

105TH CONGRESS
2^D SESSION

S. 2539

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

OCTOBER 1 (legislative day, SEPTEMBER 29), 1998

Ms. SNOWE (for herself, Mr. TORRICELLI, Mr. FORD, and Mr. GORTON) 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 1998”.

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 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 indus-
22 try program of research and development, training,
23 and consumer education is necessary and important
24 for the welfare of the industry, the general economy
25 of the United States, and the millions of Americans

1 that rely on oilheat for commercial and residential
2 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 created under sec-
7 tion 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 product 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 prod-
21 uct.

22 (4) INDUSTRY.—

23 (A) IN GENERAL.—The term “industry”
24 means—

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

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

6 (B) EXCLUSION.—The term “industry”
7 does not include ultimate consumers of oilheat.

8 (5) INDUSTRY TRADE ASSOCIATION.—The term
9 “industry trade association” means an organization
10 described in paragraph (3) or (6) of section 501(c)
11 of the Internal Revenue Code of 1986 that is exempt
12 from taxation under section 501(a) of the Code and
13 is organized for the purpose of representing the in-
14 dustry.

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

18 (7) NO. 2 DYED DISTILLATE.—The term “No.
19 2 dyed distillate” means fuel oil classified as No. 2
20 distillate by the American Society for Testing and
21 Materials that is indelibly dyed in accordance with
22 regulations prescribed by the Secretary of the Treas-
23 ury under section 4082(a)(2) of the Internal Reve-
24 nue Code of 1986.

25 (8) OILHEAT.—The term “oilheat” means—

1 (A) No. 1 distillate; and

2 (B) No. 2 dyed distillate,

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

5 (9) PUBLIC MEMBER.—The term “public mem-
6 ber” means a member of the Alliance described in
7 section 5(c)(6).

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

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

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

20 (13) SECRETARY.—The term “Secretary”
21 means the Secretary of Energy.

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

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

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

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

6 (B) sells the distillate to another person
7 that does not produce, import, or transport dis-
8 tillates across State boundaries and among local
9 marketing areas.

10 **SEC. 4. REFERENDA.**

11 (a) CREATION OF PROGRAM.—

12 (1) IN GENERAL.—The industry, through the
13 qualified industry organization, may conduct, at its
14 own expense, a referendum among retail marketers
15 and wholesale distributors for the creation of a na-
16 tional oilheat research alliance.

17 (2) REIMBURSEMENT OF COST.—The Alliance,
18 if established, shall reimburse the qualified industry
19 organization for the cost of referendum accounting
20 and documentation.

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

24 (4) VOTING RIGHTS.—

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

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

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

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), on approval of persons representing
25 two-thirds of the total volume of oilheat voted

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

7 (B) REQUIREMENT OF MAJORITY OF RE-
8 TAIL MARKETERS.—Except as provided in sub-
9 section (b), the industry in a State shall not
10 participate in the Alliance if less than 50 per-
11 cent of the retail marketer vote in the State ap-
12 proves creation of the Alliance.

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

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

23 (b) SUBSEQUENT STATE PARTICIPATION.—The in-
24 dustry in a State that has not participated initially in the

1 Alliance may subsequently elect to participate by conduct-
2 ing 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 in-
12 dustry favors termination or suspension of the Alli-
13 ance.

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 the preceding calendar
9 year or other equivalent period.

10 **SEC. 5. MEMBERSHIP.**

11 (a) SELECTION.—

12 (1) IN GENERAL.—Except as provided in sub-
13 section (c)(3), the qualified industry organization
14 shall select members of the Alliance representing the
15 industry in a State from a list of nominees submit-
16 ted by the qualified State association in the State.

17 (2) VACANCIES.—A vacancy in unfinished
18 terms of Alliance members shall be filled in the same
19 manner as the original selection.

