

In the Senate of the United States,

October 19 (legislative day, September 22), 2000.

Resolved, That the bill from the House of Representatives (H.R. 2884) entitled “An Act to extend energy conservation programs under the Energy Policy and Conservation Act through fiscal year 2003.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION. 1. SHORT TITLE.***

2 *This Act may be cited as the Energy Act of 2000.*

1 **TITLE I—STRATEGIC**
2 **PETROLEUM RESERVE**

3 **SEC. 101. SHORT TITLE.**

4 *This title may be cited as the “Energy Policy and Con-*
5 *servation Act Amendments of 2000”.*

6 **SEC. 102. AMENDMENT TO SECTION 2 OF THE ENERGY POL-**
7 **ICY AND CONSERVATION ACT**

8 *Section 2 of the Energy Policy and Conservation Act*
9 *(42 U.S.C. 6201) is amended—*

- 10 (1) *in paragraph (1) by striking “standby” and*
11 *“, subject to congressional review, to impose ration-*
12 *ing, to reduce demand for energy through the imple-*
13 *mentation of energy conservation plans, and”;* and
14 (2) *by striking paragraphs (3) and (6).*

15 **SEC. 103. AMENDMENT TO TITLE I OF THE ENERGY POLICY**
16 **AND CONSERVATION ACT**

17 *Title I of the Energy Policy and Conservation Act (42*
18 *U.S.C. 6211–6251) is amended—*

- 19 (1) *by striking section 102 (42 U.S.C. 6211) and*
20 *its heading;*
21 (2) *by striking section 104(b)(1);*
22 (3) *by striking section 106 (42 U.S.C. 6214) and*
23 *its heading;*
24 (4) *by amending section 151(b) (42 U.S.C. 6231)*
25 *to read as follows:*

1 “(b) *It is the policy of the United States to provide*
2 *for the creation of a Strategic Petroleum Reserve for the*
3 *storage of up to 1 billion barrels of petroleum products to*
4 *reduce the impact of disruptions in supplies of petroleum*
5 *products, to carry out obligations of the United States*
6 *under the international energy program, and for other pur-*
7 *poses as provided for in this Act.”;*

8 (5) *in section 152 (42 U.S.C. 6232)—*

9 (A) *by striking paragraphs (1), (3) and (7),*
10 *and*

11 (B) *in paragraph (11) by striking “; such*
12 *term includes the Industrial Petroleum Reserve,*
13 *the Early Storage Reserve, and the Regional Pe-*
14 *troleum Reserve”.*

15 (6) *by striking section 153 (42 U.S.C. 6233) and*
16 *its heading;*

17 (7) *in section 154 (42 U.S.C. 6234)—*

18 (A) *by amending subsection (a) to read as*
19 *follows:*

20 “(a) *A Strategic Petroleum Reserve for the storage of*
21 *up to 1 billion barrels of petroleum products shall be created*
22 *pursuant to this part.”;*

23 (B) *by amending subsection (b) to read as*
24 *follows:*

1 “(b) *The Secretary, in accordance with this part, shall*
2 *exercise authority over the development, operation, and*
3 *maintenance of the Reserve.*”; and

4 (C) *by striking subsections (c), (d), and (e);*
5 (8) *by striking section 155 (42 U.S.C. 6235) and*
6 *its heading;*

7 (9) *by striking section 156 (42 U.S.C. 6236) and*
8 *its heading;*

9 (10) *by striking section 157 (42 U.S.C. 6237)*
10 *and its heading;*

11 (11) *by striking section 158 (42 U.S.C. 6238)*
12 *and its heading;*

13 (12) *by amending the heading for section 159*
14 *(42 U.S.C. 6239) to read, “Development, Operation,*
15 *and Maintenance of the Reserve”;*

16 (13) *in section 159 (42 U.S.C. 6239)—*

17 (A) *by striking subsections (a), (b), (c), (d),*
18 *and (e);*

19 (B) *by amending subsection (f) to read as*
20 *follows:*

21 “(f) *In order to develop, operate, or maintain the Stra-*
22 *tegic Petroleum Reserve, the Secretary may—*

23 “(1) *issue rules, regulations, or orders;*

1 “(2) acquire by purchase, condemnation, or oth-
2 erwise, land or interests in land for the location of
3 storage and related facilities;

4 “(3) construct, purchase, lease, or otherwise ac-
5 quire storage and related facilities;

6 “(4) use, lease, maintain, sell or otherwise dis-
7 pose of land or interests in land, or of storage and re-
8 lated facilities acquired under this part, under such
9 terms and conditions as the Secretary considers nec-
10 essary or appropriate;

11 “(5) acquire, subject to the provisions of section
12 160, by purchase, exchange, or otherwise, petroleum
13 products for storage in the Strategic Petroleum Re-
14 serve;

15 “(6) store petroleum products in storage facilities
16 owned and controlled by the United States or in stor-
17 age facilities owned by others if those facilities are
18 subject to audit by the United States;

19 “(7) execute any contracts necessary to develop,
20 operate, or maintain the Strategic Petroleum Reserve;

21 “(8) bring an action, when the Secretary con-
22 siders it necessary, in any court having jurisdiction
23 over the proceedings, to acquire by condemnation any
24 real or personal property, including facilities, tem-
25 porary use of facilities, or other interests in land, to-

1 *gether with any personal property located on or used*
2 *with the land.”; and*

3 *(C) in subsection (g)—*

4 *(i) by striking “implementation” and*
5 *inserting “development”; and*

6 *(ii) by striking “Plan”;*

7 *(D) by striking subsections (h) and (i);*

8 *(E) by amending subsection (j) to read as*
9 *follows:*

10 *“(j) If the Secretary determines expansion beyond*
11 *700,000,000 barrels of petroleum product inventory is ap-*
12 *propriate, the Secretary shall submit a plan for expansion*
13 *to the Congress.”; and*

14 *(F) by amending subsection (l) to read as*
15 *follows:*

16 *“(l) During a drawdown and sale of Strategic Petro-*
17 *leum Reserve petroleum products, the Secretary may issue*
18 *implementing rules, regulations, or orders in accordance*
19 *with section 553 of title 5, United States Code, without re-*
20 *gard to rulemaking requirements in section 523 of this Act,*
21 *and section 501 of the Department of Energy Organization*
22 *Act (42 U.S.C. 7191).”;*

23 *(14) in section 160 (42 U.S.C. 6240)—*

24 *(A) in subsection (a), by striking all before*
25 *the dash and inserting the following—*

1 “(a) *The Secretary may acquire, place in storage,*
2 *transport, or exchange*”;

3 *(B) in subsection (a)(1) by striking all after*
4 *“Federal lands”;*

5 *(C) in subsection (b), by striking “, includ-*
6 *ing the Early Storage Reserve and the Regional*
7 *Petroleum Reserve” and by striking paragraph*
8 *(2); and*

9 *(D) by striking subsections (c), (d), (e), and*
10 *(g);*

11 *(15) in section 161 (42 U.S.C. 6241)—*

12 *(A) by striking “Distribution of the Re-*
13 *serve” in the title of this section and inserting*
14 *“Sale of Petroleum Products”;*

15 *(B) in subsection (a), by striking “draw-*
16 *down and distribute” and inserting “drawdown*
17 *and sell petroleum products in”;*

18 *(C) by striking subsections (b), (c), and (f);*

19 *(D) by amending subsection (d)(1) to read*
20 *as follows:*

21 “(d)(1) *Drawdown and sale of petroleum products*
22 *from the Strategic Petroleum Reserve may not be made un-*
23 *less the President has found drawdown and sale are re-*
24 *quired by a severe energy supply interruption or by obliga-*

1 *tions of the United States under the international energy*
2 *program.”;*

3 *(E) by amending subsection (e) to read as*
4 *follows:*

5 *“(e)(1) The Secretary shall sell petroleum products*
6 *withdrawn from the Strategic Petroleum Reserve at public*
7 *sale to the highest qualified bidder in the amounts, for the*
8 *period, and after a notice of sale considered appropriate*
9 *by the Secretary, and without regard to Federal, State, or*
10 *local regulations controlling sales of petroleum products.*

11 *“(2) The Secretary may cancel in whole or in part*
12 *any offer to sell petroleum products as part of any draw-*
13 *down and sale under this section.”; and*

14 *(F) in subsection (g)—*

15 *(i) by amending paragraph (1) to read*
16 *as follows:*

17 *“(g)(1) The Secretary shall conduct a continuing eval-*
18 *uation of the drawdown and sales procedures. In the con-*
19 *duct of an evaluation, the Secretary is authorized to carry*
20 *out a test drawdown and sale or exchange of petroleum*
21 *products from the Reserve. Such a test drawdown and sale*
22 *or exchange may not exceed 5,000,000 barrels of petroleum*
23 *products.”;*

