance  
6 if less than 50 percent of the retail marketer vote in that  
7 State, subject to the volumetric voting rules established by  
8 this subsection, is in favor of the creation of the Alliance.  
9 A qualified State association may notify the qualified in-  
10 dustry organization within 90 days after the date of the  
11 enactment of this Act in writing that a referendum under  
12 this subsection will not be conducted in that State.

13 (b) *SUBSEQUENT STATE PARTICIPATION.*—A State  
14 that has not participated initially in the Alliance may sub-  
15 sequently elect to participate by conducting a referendum  
16 in accordance with subsection (a).

17 (c) *TERMINATION OR SUSPENSION.*—On the Alliance’s  
18 own initiative, or on petition to the Alliance by retail mar-  
19 keters and wholesale distributors representing 35 percent of  
20 the volume of oilheat or weighted No. 1 distillate and No.  
21 2 dyed distillate in each class, the Alliance shall, at its own  
22 expense, hold a referendum, to be conducted by an independ-  
23 ent auditing firm selected by the Alliance, to determine  
24 whether the industry favors termination or suspension of  
25 the Alliance. Termination or suspension shall not take effect

1 *unless it is approved by persons representing more than*  
2 *one-half of the total volume of oilheat voted in the retail*  
3 *marketer class and more than one-half of the total volume*  
4 *of weighted No. 1 distillate and No. 2 dyed distillate voted*  
5 *in the wholesale distributor class, or is approved by persons*  
6 *representing more than two-thirds of the total volume of fuel*  
7 *voted in either such class.*

8 **SEC. 5. NATIONAL OILHEAT RESEARCH ALLIANCE.**

9       (a) *SELECTION OF MEMBERS.*—*Except as otherwise*  
10 *provided in subsection (c)(3), the qualified industry organi-*  
11 *zation shall select all members of the Alliance. The qualified*  
12 *industry organization shall select a member representing a*  
13 *State from a list of nominees submitted by that State's*  
14 *qualified State association. Vacancies in unfinished terms*  
15 *of Alliance members shall be filled in the same manner as*  
16 *were the original appointments.*

17       (b) *REPRESENTATION.*—*In selecting members of the*  
18 *Alliance, the qualified industry organization shall give due*  
19 *regard to selecting a Alliance that is representative of the*  
20 *industry, including representation of—*

21               (1) *interstate and intrastate operators among re-*  
22 *tail marketers;*

23               (2) *wholesale distributors of No. 1 distillate and*  
24 *No. 2 dyed distillate;*

1           (3) *large and small companies among wholesale*  
2           *distributors and retail marketers; and*

3           (4) *diverse geographic regions of the country.*

4           (c) *MEMBERSHIP.—The membership of the Alliance*  
5           *shall be as follows:*

6           (1) *One member representing each State with*  
7           *oilheat sales in excess of 32,000,000 gallons per year.*

8           (2) *If less than 24 States are represented under*  
9           *paragraph (1), one member representing each of the*  
10          *States with the highest volume of annual oilheat sales*  
11          *as necessary to cause the total number of States rep-*  
12          *resented under paragraph (1) and this paragraph*  
13          *combined to equal 24.*

14          (3) *5 representatives of retail marketers, one each*  
15          *to be selected by the qualified State associations of the*  
16          *5 States with the highest volume of annual oilheat*  
17          *sales.*

18          (4) *5 additional representatives of retail market-*  
19          *ers.*

20          (5) *21 representatives of wholesale distributors.*

21          (6) *6 public members, who shall be representa-*  
22          *tives of significant users of oilheat, the oilheat re-*  
23          *search community, or other groups knowledgeable*  
24          *about oilheat.*

1 *Other than the public members, Alliance members shall be*  
2 *full-time employees or owners of businesses in the industry,*  
3 *except that members described in paragraphs (3), (4), and*  
4 *(5) may be employees of the qualified industry organization*  
5 *or an industry trade association.*