20 (b) REPRESENTATION.—In selecting members of the
21 Alliance, the qualified industry organization shall give due
22 regard to selecting members that are representative of the
23 industry, including representation of—

24 (1) interstate and intrastate operators among
25 retail marketers;

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

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

5 (4) diverse geographic regions of the country.

6 (c) NUMBER OF MEMBERS.—

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

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

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

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

23 (D) 5 additional representatives of retail
24 marketers.

1 (E) 21 representatives of wholesale dis-
2 tributors.

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

7 (2) FULL-TIME OWNERS OR EMPLOYEES.—
8 Other than the public members, Alliance members
9 shall be full-time owners or employees of members of
10 the industry, except that members described in sub-
11 paragraphs (C), (D), and (E) of paragraph (1) may
12 be employees of the qualified industry organization
13 or an industry trade association.

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

20 (e) TERMS.—

21 (1) IN GENERAL.—Subject to paragraph (4), a
22 member of the Alliance shall serve a term of 3 years,
23 except that a member filling an unexpired term may
24 serve a total of 7 consecutive years.

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

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

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

12 **SEC. 6. FUNCTIONS.**

13 (a) **IN GENERAL.**—

14 (1) **PROGRAMS, PROJECTS; CONTRACTS AND**
15 **OTHER AGREEMENTS.**—The Alliance—

16 (A) shall develop programs and projects
17 and enter into contracts or other agreements
18 for implementing this Act, including pro-
19 grams—

20 (i) to enhance consumer and employee
21 safety and training;

22 (ii) to provide for research, develop-
23 ment, and demonstration of clean and effi-
24 cient oilheat utilization equipment; and

25 (iii) for consumer education; and

1 (B) may provide for the payment of the
2 costs with assessments collected under section
3 7.

4 (2) COORDINATION.—The Alliance shall coordi-
5 nate its activities with industry trade associations
6 and others as appropriate to provide efficient deliv-
7 ery of services and to avoid unnecessary duplication
8 of activities.

9 (3) ACTIVITIES.—

10 (A) IN GENERAL.—Activities under clause
11 (i) or (ii) of paragraph (1)(A) shall not include
12 advertising, promotions, or consumer surveys in
13 support of advertising or promotions.

14 (B) RESEARCH, DEVELOPMENT, AND DEM-
15 ONSTRATION ACTIVITIES.—

16 (i) IN GENERAL.—Research, develop-
17 ment, and demonstration activities under
18 paragraph (1)(A)(ii) shall include—

19 (I) all activities incidental to re-
20 search, development, and demonstra-
21 tion of clean and efficient oilheat utili-
22 zation equipment; and

23 (II) the obtaining of patents, in-
24 cluding payment of attorney's fees for

1 making and perfecting a patent appli-
2 cation.

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

15 (b) PRIORITIES.—In the development of programs
16 and projects, the Alliance shall give priority to issues relat-
17 ed to—

- 18 (1) research, development, and demonstration;
19 (2) safety;
20 (3) consumer education; and
21 (4) training.

22 (c) ADMINISTRATION.—

23 (1) OFFICERS; COMMITTEES; BYLAWS.—The Al-
24 liance shall—

1 (A) select from among its members a
2 chairperson and other officers as necessary;

3 (B) may establish and authorize commit-
4 tees and subcommittees of the Alliance to take
5 specific actions that the Alliance is authorized
6 to take; and

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

9 (2) SOLICITATION OF INDUSTRY COMMENT AND
10 RECOMMENDATIONS.—The Alliance shall establish
11 procedures for the solicitation of industry comment
12 and recommendations on any significant plans, pro-
13 grams, and projects to be funded by the Alliance.

14 (3) ADVISORY COMMITTEES.—The Alliance may
15 establish advisory committees of persons other than
16 Alliance members.