24 *(ii) by striking paragraph (2);*

1 (iii) in paragraph (4), by striking
2 “90” and inserting “95”;

3 (iv) in paragraph (5), by striking
4 “drawdown and distribution” and inserting
5 “test”;

6 (v) by amending paragraph (6) to read
7 as follows:

8 “(6) In the case of a sale of any petroleum prod-
9 ucts under this subsection, the Secretary shall, to the
10 extent funds are available in the SPR Petroleum Ac-
11 count as a result of such sale, acquire petroleum prod-
12 ucts for the Reserve within the 12-month period be-
13 ginning after completion of the sale.”; and

14 (vi) in paragraph (8), by striking
15 “drawdown and distribution” and inserting
16 “test”;

17 (G) in subsection (h)—

18 (i) in paragraph (1) by striking “dis-
19 tribute” and inserting “sell petroleum prod-
20 ucts from”;

21 (ii) by deleting “and” at the end of
22 paragraph (1)(A) and by deleting “short-
23 age,” at the end of paragraph (1)(B) and
24 inserting “shortage; and

1 “(3) an identification of any life-limiting condi-
2 tions or operational problems at any Reserve facility,
3 and proposed remedial actions including an estimate
4 of the schedule and cost of implementing those reme-
5 dial actions;

6 “(4) a description of current withdrawal and
7 distribution rates and capabilities, and an identifica-
8 tion of any operational or other limitations on those
9 rates and capabilities;

10 “(5) a listing of petroleum product acquisitions
11 made in the preceding year and planned in the fol-
12 lowing year, including quantity, price, and type of
13 petroleum;

14 “(6) a summary of the actions taken to develop,
15 operate, and maintain the Reserve;

16 “(7) a summary of the financial status and fi-
17 nancial transactions of the Strategic Petroleum Re-
18 serve and Strategic Petroleum Reserve Petroleum Ac-
19 counts for the year;

20 “(8) a summary of expenses for the year, and the
21 number of Federal and contractor employees;

22 “(9) the status of contracts for development, op-
23 eration, maintenance, distribution, and other activi-
24 ties related to the implementation of this part;

1 “(10) a summary of foreign oil storage agree-
2 ments and their implementation status;

3 “(11) any recommendations for supplemental
4 legislation or policy or operational changes the Sec-
5 retary considers necessary or appropriate to imple-
6 ment this part.”;

7 (18) in section 166 (42 U.S.C. 6246) by striking
8 “for fiscal year 1997.”;

9 (19) in section 167 (42 U.S.C. 6247)—

10 (A) in subsection (b)—

11 (i) by striking “and the drawdown”
12 and inserting “for test sales of petroleum
13 products from the Reserve, and for the
14 drawdown, sale,”;

15 (ii) by striking paragraph (1); and

16 (iii) in paragraph (2), by striking
17 “after fiscal year 1982”; and

18 (B) by striking subsection (e);

19 (20) in section 171 (42 U.S.C. 6249)—

20 (A) by amending subsection (b)(2)(B) to
21 read as follows:

22 “(B) the Secretary notifies each House of
23 the Congress of the determination and identifies
24 in the notification the location, type, and owner-
25 ship of storage and related facilities proposed to

1 *be included, or the volume, type, and ownership*
2 *of petroleum products proposed to be stored, in*
3 *the Reserve, and an estimate of the proposed ben-*
4 *efits.”;*

5 *(B) in subsection (b)(3), by striking “dis-*
6 *tribution of” and inserting “sale of petroleum*
7 *products from”;*

8 *(21) in section 172 (42 U.S.C. 6249a), by strik-*
9 *ing subsections (a) and (b);*

10 *(22) by striking section 173 (42 U.S.C. 6249b)*
11 *and its heading; and*

12 *(23) in section 181 (42 U.S.C. 6251), by striking*
13 *“March 31, 2000” each time it appears and inserting*
14 *“September 30, 2003”.*

15 **SEC. 104. AMENDMENT TO TITLE II OF THE ENERGY POLICY**

16 **AND CONSERVATION ACT**

17 *Title II of the Energy Policy and Conservation Act*
18 *(42 U.S.C. 6211–6251) is amended—*

19 *(1) by striking part A (42 U.S.C. 6261 through*
20 *6264) and its heading;*

21 *(2) by adding at the end of section 256(h),*
22 *“There are authorized to be appropriated for fiscal*
23 *years 2000 through 2003, such sums as may be nec-*
24 *essary.”.*

1 (3) *by striking part C (42 U.S.C. 6281 through*
2 *6282) and its heading; and*

3 (4) *in section 281 (42 U.S.C. 6285), by striking*
4 *“March 31, 2000” each time it appears and inserting*
5 *“September 30, 2003”.*

6 **SEC. 105. CLERICAL AMENDMENTS.**

7 *The Table of contents for the Energy Policy and Con-*
8 *servation Act is amended—*

9 (1) *by striking the items relating to sections 102,*
10 *106, 153, 155, 156, 157, 158, and 164;*

11 (2) *by amending the item relating to section 159*
12 *to read as follows: “Development, Operation, and*
13 *Maintenance of the Reserve.”;*

14 (3) *by amending the item relating to section 161*
15 *to read as follows: “Drawdown and Sale of Petroleum*
16 *Products”;* and

17 (4) *by amending the item relating to section 165*
18 *to read as follows: “Annual Report”.*

19 **TITLE II—HEATING OIL RESERVE**

20 **SEC. 201. NORTHEAST HOME HEATING OIL RESERVE.**

21 (a) *Title I of the Energy Policy and Conservation Act*
22 *is amended by—*

23 (1) *redesignating part D as part E;*

24 (2) *redesignating section 181 as section 191; and*

1 “(1) purchase, contract for, lease, or otherwise
2 acquire, in whole or in part, storage and related fa-
3 cilities, and storage services;

4 “(2) use, lease, maintain, sell, or otherwise dis-
5 pose of storage and related facilities acquired under
6 this part;

7 “(3) acquire by purchase, exchange (including
8 exchange of petroleum products from the Strategic Pe-
9 troleum Reserve or received as royalty from Federal
10 lands), lease, or otherwise, petroleum distillate for
11 storage in the Northeast Home Heating Oil Reserve;

12 “(4) store petroleum distillate in facilities not
13 owned by the United States; and

14 “(5) sell, exchange, or otherwise dispose of petro-
15 leum distillate from the Reserve established under this
16 part, including to maintain the quality or quantity
17 of the petroleum distillate in the Reserve or to main-
18 tain the operational capability of the Reserve.

19 “CONDITIONS FOR RELEASE; PLAN

20 “SEC. 183. (a) FINDING.—The Secretary may sell
21 products from the Reserve only upon a finding by the Presi-
22 dent that there is a severe energy supply interruption. Such
23 a finding may be made only if he determines that—

24 “(1) a dislocation in the heating oil market has
25 resulted from such interruption; or

1 “(2) a circumstance, other than that described in
2 paragraph (1), exists that constitutes a regional sup-
3 ply shortage of significant scope and duration and
4 that action taken under this section would assist di-
5 rectly and significantly in reducing the adverse im-
6 pact of such shortage.

7 “(b) *DEFINITION.*—For purposes of this section a ‘dis-
8 location in the heating oil market’ shall be deemed to occur
9 only when—

10 “(1) The price differential between crude oil, as
11 reflected in an industry daily publication such as
12 ‘Platt’s Oilgram Price Report’ or ‘Oil Daily’ and No.
13 2 heating oil, as reported in the Energy Information
14 Administration’s retail price data for the Northeast,
15 increases by more than 60 percent over its five year
16 rolling average for the months of mid-October through
17 March, and continues for 7 consecutive days; and

18 “(2) The price differential continues to increase
19 during the most recent week for which price informa-
20 tion is available.

21 “(c) *CONTINUING EVALUATION.*—The Secretary shall
22 conduct a continuing evaluation of the residential price
23 data supplied by the Energy Information Administration
24 for the Northeast and data on crude oil prices from pub-
25 lished sources.