6 (d) *COMPENSATION.*—*Alliance members shall receive*  
7 *no compensation for their services, nor shall Alliance mem-*  
8 *bers be reimbursed for expenses relating to their service, ex-*  
9 *cept that public members, upon request, may be reimbursed*  
10 *for reasonable expenses directly related to their participa-*  
11 *tion in Alliance meetings.*

12 (e) *TERMS.*—*Alliance members shall serve terms of 3*  
13 *years and may serve not more than 2 full consecutive terms.*  
14 *Members filling unexpired terms may serve not more than*  
15 *a total of 7 consecutive years. Former members of the Alli-*  
16 *ance may be returned to the Alliance if they have not been*  
17 *members for a period of 2 years. Initial appointments to*  
18 *the Alliance shall be for terms of 1, 2, and 3 years, as deter-*  
19 *mined by the qualified industry organization, staggered to*  
20 *provide for the subsequent selection of one-third of the mem-*  
21 *bers each year.*

22 (f) *FUNCTIONS.*—(1) *The Alliance shall develop pro-*  
23 *grams and projects and enter into contracts or agreements*  
24 *for implementing this Act, including programs—*

1           (A) to enhance consumer and employee safety  
2           and training;

3           (B) to provide for research, development, and  
4           demonstration of clean and efficient oilheat utiliza-  
5           tion equipment; and

6           (C) for consumer education,

7           and may provide for the payment of the costs thereof with  
8           funds collected pursuant to this Act. The Alliance shall co-  
9           ordinate its activities with industry trade associations and  
10          others as appropriate to provide efficient delivery of services  
11          and to avoid unnecessary duplication of activities.

12          (2) Research, development, and demonstration activi-  
13          ties authorized under paragraph (1)(B) shall include all ac-  
14          tivities incidental to research, development, and demonstra-  
15          tion of clean and efficient oilheat utilization equipment.  
16          Such activities include obtaining a patent, including pay-  
17          ment of attorney's fees for making and perfecting a patent  
18          application. Such activities do not include research, devel-  
19          opment, and demonstration of oilheat utilization equipment  
20          with respect to which technically feasible and commercially  
21          feasible operations have been verified, except that funds may  
22          be provided for improvements to existing equipment until  
23          the technical feasibility and commercial feasibility of the  
24          operation of those improvements have been verified.

1       (3) *Activities authorized under paragraph (1) (A) or*  
2 *(B) shall not include advertising, promotions, or consumer*  
3 *surveys in support of advertising or promotions.*

4       (g) *PRIORITIES.—Issues related to research, develop-*  
5 *ment, and demonstration, safety, consumer education, and*  
6 *training shall be given priority by the Alliance in the devel-*  
7 *opment of its programs and projects.*

8       (h) *ADMINISTRATION.—The Alliance shall select from*  
9 *among its members a Chairman and other officers as nec-*  
10 *essary, may establish and authorize committees and sub-*  
11 *committees of the Alliance to take specific actions the Alli-*  
12 *ance is authorized to take, and shall adopt rules and bylaws*  
13 *for the conduct of business and the implementation of this*  
14 *Act. The Alliance shall establish procedures for the sollicita-*  
15 *tion of industry comment and recommendations on any sig-*  
16 *nificant plans, programs, and projects to be funded by the*  
17 *Alliance. The Alliance may establish advisory committees*  
18 *of persons other than Alliance members. Each member of*  
19 *the Alliance shall have 1 vote in matters before the Alliance.*

20       (i) *ADMINISTRATIVE EXPENSES.—(1) The administra-*  
21 *tive expenses of operating the Alliance (not including costs*  
22 *incurred in the collection of the assessment pursuant to sec-*  
23 *tion 6) plus amounts paid under paragraph (2) shall not*  
24 *exceed 7 percent of the funds collected in any fiscal year,*  
25 *except that during the first year of its operation such ex-*

1 *penses and amounts shall not exceed 10 percent of such*  
2 *funds.*

3       (2) *The Alliance shall annually reimburse the Sec-*  
4 *retary for costs incurred by the Federal Government relat-*  
5 *ing to the Alliance. Such reimbursement for any fiscal year*  
6 *shall not exceed the amount that the Secretary determines*  
7 *is 2 times the average annual salary of 1 employee of the*  
8 *Department of Energy.*