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

19 (d) ADMINISTRATIVE EXPENSES.—

20 (1) IN GENERAL.—The administrative expenses
21 of operating the Alliance (not including costs in-
22 curred in the collection of the assessment under sec-
23 tion 7) plus amounts paid under paragraph (2) shall
24 not exceed 7 percent of the amount of assessments
25 collected in any fiscal year, except that during the

1 first year of operation of the Alliance such expenses
2 and amounts shall not exceed 10 percent of the
3 amount of assessments.

4 (2) REIMBURSEMENT OF THE SECRETARY.—

5 (A) IN GENERAL.—The Alliance shall an-
6 nually reimburse the Secretary for costs in-
7 curred by the Federal Government relating to
8 the Alliance.

9 (B) LIMITATION.—Reimbursement under
10 subparagraph (A) for any fiscal year shall not
11 exceed the amount that the Secretary deter-
12 mines is 2 times the average annual salary of
13 1 employee of the Department of Energy.

14 (e) BUDGET.—

15 (1) PUBLICATION OF PROPOSED BUDGET.—Be-
16 fore August 1 each year, the Alliance shall publish
17 for public review and comment a proposed budget
18 for the next calendar year, including the probable
19 costs of all programs, projects, and contracts and a
20 recommended rate of assessment sufficient to cover
21 such costs.

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

1 (3) RECOMMENDATIONS BY THE SECRETARY.—

2 The Secretary may recommend programs and activi-
3 ties that the Secretary considers appropriate.

4 (4) IMPLEMENTATION.—The Alliance shall not
5 implement a proposed budget until after receiving
6 recommendations from the Secretary, or after expi-
7 ration of 60 days after submitting the proposed
8 budget, whichever occurs first.

9 (f) RECORDS; AUDITS.—

10 (1) RECORDS.—The Alliance shall—

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

13 (B) make the records available to the pub-
14 lic.

15 (2) AUDITS.—

16 (A) IN GENERAL.—The records of the Alli-
17 ance (including fee assessment reports and ap-
18 plications for refunds) shall be audited by a cer-
19 tified public accountant at least once each fiscal
20 year and at such other times as the Alliance
21 may designate.

22 (B) AVAILABILITY OF AUDIT REPORTS.—
23 Copies of each audit report shall be provided to
24 all members of the Alliance, the qualified indus-

1 try organization, and to other members of the
2 industry on request.

3 (C) POLICIES AND PROCEDURES.—The Al-
4 liance shall establish policies and procedures for
5 auditing compliance with this Act.

6 (3) INFORMATION FROM THE SECRETARY.—
7 The Secretary shall make available to the Alliance
8 any information that the Alliance requests for audit-
9 ing compliance, except for information that the Sec-
10 retary is prohibited by law from releasing.

11 (g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.—

12 (1) PUBLIC NOTICE.—The Alliance shall give at
13 least 30 days' public notice of each meeting of the
14 Alliance.

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

17 (3) MINUTES.—The minutes of each meeting of
18 the Alliance shall be made available to and readily
19 accessible by the public.

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

22 (1) includes a description of all programs and
23 projects undertaken by the Alliance during the pre-
24 vious year and those planned for the current year;
25 and

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

3 **SEC. 7. ASSESSMENTS.**

4 (a) RATE.—

5 (1) FIRST YEAR OF OPERATION.—The Alliance
6 shall set the assessment rate for the first year of op-
7 eration of the Alliance at not more than two-tenths-
8 cent per gallon of No. 1 distillate and No. 2 dyed
9 distillate.

10 (2) SUBSEQUENT YEARS.—The Alliance shall
11 set the assessment rate for years following the first
12 year of operation at a rate that is sufficient to cover
13 the costs of the plans and programs developed by
14 the Alliance, except that—

15 (A) the assessment shall not be greater
16 than one-half-cent per gallon of No. 1 distillate
17 and No. 2 dyed distillate unless approved by a
18 majority of those voting in a referendum in
19 both the retail marketer class and the wholesale
20 distributor class; and

21 (B) the assessment shall not be raised by
22 more than one-tenth-cent per gallon of No. 1
23 distillate or No. 2 dyed distillate in any year,
24 and no increase may occur unless approved by
25 a two-thirds vote of the Alliance.