1 “(d) *RELEASE OF PETROLEUM DISTILLATE.*—After
2 *consultation with the heating oil industry, the Secretary*
3 *shall determine procedures governing the release of petro-*
4 *leum distillate from the Reserve. The procedures shall pro-*
5 *vide that—*

6 “(1) *the Secretary may—*

7 “(A) *sell petroleum distillate from the Re-*
8 *serve through a competitive process, or*

9 “(B) *enter into exchange agreements for the*
10 *petroleum distillate that results in the Secretary*
11 *receiving a greater volume of petroleum distillate*
12 *as repayment than the volume provided to the*
13 *acquirer;*

14 “(2) *in all such sales or exchanges, the Secretary*
15 *shall receive revenue or its equivalent in petroleum*
16 *distillate that provides the Department with fair*
17 *market value. At no time may the oil be sold or ex-*
18 *changed resulting in a loss of revenue or value to the*
19 *United States; and*

20 “(3) *the Secretary shall only sell or dispose of the*
21 *oil in the Reserve to entities customarily engaged in*
22 *the sale and distribution of petroleum distillate.*

23 “(e) *PLAN.*—*Within 45 days of the date of the enact-*
24 *ment of this section, the Secretary shall transmit to the*

1 *President and, if the President approves, to the Congress*
2 *a plan describing—*

3 “(1) *the acquisition of storage and related facili-*
4 *ties or storage services for the Reserve, including the*
5 *potential use of storage facilities not currently in use;*

6 “(2) *the acquisition of petroleum distillate for*
7 *storage in the Reserve;*

8 “(3) *the anticipated methods of disposition of pe-*
9 *troleum distillate from the Reserve;*

10 “(4) *the estimated costs of establishment, mainte-*
11 *nance, and operation of the Reserve;*

12 “(5) *efforts the Department will take to mini-*
13 *mize any potential need for future drawdowns and*
14 *ensure that distributors and importers are not dis-*
15 *couraged from maintaining and increasing supplies*
16 *to the Northeast; and*

17 “(6) *actions to ensure quality of the petroleum*
18 *distillate in the Reserve.*

19 “*NORTHEAST HOME HEATING OIL RESERVE ACCOUNT*

20 “*SEC. 184. (a) Upon a decision of the Secretary of En-*
21 *ergy to establish a Reserve under this part, the Secretary*
22 *of the Treasury shall establish in the Treasury of the United*
23 *States an account known as the ‘Northeast Home Heating*
24 *Oil Reserve Account’ (referred to in this section as the ‘Ac-*
25 *count’).*

1 *local government agencies, consumer cooperatives, and*
 2 *other organizations that purchase heating oil in bulk*
 3 *to market to end use consumers in the Northeast (as*
 4 *defined in section 201); and*

5 *(2) how to most effectively inform organizations*
 6 *identified in paragraph (1) about the benefits and*
 7 *risks of using energy futures and options contracts.*

8 *(b) REPORT.—The Secretary shall transmit the study*
 9 *required in this section to the Committee on Commerce of*
 10 *the House of Representatives and the Committee on Energy*
 11 *and Natural Resources of the Senate not later than 180*
 12 *days after the enactment of this section. The report shall*
 13 *contain a review of prior studies conducted on the subjects*
 14 *described in subsection (a).*

15 ***TITLE III—MARGINAL WELL***
 16 ***PURCHASES***

17 ***SEC. 301. PURCHASE OF OIL FROM MARGINAL WELLS.***

18 *(a) PURCHASE OF OIL FROM MARGINAL WELLS.—*
 19 *Part B of title I of the Energy Policy and Conservation*
 20 *Act (42 U.S.C. 6232 et seq.) is amended by adding the fol-*
 21 *lowing new section after section 168:*

22 ***“PURCHASE OF OIL FROM MARGINAL WELLS***

23 ***“SEC. 169. (a) IN GENERAL.—From amounts author-***
 24 *ized under section 166, in any case in which the price of*
 25 *oil decreases to an amount less than \$15.00 per barrel (an*
 26 *amount equal to the annual average well head price per*

1 barrel for all domestic crude oil), adjusted for inflation, the
 2 Secretary may purchase oil from a marginal well at \$15.00
 3 per barrel, adjusted for inflation.

4 “(b) *DEFINITION OF MARGINAL WELL.*—The term
 5 ‘marginal well’ has the same meaning as the definition of
 6 ‘stripper well property’ in section 613A(c)(6)(E) of the In-
 7 ternal Revenue Code (26 U.S.C. 613A(c)(6)(E)).”.

8 (b) *CONFORMING AMENDMENT.*—The table of contents
 9 for the Energy Policy and Conservation Act is amended by
 10 inserting after the item relating to section 168 the following:

“Sec. 169. Purchase of oil from marginal wells.”.

11 **TITLE IV—FEDERAL ENERGY**
 12 **MANAGEMENT**

13 **SEC. 401. FEMP.**

14 Section 801 of the National Energy Conservation Pol-
 15 icy Act (42 U.S.C. 8287(a)(2)(D)(iii) is amended by strik-
 16 ing “\$750,000” and inserting “\$10,000,000”.

17 **TITLE V—ALASKA STATE JURIS-**
 18 **DICTION OVER SMALL HY-**
 19 **DROELECTRIC PROJECTS**

20 **SEC. 501. ALASKA STATE JURISDICTION OVER SMALL HY-**
 21 **DROELECTRIC PROJECTS.**

22 Part I of the Federal Power Act (16 U.S.C. 792 et seq.)
 23 is amended by adding at the end the following:

1 **“SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HY-**
2 **DROELECTRIC PROJECTS.**

3 “(a) *DISCONTINUANCE OF REGULATION BY THE COM-*
4 *MISSION.—Notwithstanding sections 4(e) and 23(b), the*
5 *Commission shall discontinue exercising licensing and reg-*
6 *ulatory authority under this part over qualifying project*
7 *works in the State of Alaska, effective on the date on which*
8 *the Commission certifies that the State of Alaska has in*
9 *place a regulatory program for water-power development*
10 *that—*

11 “(1) *protects the public interest, the purposes*
12 *listed in paragraph (2), and the environment to the*
13 *same extent provided by licensing and regulation by*
14 *the Commission under this part and other applicable*
15 *Federal laws, including the Endangered Species Act*
16 *(16 U.S.C. 1531 et seq.) and the Fish and Wildlife*
17 *Coordination Act (16 U.S.C. 661 et seq.);*

18 “(2) *gives equal consideration to the purposes*
19 *of—*

20 “(A) *energy conservation;*

21 “(B) *the protection, mitigation of damage*
22 *to, and enhancement of, fish and wildlife (in-*
23 *cluding related spawning grounds and habitat);*

24 “(C) *the protection of recreational opportu-*
25 *nities;*

1 “(D) the preservation of other aspects of en-
2 vironmental quality;

3 “(E) the interests of Alaska Natives; and

4 “(F) other beneficial public uses, including
5 irrigation, flood control, water supply, and navi-
6 gation; and

7 “(3) requires, as a condition of a license for any
8 project works—

9 “(A) the construction, maintenance, and op-
10 eration by a licensee at its own expense of such
11 lights and signals as may be directed by the Sec-
12 retary of the Department in which the Coast
13 Guard is operating, and such fishways as may
14 be prescribed by the Secretary of the Interior or
15 the Secretary of Commerce, as appropriate;

16 “(B) the operation of any navigation facili-
17 ties which may be constructed as part of any
18 project to be controlled at all times by such rea-
19 sonable rules and regulations as may be made by
20 the Secretary of the Army; and

21 “(C) conditions for the protection, mitiga-
22 tion, and enhancement of fish and wildlife based
23 on recommendations received pursuant to the
24 Fish and Wildlife Coordination Act (16 U.S.C.
25 661 et seq.) from the National Marine Fisheries

1 *Service, the United States Fish and Wildlife*
2 *Service, and State fish and wildlife agencies.*

3 “(b) *DEFINITION OF ‘QUALIFYING PROJECT*
4 *WORKS’.*—*For purposes of this section, the term ‘qualifying*
5 *project works’ means project works—*

6 “(1) *that are not part of a project licensed under*
7 *this part or exempted from licensing under this part*
8 *or section 405 of the Public Utility Regulatory Poli-*
9 *cies Act of 1978 prior to the date of enactment of this*
10 *section;*

11 “(2) *for which a preliminary permit, a license*
12 *application, or an application for an exemption from*
13 *licensing has not been accepted for filing by the Com-*
14 *mission prior to the date of enactment of subsection*
15 *(c) (unless such application is withdrawn at the elec-*
16 *tion of the applicant);*

17 “(3) *that are part of a project that has a power*
18 *production capacity of 5,000 kilowatts or less;*

19 “(4) *that are located entirely within the bound-*
20 *aries of the State of Alaska; and*

21 “(5) *that are not located in whole or in part on*
22 *any Indian reservation, a conservation system unit*
23 *(as defined in section 102(4) of the Alaska National*
24 *Interest Lands Conservation Act (16 U.S.C.*

1 3102(4))), or segment of a river designated for study
2 for addition to the Wild and Scenic Rivers System.

3 “(c) *ELECTION OF STATE LICENSING.*—In the case of
4 nonqualifying project works that would be a qualifying
5 project works but for the fact that the project has been li-
6 censed (or exempted from licensing) by the Commission
7 prior to the enactment of this section, the licensee of such
8 project may in its discretion elect to make the project subject
9 to licensing and regulation by the State of Alaska under
10 this section.

