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106TH CONGRESS *1st Session* | SENATE | REPORT 106–109

NATIONAL OILHEAT RESEARCH ALLIANCE ACT OF 1999

JULY 20, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 348]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 348) to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

On page 12, line 7, after "community," insert the following: "State energy officials,"

On page 24, after line 25, insert the following:

"SEC. 8. MARKET SURVEY AND CONSUMER PROTECTION."

"(a) PRICE ANALYSIS.—Beginning 2 years after establishment of the Alliance and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Congress, the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of oilheat relative to other energy sources. The oilheat price analysis shall compare indexed changes in the price of consumer grade oilheat to a composite of indexed changes in the price of residential electricity, residential natural gas, and propane on an annual national average basis. For purposes of indexing changes in oilheat, residential electricity, residential natural gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Alliance."

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"(b) AUTHORITY TO RESTRICT ACTIVITIES.—If in any year the 5-year average price composite index of consumer grade oilheat exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and propane in an amount greater than 10.1 percent, the activities of the Alliance shall be restricted to research and development, training, and safety matters. The Alliance shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less."

3. Renumber existing Sections 8 through 12 as Sections 9 through 13.

4. On page 28, after line 17, insert the following:

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

PURPOSE OF THE MEASURE

The purpose of S. 348 is 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.

BACKGROUND AND NEED

Heating oil plays a vital role in keeping homes and businesses warm in the winter in many parts of the country. In 1996, homes and businesses purchased more than 11 billion gallons of heating oil, with most use concentrated in New England and the Mid-Atlantic states. Hearing oil was used in an estimated 10.8 million households and more than 500,000 commercial buildings. In all, over 10 billion dollars was spent on heating oil in 1996. In the 1970s, demand for heating oil was at its peak. Use in the United States has declined since then and this decline is attributed to a number of factors: increased availability of natural gas; the development of more efficient electric heating systems; and the investment in energy conservation by homes and businesses. Other factors may include aggressive competition from electric utilities and environmental concerns.

Oilheat does not have a national industry promotion program and the industry believes that one is necessary to ensure fair competition with other home heating fuels. The industry receives some research and development funding from the Department of Energy—$500,000 in FY 1998, $500,000 in FY 1999. For FY 2000, however, DOE did not request any funding. Brookhaven National Laboratory in New York has been involved in an oilheat research and development program and in conjunction with DOE and the National Oil Heat Research Alliance (NORA), has developed "A Ten-year Blueprint for Residential Oilheat Research and Development in the Twenty-First Century." Industry anticipates that when the Alliance is functioning and receiving money from the assessment, DOE funds will be cut and the R&D effort will be fully funded by industry.

Legislation is not required for the oilheat industry to form a voluntary trade association, collect membership dues, and use the money to conduct activities beneficial to the industry. Legislation is, however, required to establish a mandatory program that requires all industry participants to contribute to the program. The bill sponsors believe that a mandatory program is appropriate to avoid the so-called "free-rider" problem. If a check-off is voluntary rather than mandatory, some in the industry might choose not to contribute, yet would benefit from R&D, educational, or promotional programs funded by others.

LEGISLATIVE HISTORY

S. 348 was introduced on February 3, 1999 and referred to the Committee on Natural Resources. The Subcommittee on Energy, Development, Production and Regulation held a hearing on May 20, 1999. At the business meeting on June 30, 1999, the Committee on Energy and Natural Resources ordered S. 348, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 30, 1999, by a unanimous vote of a quorum present, recommends that the Senate pass S. 348, as amended, as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 348, the Committee adopted four amendments. The first makes state energy officials eligible to serve as public members of the Alliance. The second requires the Secretary of Commerce to analyze changes in the price of oilheat relative to other energy sources each year and restrict the activities of the Alliance when the average price composite index for oilheat exceeds that of other home heating fuels. The third makes technical and conforming changes. The fourth makes it clear that the enforcement mechanism in Section 12 does not limit causes of actions under other applicable laws.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 2 describes findings regarding the use of oilheat as an energy source.

Section 3 defines terms used in the Act.

Section 4 describes how the referenda called for in the Act shall be conducted.

Section 5 describes how the Alliance board shall be selected and the conditions of service.

Section 6 provides the guidelines by which the Alliance shall function.

Section 7 describes how the assessment shall be determined, collected, invested, used and monitored.

Section 8 requires the Secretary of Commerce to conduct an analysis and report to Congress, and others, about changes in the price of oilheat. This section also gives the Secretary of Commerce the

authority to restrict Alliance activities, depending on price changes in oilheat.