9       (j) *BUDGET.—Before August 1 each year, the Alliance*  
10 *shall publish for public review and comment a budget plan*  
11 *for the next calendar year, including the probable costs of*  
12 *all programs, projects, and contracts and a recommended*  
13 *rate of assessment sufficient to cover such costs. Following*  
14 *this review and comment, the Alliance shall submit the pro-*  
15 *posed budget to the Secretary and to the Congress. The Sec-*  
16 *retary may recommend programs and activities the Sec-*  
17 *retary considers appropriate. The Alliance shall not imple-*  
18 *ment a proposed budget until after receiving the Secretary’s*  
19 *recommendations, or after the expiration of 60 days after*  
20 *submitting the proposed budget, whichever occurs first.*

21       (k) *RECORDS; AUDITS.—The Alliance shall keep books*  
22 *and records that clearly reflect all of the acts and trans-*  
23 *actions of the Alliance and make public such information.*  
24 *The books of the Alliance, including fee assessment reports*  
25 *and applications for refunds, shall be audited by a certified*

1 *public accountant at least once each fiscal year and at such*  
2 *other times as the Alliance may designate. Copies of such*  
3 *audit shall be provided to the Secretary, all members of the*  
4 *Alliance, the qualified industry organization, and to other*  
5 *members of the industry upon request. The Alliance shall*  
6 *establish policies and procedures for auditing compliance*  
7 *with this Act that shall conform with generally accepted*  
8 *accounting principles. The Secretary shall make available*  
9 *to the Alliance any information the Alliance requests for*  
10 *auditing compliance, except for information the Secretary*  
11 *is prohibited by law from releasing.*

12 *(l) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.—(1)*  
13 *All meetings of the Alliance shall be open to the public after*  
14 *at least 30 days advance public notice.*

15 *(2) The minutes of all meetings of the Alliance shall*  
16 *be made available to and readily accessible by the public.*

17 *(m) ANNUAL REPORT.—Each year the Alliance shall*  
18 *prepare and make publicly available a report which in-*  
19 *cludes an identification and description of all programs*  
20 *and projects undertaken by the Alliance during the previous*  
21 *year as well as those planned for the coming year. Such*  
22 *report shall also detail the allocation or planned allocation*  
23 *of Alliance resources for each such program and project.*

24 *(n) CALCULATION OF OILHEAT SALES.—For purposes*  
25 *of this section, the volume of oilheat sold annually in a*

1 *State shall be determined on the basis of information pro-*  
2 *vided by the Energy Information Administration with re-*  
3 *spect to the preceding calendar year or other equivalent pe-*  
4 *riod.*

5 **SEC. 6. ASSESSMENTS.**

6       (a) *AMOUNT.*—*The Alliance shall set the initial assess-*  
7 *ment at no greater than two tenths of 1 cent per gallon*  
8 *of No. 1 distillate and No. 2 dyed distillate. Thereafter, an-*  
9 *ual assessments shall be sufficient to cover the costs of the*  
10 *plans and programs developed by the Alliance, except that*  
11 *under no circumstances shall the assessment be greater than*  
12 *one-half cent per gallon of No. 1 distillate and No. 2 dyed*  
13 *distillate unless approved by a majority of those voting in*  
14 *a referendum in both the retail marketer class and the*  
15 *wholesale distributor class. In no case may the assessment*  
16 *be raised by more than one tenth of 1 cent per gallon of*  
17 *No. 1 distillate and No. 2 dyed distillate annually, and no*  
18 *increases may occur unless approved by a two-thirds vote*  
19 *of the Alliance.*

20       (b) *COLLECTION RULES.*—*The assessment shall be col-*  
21 *lected upon the sale of No. 1 distillate and No. 2 dyed dis-*  
22 *tillate by a wholesale distributor to a person other than a*  
23 *wholesale distributor, including a sale made pursuant to*  
24 *an exchange. The wholesale distributor shall be responsible*  
25 *for payment of the assessment to the Alliance and shall pro-*