11 “(d) *PROJECT WORKS ON FEDERAL LANDS.*—With re-
12 spect to projects located in whole or in part on a reserva-
13 tion, a conservation system unit, or the public lands, a
14 State license or exemption from licensing shall be subject
15 to—

16 “(1) the approval of the Secretary having juris-
17 diction over such lands; and

18 “(2) such conditions as the Secretary may pre-
19 scribe.

20 “(e) *CONSULTATION WITH AFFECTED AGENCIES.*—
21 The Commission shall consult with the Secretary of the In-
22 terior, the Secretary of Agriculture, and the Secretary of
23 Commerce before certifying the State of Alaska’s regulatory
24 program.

1 “(f) *APPLICATION OF FEDERAL LAWS.*—*Nothing in*
2 *this section shall preempt the application of Federal envi-*
3 *ronmental, natural resources, or cultural resources protec-*
4 *tion laws according to their terms.*

5 “(g) *OVERSIGHT BY THE COMMISSION.*—*The State of*
6 *Alaska shall notify the Commission not later than 30 days*
7 *after making any significant modification to its regulatory*
8 *program. The Commission shall periodically review the*
9 *State’s program to ensure compliance with the provisions*
10 *of this section.*

11 “(h) *RESUMPTION OF COMMISSION AUTHORITY.*—*Not-*
12 *withstanding subsection (a), the Commission shall reassert*
13 *its licensing and regulatory authority under this part if*
14 *the Commission finds that the State of Alaska has not com-*
15 *plied with one or more of the requirements of this section.*

16 “(i) *DETERMINATION BY THE COMMISSION.*—(1) *Upon*
17 *application by the Governor of the State of Alaska, the Com-*
18 *mission shall within 30 days commence a review of the*
19 *State of Alaska’s regulatory program for water-power devel-*
20 *opment to determine whether it complies with the require-*
21 *ments of subsection (a).*

22 “(2) *The Commission’s review required by paragraph*
23 *(1) shall be completed within one year of initiation, and*
24 *the Commission shall within 30 days thereafter issue a final*
25 *order determining whether or not the State of Alaska’s regu-*

1 latory program for water-power development complies with
2 the requirements of subsection (a).

3 “(3) If the Commission fails to issue a final order in
4 accordance with paragraph (2) the State of Alaska’s regu-
5 latory program for water-power development shall be
6 deemed to be in compliance with subsection (a).”.

7 **TITLE VI—WEATHERIZATION,**
8 **SUMMER FILL, HYDRO-**
9 **ELECTRIC LICENSING PROCE-**
10 **DURES, AND INVENTORY OF**
11 **OIL AND GAS RESERVES**

12 **SEC. 601. CHANGES IN WEATHERIZATION PROGRAM TO**
13 **PROTECT LOW-INCOME PERSONS.**

14 (a) The matter under the heading “ENERGY CON-
15 SERVATION (INCLUDING TRANSFER OF FUNDS)” in title II
16 of the Department of the Interior and Related Agencies Ap-
17 propriations Act, 2000 (113 Stat. 1535, 1501A–180), is
18 amended by striking “grants:” and all that follows and in-
19 serting “grants.”.

20 (b) Section 415 of the Energy Conservation and Pro-
21 duction Act (42 U.S.C. 6865) is amended—

22 (1) in subsection (a)(1) by striking the first sen-
23 tence;

24 (2) in subsection (a)(2) by—

25 (A) striking “(A)”;

1 (B) striking “approve a State’s application
2 to waive the 40 percent requirement established
3 in paragraph (1) if the State includes in its
4 plan” and inserting “establish”; and

5 (C) striking subparagraph (B);

6 (3) in subsection (c)(1) by—

7 (A) striking “paragraphs (3) and (4)” and
8 inserting “paragraph (3)”,

9 (B) striking “\$1,600” and inserting
10 “\$2,500”,

11 (C) striking “and” at the end of subpara-
12 graph (C),

13 (D) striking the period and inserting “,
14 and” in subparagraph (D), and

15 (E) inserting after subparagraph (D) the
16 following new subparagraph:

17 “(E) the cost of making heating and cooling
18 modifications, including replacement”;

19 (4) in subsection (c)(3) by—

20 (A) striking “1991, the \$1,600 per dwelling
21 unit limitation” and inserting “2000, the \$2,500
22 per dwelling unit average”,

23 (B) striking “limitation” and inserting
24 “average” each time it appears, and

1 (C) inserting “the” after “beginning of” in
2 subparagraph (B); and
3 (5) by striking subsection (c)(4).

4 **SEC. 602. SUMMER FILL AND FUEL BUDGETING PROGRAMS.**

5 (a) Part C of title II of the Energy Policy and Con-
6 servation Act (42 U.S.C. 6211 et seq.) is amended by adding
7 at the end the following:

8 **“SEC. 273. SUMMER FILL AND FUEL BUDGETING PRO-**
9 **GRAMS.**

10 “(a) **DEFINITIONS.**—In this section:

11 “(1) **BUDGET CONTRACT.**—The term ‘budget con-
12 tract’ means a contract between a retailer and a con-
13 sumer under which the heating expenses of the con-
14 sumer are spread evenly over a period of months.

15 “(2) **FIXED-PRICE CONTRACT.**—The term ‘fixed-
16 price contract’ means a contract between a retailer
17 and a consumer under which the retailer charges the
18 consumer a set price for propane, kerosene, or heating
19 oil without regard to market price fluctuations.

20 “(3) **PRICE CAP CONTRACT.**—The term ‘price cap
21 contract’ means a contract between a retailer and a
22 consumer under which the retailer charges the con-
23 sumer the market price for propane, kerosene, or heat-
24 ing oil, but the cost of the propane, kerosene, or heat-

1 *ing oil may exceed a maximum amount stated in the*
2 *contract.*

3 “(b) *ASSISTANCE.—At the request of the chief executive*
4 *officer of a State, the Secretary shall provide information,*
5 *technical assistance, and funding—*

6 “(1) *to develop education and outreach programs*
7 *to encourage consumers to fill their storage facilities*
8 *for propane, kerosene, and heating oil during the*
9 *summer months; and*

10 “(2) *to promote the use of budget contracts, price*
11 *cap contracts, fixed-price contracts, and other advan-*
12 *tageous financial arrangements;*
13 *to avoid severe seasonal price increases for and supply*
14 *shortages of those products.*

15 “(c) *PREFERENCE.—In implementing this section, the*
16 *Secretary shall give preference to States that contribute*
17 *public funds or leverage private funds to develop State sum-*
18 *mer fill and fuel budgeting programs.*

19 “(d) *AUTHORIZATION OF APPROPRIATIONS.—There*
20 *are authorized to be appropriated to carry out this*
21 *section—*

22 “(1) *\$25,000,000 for fiscal year 2001; and*

23 “(2) *such sums as are necessary for each fiscal*
24 *year thereafter.*

1 “(e) *INAPPLICABILITY OF EXPIRATION PROVISION.*—
2 *Section 281 does not apply to this section.*”.

3 (b) *The table of contents in the first section of the En-*
4 *ergy Policy and Conservation Act (42 U.S.C. prec. 6201)*
5 *is amended by inserting after the item relating to section*
6 *272 the following:*

 “*Sec. 273. Summer fill and fuel budgeting programs.*”.

7 **SEC. 603. EXPEDITED FERC HYDROELECTRIC LICENSING**
8 **PROCEDURES.**

9 *The Federal Energy Regulatory Commission shall, in*
10 *consultation with other appropriate agencies, immediately*
11 *undertake a comprehensive review of policies, procedures*
12 *and regulations for the licensing of hydroelectric projects*
13 *to determine how to reduce the cost and time of obtaining*
14 *a license. The Commission shall report its findings within*
15 *six months of the date of enactment of this section to the*
16 *Congress, including any recommendations for legislative*
17 *changes.*

18 **SEC. 604. SCIENTIFIC INVENTORY OF OIL AND GAS RE-**
19 **SERVES.**

20 (a) *IN GENERAL.*—*The Secretary of the Interior, in*
21 *consultation with the Secretaries of Agriculture and En-*
22 *ergy, shall conduct an inventory of all onshore Federal*
23 *lands. The inventory shall identify—*

1 (1) *the United States Geological Survey reserve*
2 *estimates of the oil and gas resources underlying these*
3 *lands; and*

4 (2) *the extent and nature of any restrictions or*
5 *impediments to the development of such resources.*

6 (b) *REGULAR UPDATE.*—*Once completed, the USGS*
7 *reserve estimates and the surface availability data as pro-*
8 *vided in subsection (a)(2) shall be regularly updated and*
9 *made publically available.*