Section 9 describes when and how the Alliance may bring a civil action in US District Court.

Section 10 prohibits lobbying with assessment funds.

Section 11 requires a disclosure about Alliance funding of consumer activities.

Section 12 prohibits the use of Alliance funds for certain activities.

Section 13 is a sunset provision.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE
Washington, DC, July 14, 1999.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 348, the National Oilheat Research Alliance Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kathleen Gramp (for federal costs), and Jean Wooster (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 348—National Oilheat Research Alliance Act of 1999

Summary: S. 348 would authorize the National Association for Oilheat Research and Education to conduct a referendum among retail marketers and wholesale distributors to determine if an industry research organization should be established. If there is sufficient industry support, the National Oilheat Research Alliance would be established for a four-year period to enhance consumer and employee safety and training; provide for research, development, and demonstration of oilheat equipment; and educate consumers. The alliance would be funded through an annual assessment of two-tenths of 1 cent per gallon of No. 1 distillate and No. 2 dyed distallate sold in the retail market and used for nonindustrial commercial or residential space or hot water heating. Funds collected through this assessment would be available to fund the alliance's programs without further appropriation by the Congress. The bill would restrict the types of activities that could be funded by the alliance if the Department of Commerce finds that oilheat prices have risen above a certain level.

Assuming that the industry would choose to establish the alliance, CBO estimates that enacting S. 348 would increase both gov-

ernmental receipts and outlays from direct spending by $16 million in 2000 and $15 million in each of the fiscal years 2001 through 2003. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply, but CBO estimates that the increase in annual receipts would be matched by outlay increases so that there would be no net budgetary impact for each year.

S. 348 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not impose costs on state, local, or tribal governments. S. 348 would impose a private-sector mandate, as defined by UMRA, on wholesale distributors of heating oil sold in the retail market and used for non-industrial commercial or residential space or hot water heating. CBO estimates that the cost of this mandate would not exceed the annual threshold for private-sector mandates ($100 million in 1996, adjusted for inflation).

Estimated cost to the Federal Government: CBO estimates that enacting S. 348 would increase governmental receipts and direct spending (from the disbursement of such receipts) by $16 million in fiscal year 2000 and about $15 million in each of the fiscal years 2001 through 2003. For purposes of this estimate, CBO assumes that the industry would vote to establish the National Association of Oilheat Research Alliance. CBO believes that the cash flows related to the alliance should appear in the budget as governmental receipts and direct spending because the assessments would stem from exercise of the sovereign power of the federal government.

The estimates of annual assessments are based on the bill's fixed rate of two-tenths of one cent per gallon and on recent industry data on the amount of distillate sold in the United States retail market. We estimate that collections and spending would decline gradually over time, consistent with the Department of Energy's projection of trends in distillate sales for residential and commercial heating. The authority to collect such assessments would expire four years after the National Oilheat Research Alliance is established. Thus, there would be no budgetary effects after 2003.

Based on information from the Department of Commerce, CBO estimates that the cost of the studies required by the bill would have no significant effect on discretionary spending.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting S. 348 would affect both direct spending and receipts in equal and offsetting amounts; therefore, pay-as-you-go procedures would apply, but S. 348 would have no net budgetary impact in each year. The estimated changes in outlays and governmental receipts are shown in the following table.

	By fiscal year; in millions of dollars—									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	16	15	15	15	0	0	0	0	0	0
Changes in receipts	16	15	15	15	0	0	0	0	0	0

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: S. 348 would impose a private-sector mandate on wholesale distributors of heating oil that is sold in the retail market and used for nonindustrial commercial or residential space or hot water heating. Those wholesale distributors would be required to pay an annual assessment to the National Oilheat Research Alliance if retail marketers and wholesale distributors vote favorably on a referendum to establish the alliance. Based on testimony of representatives of the industry in a Congressional hearing, CBO assumes that the referendum would be approved. We estimate that the annual assessments would total $16 million in 2000 and $15 million each year from 2001 through 2003, well below the annual threshold of $100 million established in UMRA.

Estimate prepared by: Federal Costs: Kathleen Gramp. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 348. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 348, as ordered reported.

EXECUTIVE COMMUNICATIONS

On May 17, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of Energy and the Office of Management and Budget setting forth Executive agency recommendations on S. 348. These reports had not been received at the time the report on S. 348 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 348 as ordered reported.

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