1 *vide to the Alliance certification of the volume of fuel sold.*  
2 *A person who has no ownership interest in No. 1 distillate*  
3 *or No. 2 dyed distillate shall not be responsible for payment*  
4 *of an assessment under this section. Assessments shall be*  
5 *made on all No. 1 distillate and No. 2 dyed distillate sold*  
6 *in a State that is participating in the Alliance, and are*  
7 *payable to the Alliance on a quarterly basis. Any No. 1*  
8 *distillate or No. 2 dyed distillate previously assessed shall*  
9 *not be subject to further assessment. A wholesale distributor*  
10 *who fails within one year of sale to receive payments from*  
11 *a purchaser for No. 1 distillate or No. 2 dyed distillate sold*  
12 *may apply for a refund directly from the Alliance. Such*  
13 *refund may not exceed the amount of the assessments levied*  
14 *upon the No. 1 distillate and No. 2 dyed distillate for which*  
15 *payment was not received. The owner of No. 1 distillate*  
16 *and No. 2 dyed distillate imported after the point of sale*  
17 *described in the first sentence of this subsection shall be re-*  
18 *sponsible for payment of the assessment to the Alliance at*  
19 *the point at which the product enters the United States,*  
20 *and shall provide to the Alliance certification of the volume*  
21 *of fuel so imported.*

22 *(c) EXCLUSIONS.—No. 1 distillate and No. 2 dyed dis-*  
23 *tillate sold for uses other than oilheat are excluded from*  
24 *the assessment. The Alliance shall establish rules and proce-*  
25 *dures for refunding to wholesale distributors, and to retail*

1 *marketers or other end users who purchase from a wholesale*  
2 *distributor, assessments collected on excluded gallons.*

3       (d) *ALTERNATIVE COLLECTION RULES.—The Alliance*  
4 *may establish, or approve a State’s request for, an alter-*  
5 *native means of collecting the assessment if another means*  
6 *is found to be more efficient and effective. The Alliance may*  
7 *establish a late payment charge and rate of interest to be*  
8 *imposed on any person who fails to remit or pay to the*  
9 *Alliance any amount due under this Act.*

10       (e) *INVESTMENT OF FUNDS.—Pending disbursement*  
11 *pursuant to a program, plan, or project, the Alliance may*  
12 *invest funds collected through assessments, and any other*  
13 *funds received by the Alliance, only in obligations of the*  
14 *United States or any agency thereof, in general obligations*  
15 *of any State or any political subdivision thereof, in any*  
16 *interest-bearing account or certificate of deposit of a bank*  
17 *that is a member of the Federal Reserve System, or in obli-*  
18 *gations fully guaranteed as to principal and interest by the*  
19 *United States.*

20       (f) *STATE PROGRAMS.—*

21               (1) *COORDINATION.—The Alliance shall establish*  
22 *a program coordinating the operation of the Alliance*  
23 *with those of any similar State, local, or regional*  
24 *program created by State law or regulation, or simi-*  
25 *lar entity.*

1           (2) *FUNDS MADE AVAILABLE TO QUALIFIED*  
2     *STATE ASSOCIATIONS.—*

3           (A) *BASE AMOUNT.—The Alliance shall*  
4     *make available to each State’s qualified State as-*  
5     *sociation 15 percent of the funds raised in the*  
6     *State pursuant to the assessment under this sec-*  
7     *tion.*

8           (B) *REQUEST FOR ADDITIONAL AMOUNT.—*  
9     *A qualified State association may request that*  
10    *the Alliance provide any portion of the remain-*  
11    *ing 85 percent of the funds raised in the State.*  
12    *A request under this subparagraph shall—*

13           (i) *specify the amount of funds re-*  
14            *quested;*

15           (ii) *describe in detail the specific uses*  
16            *for which the requested funds are sought;*

17           (iii) *include a commitment to comply*  
18            *with this Act in using the requested funds;*