10 (c) *INVENTORY.*—*The inventory shall be provided to*
11 *the Committee on Resources of the House of Representatives*
12 *and to the Committee on Energy and Natural Resources*
13 *of the Senate within two years after the date of enactment*
14 *of this section.*

15 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
16 *authorized to be appropriated such sums as may be nec-*
17 *essary to implement this section.*

18 **SEC. 605. ANNUAL HOME HEATING READINESS REPORTS.**

19 (a) *IN GENERAL.*—*Part A of title I of the Energy Pol-*
20 *icy and Conservation Act (42 U.S.C. 6211 et seq.) is amend-*
21 *ed by adding at the end the following:*

22 **“SEC. 108. ANNUAL HOME HEATING READINESS REPORTS.**

23 “(a) *IN GENERAL.*—*On or before September 1 of each*
24 *year, the Secretary, acting through the Administrator of the*
25 *Energy Information Agency, shall submit to Congress a*

1 *Home Heating Readiness Report on the readiness of the*
2 *natural gas, heating oil and propane industries to supply*
3 *fuel under various weather conditions, including rapid de-*
4 *creases in temperature.*

5 “(b) CONTENTS.—*The Home Heating Readiness Re-*
6 *port shall include—*

7 “(1) *estimates of the consumption, expenditures,*
8 *and average price per gallon of heating oil and pro-*
9 *pane and thousand cubic feet of natural gas for the*
10 *upcoming period of October through March for var-*
11 *ious weather conditions, with special attention to ex-*
12 *treme weather, and various regions of the country;*

13 “(2) *an evaluation of—*

14 “(A) *global and regional crude oil and re-*
15 *fined product supplies;*

16 “(B) *the adequacy and utilization of refin-*
17 *ery capacity;*

18 “(C) *the adequacy, utilization, and dis-*
19 *tribution of regional refined product storage ca-*
20 *capacity;*

21 “(D) *weather conditions;*

22 “(E) *the refined product transportation sys-*
23 *tem;*

24 “(F) *market inefficiencies; and*

1 “(G) any other factor affecting the func-
2 tional capability of the heating oil industry and
3 propane industry that has the potential to affect
4 national or regional supplies and prices;

5 “(3) recommendations on steps that the Federal,
6 State, and local governments can take to prevent or
7 alleviate the impact of sharp and sustained increases
8 in the price of natural gas, heating oil and propane;
9 and

10 “(4) recommendations on steps that companies
11 engaged in the production, refining, storage, transpor-
12 tation of heating oil or propane, or any other activity
13 related to the heating oil industry or propane indus-
14 try, can take to prevent or alleviate the impact of
15 sharp and sustained increases in the price of heating
16 oil and propane.

17 “(c) *INFORMATION REQUESTS.*—The Secretary may
18 request information necessary to prepare the Home Heating
19 Readiness Report from companies described in subsection
20 (b)(4).”.

21 (b) *CONFORMING AND TECHNICAL AMENDMENTS.*—
22 The Energy Policy and Conservation Act is amended—

23 (1) in the table of contents in the first section
24 (42 U.S.C. prec. 6201), by inserting after the item re-
25 lating to section 106 the following:

“Sec. 107. Major fuel burning stationary source.

“Sec. 108. Annual home heating readiness reports.”;

1 *and*

2 *(2) in section 107 (42 U.S.C. 6215), by striking*

3 *“SEC. 107. (a) No Governor” and inserting the fol-*
4 *lowing:*

5 ***“SEC. 107. MAJOR FUEL BURNING STATIONARY SOURCE.***

6 *“(a) No Governor”.*

7 ***TITLE VII—NATIONAL OIL HEAT***
8 ***RESEARCH ALLIANCE ACT OF***
9 ***2000***

10 ***SEC. 701. SHORT TITLE.***

11 *This title may be cited as the “National Oilheat Re-*
12 *search Alliance Act of 2000”.*

13 ***SEC. 702. FINDINGS.***

14 *Congress finds that—*

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

19 *(2) oilheat equipment operates at efficiencies*
20 *among the highest of any space heating energy source,*
21 *reducing fuel costs and making oilheat an economical*
22 *means of space heating;*

23 *(3) the production, distribution, and marketing*
24 *of oilheat and oilheat equipment plays a significant*

1 *role in the economy of the United States, accounting*
2 *for approximately \$12,900,000,000 in expenditures*
3 *annually and employing millions of Americans in all*
4 *aspects of the oilheat industry;*

5 *(4) only very limited Federal resources have been*
6 *made available for oilheat research, development, safe-*
7 *ty, training, and education efforts, to the detriment of*
8 *both the oilheat industry and its 30,000,000 con-*
9 *sumers; and*

10 *(5) the cooperative development, self-financing,*
11 *and implementation of a coordinated national oilheat*
12 *industry program of research and development, train-*
13 *ing, and consumer education is necessary and impor-*
14 *tant for the welfare of the oilheat industry, the gen-*
15 *eral economy of the United States, and the millions*
16 *of Americans that rely on oilheat for commercial and*
17 *residential space and hot water heating.*

18 **SEC. 703. DEFINITIONS.**

19 *In this title:*

20 *(1) ALLIANCE.—The term “Alliance” means a*
21 *national oilheat research alliance established under*
22 *section 704.*

23 *(2) CONSUMER EDUCATION.—The term “con-*
24 *sumer education” means the provision of information*
25 *to assist consumers and other persons in making eval-*

1 *uations and decisions regarding oilheat and other*
2 *nonindustrial commercial or residential space or hot*
3 *water heating fuels.*

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

6 (A) *entitles each party or its customers to*
7 *receive oilheat from the other party; and*

8 (B) *requires only an insubstantial portion*
9 *of the volumes involved in the exchange to be set-*
10 *tled in cash or property other than the oilheat.*

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

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

21 (6) *NO. 2 DYED DISTILLATE.*—*The term “No. 2*
22 *dyed distillate” means fuel oil classified as No. 2 dis-*
23 *tillate by the American Society for Testing and Mate-*
24 *rials that is indelibly dyed in accordance with regula-*
25 *tions prescribed by the Secretary of the Treasury*

1 *under section 4082(a)(2) of the Internal Revenue Code*
2 *of 1986.*

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

4 (A) *No. 1 distillate; and*

5 (B) *No. 2 dyed distillate;*

6 *that is used as a fuel for nonindustrial commercial or*
7 *residential space or hot water heating.*

8 (8) *OILHEAT INDUSTRY.*—

9 (A) *IN GENERAL.*—*The term “oilheat indus-*
10 *try” means—*

11 (i) *persons in the production, transpor-*
12 *tation, or sale of oilheat; and*

13 (ii) *persons engaged in the manufac-*
14 *ture or distribution of oilheat utilization*
15 *equipment.*

16 (B) *EXCLUSION.*—*The term “oilheat indus-*
17 *try” does not include ultimate consumers of*
18 *oilheat.*

19 (9) *PUBLIC MEMBER.*—*The term “public mem-*
20 *ber” means a member of the Alliance described in sec-*
21 *tion 705(c)(1)(F).*

22 (10) *QUALIFIED INDUSTRY ORGANIZATION.*—*The*
23 *term “qualified industry organization” means the*
24 *National Association for Oilheat Research and Edu-*
25 *cation or a successor organization.*

1 (11) *QUALIFIED STATE ASSOCIATION.*—*The term*
2 *“qualified State association” means the industry*
3 *trade association or other organization that the quali-*
4 *fied industry organization or the Alliance determines*
5 *best represents retail marketers in a State.*

6 (12) *RETAIL MARKETER.*—*The term “retail mar-*
7 *keter” means a person engaged primarily in the sale*
8 *of oilheat to ultimate consumers.*

9 (13) *SECRETARY.*—*The term “Secretary” means*
10 *the Secretary of Energy.*

11 (14) *WHOLESALE DISTRIBUTOR.*—*The term*
12 *“wholesale distributor” means a person that—*

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

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

17 (iii) *transports No. 1 distillate or No. 2*
18 *dyed distillate across State boundaries or among*
19 *local marketing areas; and*

20 (B) *sells the distillate to another person that*
21 *does not produce, import, or transport No. 1 dis-*
22 *tillate or No. 2 dyed distillate across State*
23 *boundaries or among local marketing areas.*

24 (15) *STATE.*—*The term “State” means the sev-*
25 *eral States, except the State of Alaska.*

1 **SEC. 704. REFERENDA.**

2 (a) *CREATION OF PROGRAM.—*

3 (1) *IN GENERAL.—The oilheat industry, through*
4 *the qualified industry organization, may conduct, at*
5 *its own expense, a referendum among retail marketers*
6 *and wholesale distributors for the establishment of a*
7 *national oilheat research alliance.*