1 (b) COLLECTION RULES.—

2 (1) COLLECTION AT POINT OF SALE.—The as-
3 sessment shall be collected at the point of sale of
4 No. 1 distillate and No. 2 dyed distillate by a whole-
5 sale distributor to a person other than a wholesale
6 distributor, including a sale made pursuant to an ex-
7 change.

8 (2) RESPONSIBILITY FOR PAYMENT.—A whole-
9 sale distributor—

10 (A) shall be responsible for payment of an
11 assessment to the Alliance on a quarterly basis;
12 and

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

15 (3) NO OWNERSHIP INTEREST.—A person that
16 has no ownership interest in No. 1 distillate or No.
17 2 dyed distillate shall not be responsible for payment
18 of an assessment under this section.

19 (4) FAILURE TO RECEIVE PAYMENT.—

20 (A) REFUND.—A wholesale distributor
21 that does not receive payments from a pur-
22 chaser for No. 1 distillate or No. 2 dyed dis-
23 tillate within 1 year of the date of sale may
24 apply for a refund from the Alliance.

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

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

8 (A) shall be responsible for payment of the
9 assessment to the Alliance at the point at which
10 the product enters the United States; and

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

13 (6) LATE PAYMENT CHARGE.—The Alliance
14 may establish a late payment charge and rate of in-
15 terest to be imposed on any person who fails to
16 remit or pay to the Alliance any amount due under
17 this Act.

18 (7) ALTERNATIVE COLLECTION RULES.—The
19 Alliance may establish, or approve a request of the
20 industry in a State for, an alternative means of col-
21 lecting the assessment if another means is deter-
22 mined to be more efficient or more effective.

23 (c) SALE FOR USE OTHER THAN AS OILHEAT.—No.
24 1 distillate and No. 2 dyed distillate sold for uses other
25 than as oilheat are excluded from the assessment.

1 (d) INVESTMENT OF FUNDS.—Pending disbursement
2 under a program, plan, or project, the Alliance may invest
3 funds collected through assessments, and any other funds
4 received by the Alliance, only—

5 (1) in obligations of the United States or any
6 agency of the United States;

7 (2) in general obligations of any State or any
8 political subdivision of a State;

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

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

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

15 (1) COORDINATION.—The Alliance shall estab-
16 lish a program coordinating the operation of the Al-
17 liance with those of any similar State, local, or re-
18 gional program created under State law (including a
19 regulation), or similar entity.

20 (2) FUNDS MADE AVAILABLE TO QUALIFIED
21 STATE ASSOCIATIONS.—

22 (A) IN GENERAL.—

23 (i) BASE AMOUNT.—The Alliance
24 shall make available to the qualified State
25 association of each State an amount equal

1 to 15 percent of the amount of assess-
2 ments collected in the State.

3 (ii) ADDITIONAL AMOUNT.—

4 (I) IN GENERAL.—A qualified
5 State association may request that the
6 Alliance provide any portion of the re-
7 maining 85 percent of the assess-
8 ments collected in the State.

9 (II) REQUEST REQUIREMENTS.—

10 A request under this subparagraph
11 shall—

12 (aa) specify the amount of
13 funds requested;

14 (bb) describe in detail the
15 specific uses for which the re-
16 quested funds are sought;

17 (cc) include a commitment
18 to comply with this Act in using
19 the requested funds; and

20 (dd) be made publicly avail-
21 able.

22 (III) DIRECT BENEFIT.—The Al-
23 liance shall not provide any funds in
24 response to a request under this
25 clause unless the Alliance determines

1 that the funds will be used to directly
2 benefit the oilheat industry.