19            *and*

20            (i) *be made publicly available.*

21     *The Alliance shall not provide any funds in re-*  
22     *sponse to a request under this subparagraph un-*  
23     *less it determines that the funds will be used to*  
24     *directly benefit the oilheat industry. The Alliance*  
25     *shall monitor the use of funds provided under*

1           *this subparagraph, and shall impose whatever*  
2           *terms, conditions, and reporting requirements it*  
3           *considers necessary to ensure compliance with*  
4           *this Act.*

5 **SEC. 7. COMPLIANCE.**

6           *The Alliance may bring suit in Federal court to com-*  
7 *pel compliance with an assessment levied by the Alliance*  
8 *under this Act. A successful action for compliance under*  
9 *this section may also require payment by the defendant of*  
10 *the costs incurred by the Alliance in bringing such action.*

11 **SEC. 8. LOBBYING RESTRICTIONS.**

12           *No funds collected by the Alliance shall be used in any*  
13 *manner for influencing legislation or elections, except that*  
14 *the Alliance may recommend to the Secretary changes in*  
15 *this Act or other statutes that would further the purposes*  
16 *of this Act.*

17 **SEC. 9. DISCLOSURE.**

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

22 **SEC. 10. VIOLATIONS.**

23           *(a) PROHIBITION.—Any consumer education activity,*  
24 *undertaken with funds provided by the Alliance, that in-*  
25 *cludes—*

1           (1) a reference to a private brand name;  
2           (2) a false or unwarranted claim on behalf of  
3           oilheat or related products; or  
4           (3) a reference with respect to the attributes or  
5           use of any competing product,  
6 is prohibited.

7           (b) *FILING AND TRANSMITTAL OF COMPLAINTS.*—A  
8 public utility aggrieved by a violation described in sub-  
9 section (a) may file a complaint. Such complaint shall be  
10 transmitted concurrently to the Alliance and to any quali-  
11 fied State association undertaking the consumer education  
12 activity with respect to which the complaint is made. Upon  
13 receipt of a complaint under this subsection, the Alliance,  
14 and any qualified State association undertaking the con-  
15 sumer education activity with respect to which the com-  
16 plaint is made, shall cease those consumer education activi-  
17 ties until—

18           (1) the complaint is withdrawn; or  
19           (2) a court of jurisdiction has determined that  
20 the consumer education activity complained of does  
21 not constitute a violation of subsection (a).

22           (c) *RESOLUTION BY PARTIES.*—Not later than 10 days  
23 after a complaint is filed and transmitted under subsection  
24 (b), the complaining party, the Alliance, and any qualified  
25 State association undertaking the consumer education ac-

1 tivity with respect to which the complaint is made shall  
2 meet to attempt to resolve the complaint. If the issues in  
3 dispute are resolved in those discussions, the complainant  
4 shall withdraw its complaint.

5 (d) *JUDICIAL REVIEW.*—A public utility filing a com-  
6 plaint under this section, the Alliance, a qualified State as-  
7 sociation undertaking the consumer education activity with  
8 respect to which a complaint under this section is made,  
9 or any aggrieved person, may seek relief under this section  
10 in Federal court. A public utility filing a complaint under  
11 this section shall be entitled to temporary and injunctive  
12 relief enjoining the consumer education activity with re-  
13 spect to which a complaint under this section is made  
14 until—

15 (1) the complaint is withdrawn; or

16 (2) a court of jurisdiction has determined that  
17 the consumer education activity complained of does  
18 not constitute a violation of subsection (a).

19 (e) *ATTORNEYS FEES.*—In any case in Federal court  
20 in which the court grants a public utility injunctive relief  
21 under subsection (d), the public utility shall be entitled to  
22 recover its attorneys fees from the Alliance and any quali-  
23 fied State association undertaking the consumer education  
24 activity with respect to which a complaint under this sec-  
25 tion is made. In any case under subsection (d) in which

1 *the court determines a complaint under subsection (b) to*  
2 *be frivolous and without merit, the prevailing party shall*  
3 *be entitled to recover its attorneys fees.*

4 **SEC. 11. SUNSET.**

5 *This Act shall cease to be effective 4 years after the*  
6 *date on which the Alliance is established.*