8 (2) *REIMBURSEMENT OF COST.—The Alliance, if*
9 *established, shall reimburse the qualified industry or-*
10 *ganization for the cost of accounting and documenta-*
11 *tion for the referendum.*

12 (3) *CONDUCT.—A referendum under paragraph*
13 *(1) shall be conducted by an independent auditing*
14 *firm.*

15 (4) *VOTING RIGHTS.—*

16 (A) *RETAIL MARKETERS.—Voting rights of*
17 *retail marketers in a referendum under para-*
18 *graph (1) shall be based on the volume of oilheat*
19 *sold in a State by each retail marketer in the*
20 *calendar year previous to the year in which the*
21 *referendum is conducted or in another represent-*
22 *ative period.*

23 (B) *WHOLESALE DISTRIBUTORS.—Voting*
24 *rights of wholesale distributors in a referendum*
25 *under paragraph (1) shall be based on the vol-*
26 *ume of No. 1 distillate and No. 2 dyed distillate*

1 *sold in a State by each wholesale distributor in*
2 *the calendar year previous to the year in which*
3 *the referendum is conducted or in another rep-*
4 *resentative period, weighted by the ratio of the*
5 *total volume of No. 1 distillate and No. 2 dyed*
6 *distillate sold for nonindustrial commercial and*
7 *residential space and hot water heating in the*
8 *State to the total volume of No. 1 distillate and*
9 *No. 2 dyed distillate sold in that State.*

10 (5) *ESTABLISHMENT BY APPROVAL OF TWO-*
11 *THIRDS.—*

12 (A) *IN GENERAL.—Subject to subparagraph*
13 *(B), on approval of persons representing two-*
14 *thirds of the total volume of oilheat voted in the*
15 *retail marketer class and two-thirds of the total*
16 *weighted volume of No. 1 distillate and No. 2*
17 *dyed distillate voted in the wholesale distributor*
18 *class, the Alliance shall be established and shall*
19 *be authorized to levy assessments under section*
20 *707.*

21 (B) *REQUIREMENT OF MAJORITY OF RETAIL*
22 *MARKETERS.—Except as provided in subsection*
23 *(b), the oilheat industry in a State shall not par-*
24 *ticipate in the Alliance if less than 50 percent of*

1 *the retail marketer vote in the State approves es-*
2 *tablishment of the Alliance.*

3 (6) *CERTIFICATION OF VOLUMES.*—*Each person*
4 *voting in the referendum shall certify to the inde-*
5 *pendent auditing firm the volume of oilheat, No. 1*
6 *distillate, or No. 2 dyed distillate represented by the*
7 *vote of the person.*

8 (7) *NOTIFICATION.*—*Not later than 90 days after*
9 *the date of enactment of this title, a qualified State*
10 *association may notify the qualified industry organi-*
11 *zation in writing that a referendum under paragraph*
12 *(1) will not be conducted in the State.*

13 (b) *SUBSEQUENT STATE PARTICIPATION.*—*The oilheat*
14 *industry in a State that has not participated initially in*
15 *the Alliance may subsequently elect to participate by con-*
16 *ducting a referendum under subsection (a).*

17 (c) *TERMINATION OR SUSPENSION.*—

18 (1) *IN GENERAL.*—*On the initiative of the Alli-*
19 *ance or on petition to the Alliance by retail marketers*
20 *and wholesale distributors representing 25 percent of*
21 *the volume of oilheat or weighted No. 1 distillate and*
22 *No. 2 dyed distillate in each class, the Alliance shall,*
23 *at its own expense, hold a referendum, to be conducted*
24 *by an independent auditing firm selected by the Alli-*

1 *ance, to determine whether the oilheat industry favors*
2 *termination or suspension of the Alliance.*

3 (2) *VOLUME PERCENTAGES REQUIRED TO TERMI-*
4 *NATE OR SUSPEND.—Termination or suspension shall*
5 *not take effect unless termination or suspension is ap-*
6 *proved by persons representing more than one-half of*
7 *the total volume of oilheat voted in the retail marketer*
8 *class or more than one-half of the total volume of*
9 *weighted No. 1 distillate and No. 2 dyed distillate*
10 *voted in the wholesale distributor class.*

11 (3) *TERMINATION BY A STATE.—A State may*
12 *elect to terminate participation by notifying the Alli-*
13 *ance that 50 percent of the oilheat volume in the*
14 *State has voted in a referendum to withdraw.*

15 (d) *CALCULATION OF OILHEAT SALES.—For the pur-*
16 *poses of this section and section 705, the volume of oilheat*
17 *sold annually in a State shall be determined on the basis*
18 *of information provided by the Energy Information Admin-*
19 *istration with respect to a calendar year or other represent-*
20 *ative period.*

21 **SEC. 705. MEMBERSHIP.**

22 (a) *SELECTION.—*

23 (1) *IN GENERAL.—Except as provided in sub-*
24 *section (c)(1)(C), the qualified industry organization*
25 *shall select members of the Alliance representing the*

1 *oilheat industry in a State from a list of nominees*
2 *submitted by the qualified State association in the*
3 *State.*

4 (2) *VACANCIES.—A vacancy in the Alliance shall*
5 *be filled in the same manner as the original selection.*

6 (b) *REPRESENTATION.—In selecting members of the*
7 *Alliance, the qualified industry organization shall make*
8 *best efforts to select members that are representative of the*
9 *oilheat industry, including representation of—*

10 (1) *interstate and intrastate operators among re-*
11 *tail marketers;*

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

14 (3) *large and small companies among wholesale*
15 *distributors and retail marketers; and*

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

17 (c) *NUMBER OF MEMBERS.—*

18 (1) *IN GENERAL.—The membership of the Alli-*
19 *ance shall be as follows:*

20 (A) *One member representing each State*
21 *with oilheat sales in excess of 32,000,000 gallons*
22 *per year.*

23 (B) *If fewer than 24 States are represented*
24 *under subparagraph (A), 1 member representing*
25 *each of the States with the highest volume of an-*

1 *nual oilheat sales, as necessary to cause the total*
2 *number of States represented under subpara-*
3 *graph (A) and this subparagraph to equal 24.*

4 *(C) 5 representatives of retail marketers, 1*
5 *each to be selected by the qualified State associa-*
6 *tions of the 5 States with the highest volume of*
7 *annual oilheat sales.*

8 *(D) 5 additional representatives of retail*
9 *marketers.*

10 *(E) 21 representatives of wholesale distribu-*
11 *tors.*

12 *(F) 6 public members, who shall be rep-*
13 *resentatives of significant users of oilheat, the*
14 *oilheat research community, State energy offi-*
15 *cial, or other groups knowledgeable about*
16 *oilheat.*

17 *(2) FULL-TIME OWNERS OR EMPLOYEES.—Other*
18 *than the public members, Alliance members shall be*
19 *full-time owners or employees of members of the*
20 *oilheat industry, except that members described in*
21 *subparagraphs (C), (D), and (E) of paragraph (1)*
22 *may be employees of the qualified industry organiza-*
23 *tion or an industry trade association.*

24 *(d) COMPENSATION.—Alliance members shall receive*
25 *no compensation for their service, nor shall Alliance mem-*

1 bers be reimbursed for expenses relating to their service, ex-
 2 cept that public members, on request, may be reimbursed
 3 for reasonable expenses directly related to participation in
 4 meetings of the Alliance.

5 (e) *TERMS.*—

6 (1) *IN GENERAL.*—Subject to paragraph (4), a
 7 member of the Alliance shall serve a term of 3 years,
 8 except that a member filling an unexpired term may
 9 serve a total of 7 consecutive years.

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

12 (3) *FORMER MEMBERS.*—A former member of the
 13 Alliance may be returned to the Alliance if the mem-
 14 ber has not been a member for a period of 2 years.

15 (4) *INITIAL APPOINTMENTS.*—Initial appoint-
 16 ments to the Alliance shall be for terms of 1, 2, and
 17 3 years, as determined by the qualified industry orga-
 18 nization, staggered to provide for the subsequent selec-
 19 tion of one-third of the members each year.