3 (IV) MONITORING; TERMS, CON-
4 DITIONS, AND REPORTING REQUIRE-
5 MENTS.—The Alliance shall—

6 (aa) monitor the use of
7 funds provided under this clause;
8 and

9 (bb) impose whatever terms,
10 conditions, and reporting require-
11 ments that the Alliance considers
12 necessary to ensure compliance
13 with this Act.

14 **SEC. 8 COMPLIANCE.**

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

18 (b) COSTS.—A successful action for compliance under
19 this section may also require payment by the defendant
20 of the costs incurred by the Alliance in bringing such ac-
21 tion.

22 **SEC. 9. LOBBYING RESTRICTIONS.**

23 No assessments collected by the Alliance shall be used
24 to influence legislation or elections, except that the Alli-
25 ance may recommend to the Secretary amendments to this

1 Act or other laws that would further the purposes of this
2 Act.

3 **SEC. 10. DISCLOSURE.**

4 Any consumer education activity undertaken with
5 funds provided by the Alliance shall include a statement
6 that the activities were supported, in whole or in part, by
7 the Alliance.

8 **SEC. 11. VIOLATIONS.**

9 (a) PROHIBITION.—It shall be unlawful for any per-
10 son to conduct a consumer education activity, undertaken
11 with funds provided by the Alliance, that includes—

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

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

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

17 (b) COMPLAINTS.—

18 (1) IN GENERAL.—A public utility aggrieved by
19 a violation described in subsection (a) may file a
20 complaint with the Comptroller General of the
21 United States.

22 (2) TRANSMITTAL TO THE ALLIANCE.—A com-
23 plaint shall be transmitted concurrently to the Alli-
24 ance and to any qualified State association under-

1 taking the consumer education activity with respect
2 to which the complaint is made.

3 (3) CESSATION OF ACTIVITIES.—On receipt of
4 a complaint under this subsection, the Alliance, and
5 any qualified State association undertaking the con-
6 sumer education activity with respect to which the
7 complaint is made, shall cease those consumer edu-
8 cation activities until—

9 (A) the complaint is withdrawn; or

10 (B) the Comptroller General of the United
11 States determines that there has been no viola-
12 tion.

13 (c) RESOLUTION BY PARTIES.—

14 (1) IN GENERAL.—Not later than 10 days after
15 a complaint is filed and transmitted under sub-
16 section (b), the complaining party, the Alliance, and
17 any qualified State association undertaking the con-
18 sumer education activity with respect to which the
19 complaint is made shall meet to attempt to resolve
20 the complaint.

21 (2) NOTIFICATION OF PROGRESS.—Not later
22 than 20 days after a complaint is filed and transmit-
23 ted under subsection (b), the parties shall notify the
24 Comptroller General of the United States of the
25 progress of their discussions.

1 (3) WITHDRAWAL OF COMPLAINT.—If the
2 issues in dispute are resolved in those discussions,
3 the complainant shall withdraw its complaint.

4 (d) DETERMINATION BY THE COMPTROLLER GEN-
5 ERAL.—

6 (1) IN GENERAL.—Not later than 90 days after
7 receiving a complaint under subsection (b), unless
8 the complaint has been withdrawn, the Comptroller
9 General of the United States shall make a deter-
10 mination whether the consumer education activity
11 complained of violates subsection (a).

12 (2) NO VIOLATION.—If the Comptroller General
13 of the United States determines that no violation
14 has occurred, the complainant may not file another
15 complaint relating to the same consumer education
16 activity.

17 (e) JUDICIAL REVIEW.—A public utility filing a com-
18 plaint under this section, the Alliance, or a qualified State
19 association undertaking the consumer education activity
20 with respect to which a complaint under this section is
21 made may seek relief in United States district court to
22 enforce or review a determination by the Comptroller Gen-
23 eral of the United States under subsection (d), or to other-
24 wise require compliance with this section.

1 **SEC. 12. SUNSET.**

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

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