20 **SEC. 706. FUNCTIONS.**

21 (a) *IN GENERAL.*—

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

24 (A) shall develop programs and projects and
 25 enter into contracts or other agreements with

1 *other persons and entities for implementing this*
2 *title, including programs—*

3 *(i) to enhance consumer and employee*
4 *safety and training;*

5 *(ii) to provide for research, develop-*
6 *ment, and demonstration of clean and effi-*
7 *cient oilheat utilization equipment; and*

8 *(iii) for consumer education; and*

9 *(B) may provide for the payment of the*
10 *costs of carrying out subparagraph (A) with as-*
11 *sessments collected under section 707.*

12 *(2) COORDINATION.—The Alliance shall coordi-*
13 *nate its activities with industry trade associations*
14 *and other persons as appropriate to provide efficient*
15 *delivery of services and to avoid unnecessary duplica-*
16 *tion of activities.*

17 *(3) ACTIVITIES.—*

18 *(A) EXCLUSIONS.—Activities under clause*
19 *(i) or (ii) of paragraph (1)(A) shall not include*
20 *advertising, promotions, or consumer surveys in*
21 *support of advertising or promotions.*

22 *(B) RESEARCH, DEVELOPMENT, AND DEM-*
23 *ONSTRATION ACTIVITIES.—*

1 (i) *IN GENERAL.*—*Research, develop-*
2 *ment, and demonstration activities under*
3 *paragraph (1)(A)(ii) shall include—*

4 (I) *all activities incidental to re-*
5 *search, development, and demonstra-*
6 *tion of clean and efficient oilheat utili-*
7 *zation equipment; and*

8 (II) *the obtaining of patents, in-*
9 *cluding payment of attorney’s fees for*
10 *making and perfecting a patent appli-*
11 *cation.*

12 (ii) *EXCLUDED ACTIVITIES.*—*Research,*
13 *development, and demonstration activities*
14 *under paragraph (1)(A)(ii) shall not in-*
15 *clude research, development, and demonstra-*
16 *tion of oilheat utilization equipment with*
17 *respect to which technically feasible and*
18 *commercially feasible operations have been*
19 *verified, except that funds may be provided*
20 *for improvements to existing equipment*
21 *until the technical feasibility and commer-*
22 *cial feasibility of the operation of those im-*
23 *provements have been verified.*

1 **(b) PRIORITIES.**—*In the development of programs and*
2 *projects, the Alliance shall give priority to issues relating*
3 *to—*

4 (1) *research, development, and demonstration;*

5 (2) *safety;*

6 (3) *consumer education; and*

7 (4) *training.*

8 **(c) ADMINISTRATION.**—

9 (1) **OFFICERS; COMMITTEES; BYLAWS.**—*The*
10 *Alliance—*

11 (A) *shall select from among its members a*
12 *chairperson and other officers as necessary;*

13 (B) *may establish and authorize committees*
14 *and subcommittees of the Alliance to take specific*
15 *actions that the Alliance is authorized to take;*
16 *and*

17 (C) *shall adopt bylaws for the conduct of*
18 *business and the implementation of this title.*

19 (2) **SOLICITATION OF OILHEAT INDUSTRY COM-**
20 **MENT AND RECOMMENDATIONS.**—*The Alliance shall*
21 *establish procedures for the solicitation of oilheat in-*
22 *dustry comment and recommendations on any signifi-*
23 *cant contracts and other agreements, programs, and*
24 *projects to be funded by the Alliance.*

1 (3) *ADVISORY COMMITTEES.*—*The Alliance may*
2 *establish advisory committees consisting of persons*
3 *other than Alliance members.*

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

6 (d) *ADMINISTRATIVE EXPENSES.*—

7 (1) *IN GENERAL.*—*The administrative expenses*
8 *of operating the Alliance (not including costs incurred*
9 *in the collection of assessments under section 707)*
10 *plus amounts paid under paragraph (2) shall not ex-*
11 *ceed 7 percent of the amount of assessments collected*
12 *in any calendar year, except that during the first*
13 *year of operation of the Alliance such expenses and*
14 *amounts shall not exceed 10 percent of the amount of*
15 *assessments.*

16 (2) *REIMBURSEMENT OF THE SECRETARY.*—

17 (A) *IN GENERAL.*—*The Alliance shall annu-*
18 *ally reimburse the Secretary for costs incurred*
19 *by the Federal Government relating to the Alli-*
20 *ance.*

21 (B) *LIMITATION.*—*Reimbursement under*
22 *subparagraph (A) for any calendar year shall*
23 *not exceed the amount that the Secretary deter-*
24 *mines is twice the average annual salary of 1*
25 *employee of the Department of Energy.*

1 (e) *BUDGET.*—

2 (1) *PUBLICATION OF PROPOSED BUDGET.*—*Be-*
3 *fore August 1 of each year, the Alliance shall publish*
4 *for public review and comment a proposed budget for*
5 *the next calendar year, including the probable costs of*
6 *all programs, projects, and contracts and other agree-*
7 *ments.*

8 (2) *SUBMISSION TO THE SECRETARY AND CON-*
9 *GRESS.*—*After review and comment under paragraph*
10 *(1), the Alliance shall submit the proposed budget to*
11 *the Secretary and Congress.*

12 (3) *RECOMMENDATIONS BY THE SECRETARY.*—
13 *The Secretary may recommend for inclusion in the*
14 *budget programs and activities that the Secretary*
15 *considers appropriate.*

16 (4) *IMPLEMENTATION.*—*The Alliance shall not*
17 *implement a proposed budget until the expiration of*
18 *60 days after submitting the proposed budget to the*
19 *Secretary.*

20 (f) *RECORDS; AUDITS.*—

21 (1) *RECORDS.*—*The Alliance shall—*

22 (A) *keep records that clearly reflect all of*
23 *the acts and transactions of the Alliance; and*

24 (B) *make the records available to the public.*

25 (2) *AUDITS.*—

1 (A) *IN GENERAL.*—*The records of the Alli-*
2 *ance (including fee assessment reports and appli-*
3 *cations for refunds under section 707(b)(4)) shall*
4 *be audited by a certified public accountant at*
5 *least once each year and at such other times as*
6 *the Alliance may designate.*

7 (B) *AVAILABILITY OF AUDIT REPORTS.*—
8 *Copies of each audit report shall be provided to*
9 *the Secretary, the members of the Alliance, and*
10 *the qualified industry organization, and, on re-*
11 *quest, to other members of the oilheat industry.*

12 (C) *POLICIES AND PROCEDURES.*—

13 (i) *IN GENERAL.*—*The Alliance shall*
14 *establish policies and procedures for audit-*
15 *ing compliance with this title.*

16 (ii) *CONFORMITY WITH GAAP.*—*The*
17 *policies and procedures established under*
18 *clause (i) shall conform with generally ac-*
19 *cepted accounting principles.*

20 (g) *PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.*—

21 (1) *PUBLIC NOTICE.*—*The Alliance shall give at*
22 *least 30 days' public notice of each meeting of the Al-*
23 *liance.*

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

1 (3) *MINUTES.*—*The minutes of each meeting of*
2 *the Alliance shall be made available to and readily*
3 *accessible by the public.*

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

6 (1) *includes a description of all programs,*
7 *projects, and contracts and other agreements under-*
8 *taken by the Alliance during the previous year and*
9 *those planned for the current year; and*

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

12 **SEC. 707. ASSESSMENTS.**

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

16 (b) *COLLECTION RULES.*—

17 (1) *COLLECTION AT POINT OF SALE.*—*The assess-*
18 *ment shall be collected at the point of sale of No. 1*
19 *distillate and No. 2 dyed distillate by a wholesale dis-*
20 *tributor to a person other than a wholesale dis-*
21 *tributor, including a sale made pursuant to an ex-*
22 *change.*

23 (2) *RESPONSIBILITY FOR PAYMENT.*—*A wholesale*
24 *distributor—*

1 (A) shall be responsible for payment of an
2 assessment to the Alliance on a quarterly basis;
3 and

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

6 (3) *NO OWNERSHIP INTEREST.*—A person that
7 has no ownership interest in No. 1 distillate or No.
8 2 dyed distillate shall not be responsible for payment
9 of an assessment under this section.

10 (4) *FAILURE TO RECEIVE PAYMENT.*—

11 (A) *REFUND.*—A wholesale distributor that
12 does not receive payments from a purchaser for
13 No. 1 distillate or No. 2 dyed distillate within 1
14 year of the date of sale may apply for a refund
15 from the Alliance of the assessment paid.

16 (B) *AMOUNT.*—The amount of a refund
17 shall not exceed the amount of the assessment lev-
18 ied on the No. 1 distillate or No. 2 dyed distillate
19 for which payment was not received.

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

23 (A) shall be responsible for payment of the
24 assessment to the Alliance at the point at which
25 the product enters the United States; and

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

3 (6) *LATE PAYMENT CHARGE.*—The Alliance may
4 establish a late payment charge and rate of interest
5 to be imposed on any person who fails to remit or
6 pay to the Alliance any amount due under this title.

7 (7) *ALTERNATIVE COLLECTION RULES.*—The Al-
8 liance may establish, or approve a request of the
9 oilheat industry in a State for, an alternative means
10 of collecting the assessment if another means is deter-
11 mined to be more efficient or more effective.

12 (c) *SALE FOR USE OTHER THAN AS OILHEAT.*—No.
13 1 distillate and No. 2 dyed distillate sold for uses other than
14 as oilheat are excluded from the assessment.

15 (d) *INVESTMENT OF FUNDS.*—Pending disbursement
16 under a program, project or contract or other agreement
17 the Alliance may invest funds collected through assessments,
18 and any other funds received by the Alliance, only—

19 (1) in obligations of the United States or any
20 agency of the United States;

21 (2) in general obligations of any State or any
22 political subdivision of a State;

23 (3) in any interest-bearing account or certificate
24 of deposit of a bank that is a member of the Federal
25 Reserve System; or

1 (4) *in obligations fully guaranteed as to prin-*
2 *cipal and interest by the United States.*

3 (e) *STATE, LOCAL, AND REGIONAL PROGRAMS.—*

4 (1) *COORDINATION.—The Alliance shall establish*
5 *a program coordinating the operation of the Alliance*
6 *with the operator of any similar State, local, or re-*
7 *gional program created under State law (including a*
8 *regulation), or similar entity.*

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

11 (A) *IN GENERAL.—*

12 (i) *BASE AMOUNT.—The Alliance shall*
13 *make available to the qualified State asso-*
14 *ciation of each State an amount equal to 15*
15 *percent of the amount of assessments col-*
16 *lected in the State.*

17 (ii) *ADDITIONAL AMOUNT.—*

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

24 (II) *REQUEST REQUIREMENTS.—*

25 *A request under this clause shall—*

1 (aa) specify the amount of
2 funds requested;

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

6 (cc) include a commitment to
7 comply with this title in using the
8 requested funds; and

9 (dd) be made publicly avail-
10 able.

11 (III) *DIRECT BENEFIT.*—*The Alli-*
12 *ance shall not provide any funds in re-*
13 *sponse to a request under this clause*
14 *unless the Alliance determines that the*
15 *funds will be used to directly benefit*
16 *the oilheat industry.*

17 (IV) *MONITORING; TERMS, CONDI-*
18 *TIONS, AND REPORTING REQUIRE-*
19 *MENTS.*—*The Alliance shall—*

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

22 (bb) impose whatever terms,
23 conditions, and reporting require-
24 ments that the Alliance considers

1 *necessary to ensure compliance*
2 *with this title.*

3 **SEC. 708. MARKET SURVEY AND CONSUMER PROTECTION.**

4 (a) *PRICE ANALYSIS.*—*Beginning 2 years after estab-*
5 *lishment of the Alliance and annually thereafter, the Sec-*
6 *retary of Commerce, using only data provided by the En-*
7 *ergy Information Administration and other public sources,*
8 *shall prepare and make available to the Congress, the Alli-*
9 *ance, the Secretary of Energy, and the public, an analysis*
10 *of changes in the price of oilheat relative to other energy*
11 *sources. The oilheat price analysis shall compare indexed*
12 *changes in the price of consumer grade oilheat to a com-*
13 *posite of indexed changes in the price of residential elec-*
14 *tricity, residential natural gas, and propane on an annual*
15 *national average basis. For purposes of indexing changes*
16 *in oilheat, residential electricity, residential natural gas,*
17 *and propane prices, the Secretary of Commerce shall use*
18 *a 5-year rolling average price beginning with the year 4*
19 *years prior to the establishment of the Alliance.*

20 (b) *AUTHORITY TO RESTRICT ACTIVITIES.*—*If in any*
21 *year the 5-year average price composite index of consumer*
22 *grade oilheat exceeds the 5-year rolling average price com-*
23 *posite index of residential electricity, residential natural*
24 *gas, and propane in an amount greater than 10.1 percent,*
25 *the activities of the Alliance shall be restricted to research*

1 *and development, training, and safety matters. The Alli-*
2 *ance shall inform the Secretary of Energy and the Congress*
3 *of any restriction of activities under this subsection. Upon*
4 *expiration of 180 days after the beginning of any such re-*
5 *striction of activities, the Secretary of Commerce shall*
6 *again conduct the oilheat price analysis described in sub-*
7 *section (a). Activities of the Alliance shall continue to be*
8 *restricted under this subsection until the price index excess*
9 *is 10.1 percent or less.*

10 **SEC. 709. COMPLIANCE.**

11 *(a) IN GENERAL.—The Alliance may bring a civil ac-*
12 *tion in United States district court to compel payment of*
13 *an assessment under section 707.*

14 *(b) COSTS.—A successful action for compliance under*
15 *this section may also require payment by the defendant of*
16 *the costs incurred by the Alliance in bringing the action.*

17 **SEC. 710. LOBBYING RESTRICTIONS.**

18 *No funds derived from assessments under section 707*
19 *collected by the Alliance shall be used to influence legislation*
20 *or elections, except that the Alliance may use such funds*
21 *to formulate and submit to the Secretary recommendations*
22 *for amendments to this title or other laws that would fur-*
23 *ther the purposes of this title.*

1 **SEC. 711. DISCLOSURE.**

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

6 **SEC. 712. VIOLATIONS.**

7 (a) *PROHIBITION.—It shall be unlawful for any person*
8 *to conduct a consumer education activity, undertaken with*
9 *funds derived from assessments collected by the Alliance*
10 *under section 707, that includes—*

11 (1) *a reference to a private brand name;*

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

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

16 (b) *COMPLAINTS.—*

17 (1) *IN GENERAL.—A public utility that is ag-*
18 *grieved by a violation described in subsection (a) may*
19 *file a complaint with the Alliance.*

20 (2) *TRANSMITTAL TO QUALIFIED STATE ASSOCIA-*
21 *TION.—A complaint shall be transmitted concurrently*
22 *to any qualified State association undertaking the*
23 *consumer education activity with respect to which the*
24 *complaint is made.*

25 (3) *CESSATION OF ACTIVITIES.—On receipt of a*
26 *complaint under this subsection, the Alliance, and*

1 *any qualified State association undertaking the con-*
2 *sumer education activity with respect to which the*
3 *complaint is made, shall cease that consumer edu-*
4 *cation activity until—*

5 *(A) the complaint is withdrawn; or*

6 *(B) a court determines that the conduct of*
7 *the activity complained of does not constitute a*
8 *violation of subsection (a).*

9 *(c) RESOLUTION BY PARTIES.—*

10 *(1) IN GENERAL.—Not later than 10 days after*
11 *a complaint is filed and transmitted under subsection*
12 *(b), the complaining party, the Alliance, and any*
13 *qualified State association undertaking the consumer*
14 *education activity with respect to which the com-*
15 *plaint is made shall meet to attempt to resolve the*
16 *complaint.*

17 *(2) WITHDRAWAL OF COMPLAINT.—If the issues*
18 *in dispute are resolved in those discussions, the com-*
19 *plaining party shall withdraw its complaint.*

20 *(d) JUDICIAL REVIEW.—*

21 *(1) IN GENERAL.—A public utility filing a com-*
22 *plaint under this section, the Alliance, a qualified*
23 *State association undertaking the consumer education*
24 *activity with respect to which a complaint under this*
25 *section is made, or any person aggrieved by a viola-*

1 *tion of subsection (a) may seek appropriate relief in*
2 *United States district court.*

3 (2) *RELIEF.*—*A public utility filing a complaint*
4 *under this section shall be entitled to temporary and*
5 *injunctive relief enjoining the consumer education ac-*
6 *tivity with respect to which a complaint under this*
7 *section is made until—*

8 (A) *the complaint is withdrawn; or*

9 (B) *the court has determined that the con-*
10 *sumer education activity complained of does not*
11 *constitute a violation of subsection (a).*

12 (e) *ATTORNEY'S FEES.*—

13 (1) *MERITORIOUS CASE.*—*In a case in Federal*
14 *court in which the court grants a public utility in-*
15 *junctive relief under subsection (d), the public utility*
16 *shall be entitled to recover an attorney's fee from the*
17 *Alliance and any qualified State association under-*
18 *taking the consumer education activity with respect*
19 *to which a complaint under this section is made.*

20 (2) *NONMERITORIOUS CASE.*—*In any case under*
21 *subsection (d) in which the court determines a com-*
22 *plaint under subsection (b) to be frivolous and with-*
23 *out merit, the prevailing party shall be entitled to re-*
24 *cover an attorney's fee.*

1 *(f) SAVINGS CLAUSE.—Nothing in this section shall*
2 *limit causes of action brought under any other law.*

3 **SEC. 713. SUNSET.**

4 *This title shall cease to be effective as of the date that*
5 *is 4 years after the date on which the Alliance is established.*

Attest:

Secretary.

106TH CONGRESS
2D SESSION

H. R. 2884

AMENDMENT

HR 2884 EAS—2

HR 2884 EAS—3

HR 2884 EAS—4

HR 2884 EAS—5

HR 2884 EAS—6

HR 2884 EAS—7

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